



Gyanoday College of Education Janjgir

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GENDER POLICY

Workplace discrimination refers to any kind of unfair treatment or decision based on a person's gender, sexual orientation, age, marital status, career responsibilities, disability, religion, ethnicity and/or other attributes. Disrespect and discrimination at work can take many forms – it can happen based on individual attributes of race, religion, colour, ethnic origin, sexual orientation or any other personal attribute. These can include verbal, non-verbal or physical behaviours and range from small incidents of disrespect which can then escalate to higher forms like bullying, discrimination, harassment or even sexual harassment. When an employer ignores or neglects to take appropriate steps to prevent such behaviour, the work culture can not only become vicious impacting productivity but also expose the company to legal ramifications.

Indian Laws on Workplace Harassment:

- The Constitution of India embodies the concept of equality under Articles 14 and 15 and prohibits discrimination on grounds of religion, race, caste, sex and/or place of birth. The Constitution also gives the fundamental right to all citizens to practice any profession, or to carry on any occupation, trade or business. This right pre-supposes the availability of an enabling work environment.
- The Indian Penal Code, 1860, commonly referred to as the IPC, is India's comprehensive code on substantive aspects of criminal law. In 2013, significant amendments were made to the IPC to criminalize acts of sexual harassment, stalking and voyeurism. Section 509 of the IPC states that Word, gesture or act intended to insult the modesty of a woman is a criminal offence.
- The Supreme Court of India, in 1997, in the case of Vishaka v State of Rajasthan, acknowledged workplace sexual harassment as a human rights violation and prescribed guidelines to address the issue till such time a legislation was enacted. In December 2013, the POSH Act was legislated and brought into effect. According to the POSH Act, the following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment:
 - Implied or explicit threat of detrimental treatment in employment or about present or future employment status.
 - Interference with work or creating an intimidating or offensive or hostile work environment.
 - Humiliating treatment likely to affect health or safety.Jane is a victim in the above circumstance as per the provisions of the above-mentioned Laws and Acts.

The POSH Act mandates every employer having more than 10 workers to constitute an ICC for redressal of grievances of workplace harassment. If ICC is already formed in the company, she should report her harassment complaint to it as per the Industrial Employment (Standing Orders) Act, 1946 (SO Act). If the ICC does not exist in the company, she should complain to 'Local Complaints Committee' ("LCC") chaired by the District Officer to receive complaints against establishments where there is no ICC or there being a complaint against the employer himself.

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General Guidelines for Conducting Internal Disciplinary Inquiries:

- *Acknowledge the complaint:* Once a complaint is received the same should be acknowledged by the grievance redressal committee.
- *Assistance to the complainant:* If the complainant is unable to make a complaint in writing, provide assistance to the complainant to make the complaint in writing.
- *Ensure completeness of the complaint:* Ensure that all details critical to commence the enquiry is contained in the complaint.
- *Timelines for making the complaint:* Adhere to timelines prescribed under law or policy. If an extension is being provided, record reasons for the same.
- *Emphasize confidentiality:* Inform all parties involved about the requirement to keep the complaint and consequential discussions confidential. Reiterate the same from time to time.
- *Assess and rule out conflict of interest:* The inquiring authorities should be required to confirm that they are not conflicted, i.e., there is no relationship or situation that has the potential to undermine their ability to investigate and redress the grievance impartially.

Following are the process to be followed while conducting an internal inquiry:

- *Issue of charge-sheet to the respondent:* The charge- sheet should contain
 - the allegations;
 - timeline within which the respondent is to respond to the charges;
 - obligations with respect to confidentiality, retaliation, victimisation;
 - consequences of not providing a response, if any.
- *Issue of enquiry notice:* The complainant, respondent and their respective witnesses should be served with a notice of enquiry setting out details of date, time, venue, and names of individuals who are part of the grievance redressal committee.
- *Calling witnesses/ evidences:* During the enquiry, witnesses and evidences may be examined.
- *Hearing:* The respondent has to be given a fair hearing, in accordance with the principles of natural justice.
- *Punishment:* If the allegations have been proved, the company can decide on the punishment to be prescribed. It is critical to ensure that the punishment being prescribed is proportionate to the act of misconduct.
- *Enquiry report:* Upon completion of the enquiry, an enquiry report setting out the findings and recommendations are to be prepared.

In addition to formal mechanisms of grievance redressal, companies often adopt informal resolution processes such as 'open door policies' encouraging transparent discussions on workplace issues. Employees are also being provided access to support groups, counsellors, and other assistance programs to ensure that their issues are redressed in a holistic manner.


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