

## **COMBATING SEXUAL HARASSMENT AT WORK PLACE - HR CHALLENGE**

The common happenings at work place where majority of sexual harassment issues are neither taken forward for final conclusion nor any efforts are made by top management or HR professionals to combat such practices. It was something extremely commonplace, except that as an issue, it always gets swept under the carpet by most corporates. Finally, seeing the light of day as a HR issue. Yes! The issue is about sexual harassment at work place. It is a tricky issue and most HR Managers do not know how to handle and tend to ignore being relatively sensitive. Corporate India has started realizing the bitter truth of this problem that it is not only negative for employee moral but also to the organization's reputation and also to the profitability. Whatever may be the reasoning of companies behind their policies handling such problem, the truth remains that when office romance leads to sexual harassment, ultimate sufferer is none the else but organization. Here comes the role of HR to ensure by laying proper policy and guidelines that flowers do not turn into thorns.

In 1997, the Supreme Court had issued guidelines about proper workplace behaviour in a case popularly known as Vishakha case but the reality is something else. Some time back National commission for women in a survey has revealed the startling facts that compliance of Supreme Court guidelines are still very poor. Is it the final responsibility of HR professionals or top management? HR experts feel that top management normally see this issue as normal happening of any work place and do not accord much importance. In the absence of encouraging attitude, HR person at job either some time feel helpless or suppress such complaints or advise the female employees to handle the issue at her own level without involving management. But law says that all employers should prohibit sexual harassment and give appropriate punishment to the offender. It is the duty of the employer to prevent or deter acts of sexual harassment and to provide procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking the necessary steps required. Employers should ensure that victims or witnesses are not victims of sexual harassment should have the option to seek a transfer. The harsh reality is that the law is on female side but the authorities may not want to make it an issue if the employee in question is a much-valued one. So this is a decision that needs courage and support. It needs to be understood by the entire team and the management that such behaviour is indicative of an unhealthy work environment, which would affect the morale and productivity of the team.

Opinion solicited from male and female employees from diverse industries and sectors, however, reveal a surprising fact. While most men (and some women) insist that women, or rather good-looking women get a better deal in office, and most women talk about gender discrimination and ego hassles with a male boss, they are silent when it comes to sexual harassment at the workplace. Women tend to get intimidated and do not often reveal the truth for fear of damaging their career prospects. There is also the feeling that in most cases there is an implicit consent on the part of the victim. What is required to have impartial observers and to create awareness amongst both men and women employee. The stigma around the subject is evident from the fact that none of the employees want their real names to come up for fear of retribution from colleagues or the authorities. As a result, incidents of sexual harassment get reduced to discussions while the root problem of ignorance remains.

### **Do's & Don'ts**

If someone uses vulgar words, puts his hand on your shoulders, insists that you smoke or drink, do not do it if you are the least bit uneasy. As for male colleagues, they have to learn that when a woman says no, she means it. If you are confused about the behaviour, you'll have to see whether the behaviour is intentional. See if there is a pattern to it. If the person in question repeats it, then refuse to put up with it. Protest against any sexual innuendoes, language, actions or gestures or words inviting sexual favours. Complain to cell if exist, or to concerned manager about such incident, if you feel harassed. Don't keep quiet. "

## **Supreme Court Guidelines to prevent sexual harassment of women at workplace:**

### ***1. Duty of the Employer or other responsible person 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 behavior (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 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 workplace whether in public or private sector should take appropriate steps to prevent sexual harassment. Without prejudice to the generality of this obligation they should take the following steps:

- a) Express prohibition of sexual harassment as defined above at the workplace 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 amounts 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. Complaints Committee:**

The complaint mechanism, referred to in (6) above, should be adequate to provide, where necessary, a Complaints Committee, a special counsellor or other support service, including the maintenance of confidentiality. The Complaints Committee should be headed by a workman and not less than half of 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.

## **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 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. *(as directed in Vishakha case in 1997)*

It is primarily for the HR person at workplace to create an environment, awareness among male and female employees, make policies on the subject, communicate top management about this statutory compliance and facilitate in changing attitude of all concerned.

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