

Rule 3(C) of CCS (Conduct) Rules 1964

3C. Prohibition of sexual harassment of working women

(1) No Government servant shall indulge in any act of sexual harassment of any women at her work place.

(2) Every Government servant who is incharge of a work place shall take appropriate steps to prevent sexual harassment to any woman at such work place.

Explanation - For the purpose of this rule, "sexual harassment" includes such unwelcome sexually determined behaviour, whether directly or otherwise, as --

(a) physical contact and advances;

(b) demand or request for sexual favours;

(c) sexually coloured remarks;

(d) showing any pornography; or

(e) any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.

Govt of India Decision No. 25 under Rule 3(C) of CCS (Conduct) Rules 1964

(25) Supreme Court judgment in the case of Vishaka Vs. State of Rajasthan regarding sexual harassment of working women.

In the case of Vishaka and Ors Vs. State of Rajasthan and Ors. (JT 1997 (7) SC 384), the Hon'ble Supreme Court has laid down guidelines and norms to be observed to prevent sexual harassment of working women.

2. It has been laid down in the judgment above-mentioned that it is the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedure for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required. For this purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or implication) as :-

a) physical contact and advances;

- b) a demand or request for sexual favours;
- c) sexually coloured remarks;
- d) showing pornography;
- e) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

3. Attention in this connection is invited to Rule 3 (1) (iii) of the CCS (Conduct) Rules, 1964, which provides that every Government servant shall at all times do nothing which is unbecoming of a Government servant. Any act of sexual harassment of women employees is definitely unbecoming of a Government servant and amounts to a misconduct. Appropriate disciplinary action should be initiated in such cases against the delinquent Government servant in accordance with the rules.

4. Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the concerned authorities shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

5. In particular, it should be ensured that victims, or witnesses are not victimized or discriminated against while dealing with complaints or sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

6. Complaint Mechanism :- Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in every organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints. Wherever such machineries for redressal of grievance already exist, they may be made more effective and in particular women officers should preferably handle such complaints.

7. Awareness :- Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (copy enclosed) in a suitable manner.

8. A specific provision is, however, being made in the CCS (Conduct) Rules, 1964, prohibiting sexual harassment of women by Government servants, in compliance of the judgment of the Hon'ble Supreme Court.

GUIDELINES AND NORMS LAID DOWN BY THE HON'BLE SUPREME COURT IN VISHAKA & ORS. V. STATE OF RAJASTHAN & ORS. (JT 1997 (7) SC 384)

HAVING REGARD to the definition of 'human rights' in Section 2 (d) of the Protection of Human Rights Act, 1993, TAKING NOTE of the fact that the present civil and penal laws in India do not adequately provide for specific protection of women from sexual harassment in work places and that enactment of such legislation will take considerable time,

It is necessary and expedient for employers in work places as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women.

1. Duty of the Employer or other responsible persons in work places and other institutions :

It shall be the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required.

2. Definition :

For this purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as :

- a) Physical contact and advances;
- b) a demand or request for sexual favours;
- c) sexually coloured remarks;
- d) showing pornography;
- e) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Where any of these acts is committed in circumstances where-under the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work whether she is drawing salary, or honorarium or voluntary, whether in Government, public or private enterprise such conduct can be humiliating and may constitute a health and safety problem.

It is discriminatory for instance when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment. Adverse consequences might be visited if the victim does not consent to the conduct in question or raises any objection thereto.

3. Preventive Steps :

All employers or persons in charge of work place whether in public or private sector should take appropriate steps to prevent sexual harassment. Without prejudice to the generality to this obligation they should take the following steps :-

(a) Express prohibition of sexual harassment as defined above at the work place should be notified, published and circulated in appropriate ways.

(b) The Rules/Regulations of Government and Public Sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender.

(c) As regards private employers steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946.

(d) Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at work places and no employee woman should have reasonable grounds to believe that she is disadvantaged in connection with her employment.

4. Criminal Proceedings :

Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

In particular, it should ensure that victims or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

5. Disciplinary Action :

Where such conduct amount to misconduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.

6. Complaint Mechanism :

Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints.

7. Complaint Mechanism :

The complaint mechanism referred to in (6) above, should be adequate to provide, where necessary, a Complaints Committee, a special councillor or other support service, including the maintenance of confidentiality.

The Complaints Committee should be headed by a woman and not less than half of its member should be women. Further to prevent the possibility of any undue pressure or influence from senior levels, such Complaints Committee should involve a third party, either NGO or other body who is familiar with the issue of sexual harassment.

The Complaints Committee must make an annual report to the Government department concerned of the complaints and action taken by them.

The employers and person in charge will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee to the Government department.

8. Workers' Initiative :

Employees should be allowed to raise issues of sexual harassment at workers' meeting and in other appropriate forum and it should be affirmatively discussed in Employer-Employee Meetings.

9. Awareness :

Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in a suitable manner.

10. Third Party Harassment :

Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the employer and person in charge will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

11. The Central/State Governments are requested to consider adopting suitable measures including legislation to ensure that the guidelines laid down by this order are also observed by the employers in Private Sector.

12. These guidelines will not prejudice any rights available under the Protection of Human Rights Act, 1993.

[DOPT OM No. 11013/10/97-Estt.(A), dated 13.02.1998]

(25A) Prevention of sexual harassment of working women

The above guidelines (decision No. 25) inter-alia stipulate for the creation of an appropriate complaint mechanism in every organization for redressal of the complaints made by the victims. It has come to the notice of this Department that in one of the Central Government Offices, the Committee constituted for the purpose was headed by an official of the rank of Upper Division Clerk. As an official not sufficiently higher in rank may not be able to express views independently/freely especially when the perpetrator is holding an higher position, the arrangement makes mockery of the system. It is, therefore, requested that the Committee constituted for redressal of the complaints by the victims of sexual harassment should be headed by an officer sufficiently higher in rank, so as to lend credibility to the investigations.

[DOPT OM No. 11013/10/97-Estt.(A), dated 13.07.1999]

(25B) Report of the Complaints Committee constituted for prevention of sexual harassment of women at work places – follow up action

Reference is invited to this Department's OM No. 11013/10/97-Estt. (A) dated 13th February, 1998 under which the guidelines and norms laid down by the Supreme Court in the case of Vishka and others Vs. State of Rajasthan and others (JT 1997 (7) SC 384) for prevention of sexual harassment of women at work places, were circulated to all Ministries/Departments for compliance by all concerned.

2. The guidelines laid down by the Supreme Court provide, inter-alia, for the constitution of a Complaints Committee in the employer's organization for redress of the complaint made by the victim. In this connection, a question has been raised regarding the status of the inquiry held by the Complaints Committee. It is clarified that the findings of the Complaints Committee regarding sexual harassment of the complainant/victim will be binding on the disciplinary authority to initiate disciplinary proceedings against the Government servant(s) concerned under the provisions of the CCS (CCA) Rules, 1965. The report of the Complaints Committee should be treated as a preliminary report against the accused Government servant.

[DOPT OM No. 11013/11/2001-Estt.(A), dated 12.12.2002]

25C. Report of the Complaints Committee constituted for prevention of sexual harassment of women at work places – follow up action.

Reference is invited to this Department's O.M. of even number dated 12th December, 2002 in which it has been clarified that the report of the Complaints Committee should be treated as a preliminary report against the accused Government servant.

2. In the order dated 26.04.2004 in Writ Petition (Crl.) No. 173-177/1999 (Medha Kotwal Lele & Others Vs. Union of India and others) the Supreme Court has directed that "the report of the Complaints Committee shall be deemed to be an inquiry report under the CCS Rules. Thereafter the disciplinary authority will act on the report in accordance with the rules." Sub-rule (2) of rule 14 of the CCS (CCA) Rules, 1965 has accordingly been amended to provide that the Complaints Committee shall be deemed to be the inquiring authority appointed by the disciplinary authority for the purpose of these Rules by the Notification No. 11012/5/2001-Estt. (A) dated 01.07.2004 (GSR 225 dated 10th July, 2004).

3. In view of the said amendment made to the CCS (CCA) Rules, 1965 the instructions contained in the O.M. No. 11013/11/2001-Estt. (A) dated 12th December, 2002 should be treated as modified and the report of the Complaints Committee should be treated as an enquiry report and not a preliminary report.

(25 D) Central Civil Services (Conduct) Rules, 1964 – constitution of a Complaints Committee to enquire into complaints of sexual harassment made against officers of the level of Secretary and Additional Secretary to the Government of India.

Reference is invited to the Department of Personnel and Training's O.M. No. 11013/10/97-Estt. (A) dated 13.02.1998 on the guidelines and norms to be observed to prevent sexual harassment of women were issued under rule 3 of the Central Civil Services (Conduct) Rules, 1964 in pursuance of the judgment of the Hon'ble Supreme Court in Vishakha & Others vs. State of Rajasthan & Others (JT 1997 (7) SC 384) and to say that para 6 of the Supreme Court's guidelines provides for creation of an appropriate complaint mechanism so as to ensure time-bound treatment of complaints of sexual harassment preferably by women officers. Para 7 thereof stipulates that the Complaints Committee should be headed by a woman and not less than half of its member should be women and that further to prevent the possibility of any undue pressure or influence from senior levels, such Complaints Committee should involve a third party, either an NGO or other body who is familiar with the issue of sexual harassment. The various Ministries/Departments were also advised vide DOPT's O.M. No. 11013/10/97-Estt. (A) dated 13.07.1999 to ensure that the Committee constituted for redressal of the complaints by the victims of sexual harassment should be headed by an officer sufficiently higher in rank so as to lend credibility to the investigations. Subsequently, in 2004 a proviso was added to rule 14(2) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 to the effect that the Complaints Committee established in each Ministry or Department or Office for inquiring into complaints of sexual harassment shall be deemed to be the Inquiring Authority appointed by the Disciplinary Authority and that the Complaints Committee shall hold, if no separate procedure has not been prescribed for the Complaints Committee for holding the inquiry into such complaints, the inquiry, as far as practicable in accordance with the procedure laid down in the said rules.

2. For inquiring into complaints made against officers of the level of Secretary and Additional Secretary and equivalent level in the Government

of India in the Ministries/Departments and Organisations directly under the control of the Central Government (other than the Central PSUs), it has been decided with the approval of the Prime Minister to constitute a Complaints Committee in terms of Cabinet Secretariat's Order No. 1 dated 26.09.2008 (**copy** enclosed). Existing Complaints Committee established in each Ministry or Department or Office will, therefore, inquire into fresh complaints of sexual harassment against only those Government servants who are not covered by the Cabinet Secretariat's Order No. 1 dated 26.09.2008.

3. All Ministries/Departments are requested to bring the foregoing to the notice of all concerned for information and necessary action.

Copy of Cabinet Secretariat's O.M. No. 501/28/1/2008-CA.V dated 26th September, 2008

No. 501/28/1/2008-CA.V

Cabinet Secretariat

Rashtrapati Bhavan

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New Delhi, Dated : 26th September, 2008

Subject : Constitution of a Complaints Committee to enquire into complaints of sexual harassment made against officers of the level of Secretary and Additional Secretary to the Government of India.

With the approval of the Prime Minister, it has been decided to constitute a Complaints Committee to enquire into complaints of sexual harassment made against officers of the level of Secretary and Additional Secretary and equivalent level in Ministries, Departments and organizations directly under the control of the Central Government other than Central PSUs.

2. The Committee will proceed in accordance with guidelines laid down by the Supreme Court in the case of Visakha and Others vs. State of Rajasthan. The composition of the Committee will be as follows :

i. Ms Rathi Vinay Jha, (IAS retired), -Chairperson

Secretary-General,

World Travel and Tourism Council, New Delhi.

ii Ms. Indu Agnihotri,

Senior Fellow,

-Member

Centre for Women's Development Studies, New Delhi

iii A senior officer with experience of the sector or department to which the complaint relates (to be nominated for each case separately depending upon the Department/Ministry to which the complaint relates) -Member

3. The Committee will have a tenure of three years from the date of issue of this order and will be serviced by the Cabinet Secretariat.

(Renuka Viswanathan)

Secretary (Coordination)

[DOPT OM No. 11013/3/2009-Estt. (A) dated 2nd February, 2009]

(25 E) Guidelines regarding prevention of sexual harassment of working women in the workplace.

Department of Personnel and Training's O.M. No. 11013/10/97-Estt. (A) dated 13.02.1998 and 13.07.1999, O.M. No. 11013/11/2001-Estt. (A) dated 12.12.2002 and 04.08.2005 and O.M. No. 11013/3/2009-Estt. (A) dated

02.02.2009 on the abovementioned subject and to say that it is necessary to have in place at all times an effective Complaint Mechanism for dealing with cases of sexual harassment of working women and to create awareness in this regard, particularly amongst working women. The salient features of the Complaint Mechanism and inquiry procedure are as follows :-

(i) Rule 3 C of the CCS (Conduct) Rules, 1964 provides that no Government servant shall indulge in any act of sexual harassment of any woman at her work place. Every Government servant who is incharge of a work place shall take appropriate steps to prevent sexual harassment to any woman at such work place. "Sexual harassment" includes such unwelcome sexually determined behaviour, whether directly or otherwise, as --

(a) physical contact and advances;

(b) demand or request for sexual favours;

(c) sexually coloured remarks;

(d) showing any pornography; or./-

(e) any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.

(ii) Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints.

(iii) The complaint mechanism should be adequate to provide, where necessary, a Complaints Committee, a special councillor or other support service, including the maintenance of confidentiality.

The Complaints Committee should be headed by a woman and not less than half of its members should be women. Further to prevent the possibility of any undue pressure or influence from senior levels, such Complaints Committee should involve a third party, either NGO or other body who is familiar with the issue of sexual harassment.

The Complaints Committee must make an annual report to the Government department concerned of the complaints and action taken by them.

The employers and person in charge will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee to the Government department.

(iv) The Committee constituted for redressal of the complaints by the victims of sexual harassment should be headed by an officer sufficiently higher in rank so as to lend credibility to the investigations.

(v) The Complaints Committee established in each Ministry or Department or Office for inquiring into complaints of sexual harassment shall be deemed to be the Inquiring Authority appointed by the Disciplinary Authority and that the Complaints Committee shall hold, if no separate procedure has not been prescribed for the Complaints Committee for holding the inquiry into such complaints, the inquiry, as far as practicable in accordance with the procedure laid down in the said rules. [In 2004 a proviso was added to rule 14(2) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (**copy enclosed**) to this effect].

(vi) The Complaints Committee in terms of Cabinet Secretariat's Order No. 1 dated 26.09.2008 will inquire into complaints made against officers of the level of Secretary and Additional Secretary and equivalent level in the Government of India in the Ministries/Departments and Organisations directly under the control of the Central Government (other than the Central PSUs). The existing Complaints Committee established in each Ministry or Department or Office will, inquire into complaints of sexual harassment against only those Government servants who are not covered by the Cabinet Secretariat's Order No. 1 dated 26.09.2008.

(vii) It may be ensured that the Complaints Committee shall at all times be in existence and changes in its composition, whenever necessary, should be made promptly and adequately publicized. The composition of the Complaints Committee be also posted on the websites of the concerned Ministries/Departments/Offices concerned.

PROVISIONS OF Rule 14 (2) of the CENTRAL CIVIL SERVICES (CLASSIFICATION, CONTROL AND APPEAL) RULES, 1965

14 (2) Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a Government servant, it may itself inquire into, or

appoint under this rule or under the provisions of the Public Servants (Inquiries) Act, 1850, as the case may be, an authority to inquire into the truth thereof.

Provided that where there is a complaint of sexual harassment within the meaning of rule 3 C of the Central Civil Services (Conduct) Rules, 1964, the complaints Committee established in each ministry or Department or Office for inquiring into such complaints, shall be deemed to be the inquiring authority appointed.

[DOP&T O.M. No.11013/3/2009-Estt. (A) Dated the 21st July, 2009]

(25 F) Guidelines regarding prevention of sexual harassment of working women in the workplace.

In continuation of Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, Government of India O.M. of even number dated the 21st July, 2009 on the abovementioned subject, the undersigned is directed to say the matter was considered by a Committee of Secretaries and the following decision was taken:-

"As regards provisions for protection of women, it was suggested that the complaints committee mechanism provided under Vishakha guidelines relating to sexual harassment should be strictly in accordance with the judgment and steps should be taken to ensure that the committee is effective and functional at all times. It would also be desirable for the Committees to meet once a quarter, even if there is no live case, and review preparedness to fulfill all requirements of the Vishakha judgment in the Department/Ministry/organization concerned. DOPT will issue suitable directions.

PROVISIONS OF Rule 14 (2) of the CENTRAL CIVIL SERVICES (CLASSIFICATION, CONTROL AND APPEAL) RULES, 1965

14 (2) Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a Government servant, it may itself inquire into, or

appoint under this rule or under the provisions of the Public Servants (Inquiries) Act, 1850, as the case may be, an authority to inquire into the truth thereof.

Provided that where there is a complaint of sexual harassment within the meaning of rule 3 C of the Central Civil Services (Conduct) Rules, 1964, the complaints Committee established in each ministry or Department or Office for inquiring into such complaints, shall be deemed to be the inquiring authority appointed by the disciplinary authority for the purpose of these rules and the Complaints Committee shall hold, if separate procedure has not been prescribed for the complaints committee for holding the inquiry into the complaints of sexual harassments, the inquiry as far as practicable in accordance with the procedure laid down in these rules.

[DOP&T O.M. No. 11013/3/2009-Estt. (A) dated the 3rd August, 2009]

(25 G) Guidelines regarding prevention of sexual harassment of working women in the workplace.

In continuation of the Department of Personnel and Training's O.M. of even number dated the 21st July, 2009 on the abovementioned subject, the undersigned is directed to say that the following may be substituted for the existing instructions in para 1 (v) thereof :-

“(v) The Complaints Committee established in each Ministry or Department or Office for inquiring into complaints of sexual harassment shall be deemed to be the Inquiring Authority appointed by the Disciplinary Authority and the Complaints Committee shall hold, if separate procedure has not been prescribed for the Complaints Committee for holding the inquiry into such complaints, the inquiry, as far as practicable in accordance with the procedure laid down in the Central Civil Services (Classification, Control and Appeal) Rules, 1965 [In 2004 a proviso was added to rule 14(2) of the said rules. **(copy enclosed)** to this effect].”

2. The number of the last para of the O.M. under reference may be read as (2) in place of (3)

PROVISIONS OF Rule 14 (2) of the CENTRAL CIVIL SERVICES (CLASSIFICATION, CONTROL AND APPEAL) RULES, 1965

14 (2) Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a Government servant, it may itself inquire into, or appoint under this rule or under the provisions of the Public Servants (Inquiries) Act, 1850, as the case may be, an authority to inquire into the truth thereof.

Provided that where there is a complaint of sexual harassment within the meaning of rule 3 C of the Central Civil Services (Conduct) Rules, 1964, the complaints Committee established in each ministry or Department or Office for inquiring into such complaints, shall be deemed to be the inquiring authority appointed by the disciplinary authority for the purpose of these rules and the Complaints Committee shall hold, if separate procedure has not been prescribed for the complaints committee for holding the inquiry into the complaints of sexual harassments, the inquiry as far as practicable in accordance with the procedure laid down in these rules.

[DOP&T O.M. No.11013/3/2009-Estt. (A) dated the 7th August, 2009]