

No. 11013/2/2014 Estt (A.III)
Government of India
Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel and Training)

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North Block, New Delhi,
Dated the 27th November 2014

OFFICE MEMORANDUM

Subject: Alignment of Service Rules with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013.

The undersigned is directed to say that the 'Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013' { SHWW (PPR) Act } has been promulgated on 22nd April 2013. Further to the Act, the 'Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013' were notified on 9.12.2013. The Act and the Rules framed thereunder provide a redressal mechanism for handling cases of sexual harassment at workplace. The Act and Rules are available at the website of the Ministry of Women and Child Development (wcd.nic.in) under Legislation/Acts.

2. The CCS (Conduct) Rules, 1964 and CCS (CCA) Rules, 1965 have been amended vide Notifications of even number published as G.S.R. 823(E) and G.S.R.822(E) in the Gazette of India – Extraordinary dated 19-11-2014. These are available on this Department's website www.persmin.gov.in

3. So far as Central Government employees are concerned, provisions already exist in the CCS (Conduct) Rules 1964 defining sexual harassment. Further, the proviso to Rule 14(2) of the CCS (CCA) Rules 1965 provides that the complaints committee established in each Ministry or Department or office enquiring into such complaints shall be deemed to be the inquiring authority appointed by the disciplinary authority and the committee shall hold the inquiry so far as practicable in accordance with the procedure laid down in those rules. Similar provisions exist in the relevant service rules of the Central Government servants not governed by CCS (Conduct) Rules / CCS (CCA) Rules.

4. Sexual harassment as defined rule 3-C of CCS (Conduct) Rules, 1964 in has been amended vide Notification of even number dated 19-11-2014 (copy enclosed). The amended rule is as follows:

"Rule 3C - Prohibition of sexual harassment of working women

(1) No Government servant shall indulge in any act of sexual harassment of any woman at any 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- 1 For the purpose of this rule,

(a) "sexual harassment" includes any one or more of the following acts or behaviour, (whether directly or by implication), namely:--

- (i) physical contact and advances; or
- (ii) demand or request for sexual favours; or
- (iii) sexually coloured remarks; or
- (iv) showing any pornography; or
- (v) any other unwelcome physical, verbal, non-verbal conduct of a sexual nature.

(b) 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 : -

- (i) implied or explicit promise of preferential treatment in employment; or
- (ii) implied or explicit threat of detrimental treatment in employment ; or
- (iii) implied or explicit threat about her present or future employment status; or
- (iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or
- (v) humiliating treatment likely to affect her health or safety.

(c) "workplace" includes, -

- (i) any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the Central Government;

- (ii) hospitals or nursing homes;
- (iii) any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereto;
- (iv) any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey;
- (v) a dwelling place or a house."

5. All Ministries/Departments are advised that the following procedure may be adopted while dealing with complaints of sexual harassment:-

- (i) Sexual harassment will include any one or more of the Acts or behaviour defined in Rule 3-C of the CCS (Conduct) Rules 1964 read with Sec 3(2) of SHWW (PPR) Act.
- (ii) The Committee constituted in each Ministry/ Department/ office under the CCS (Conduct) Rules, 1964 shall inquire into complaints of sexual harassment in accordance with the provisions of Section 4 of the SHWW (PPR) Act.
- (iii) The Committee will as far as practicable follow the procedures prescribed in CCS (CCA) Rules 1965 for conduct of the inquiry.
- (iv) If any complaint is received directly by the committee, the same shall be referred to the appropriate disciplinary authority and the Committee shall inquire into the complaint on the complaint being referred to it by the disciplinary authority.

6. In addition, the Committee will have the powers to recommend to the employer:-

- a) to transfer the aggrieved woman or the charged officer to any other workplace; or
- b) to grant leave to the aggrieved woman up to a period of three months.
(The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled to.)
- c) to grant such other relief to the aggrieved woman as may be prescribed; or
- d) to deduct from the salary or wages of the charged officer such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs. Any amount outstanding at the time of cessation of the services of the charged officer due to retirement, death or otherwise may be recovered from

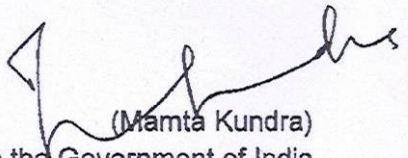
the terminal benefits payable to the officer or his heirs. Such compensation will not amount to penalty under Rule 11 of CCS (CCA) Rules in terms of the Explanation (ix) to Rule 11 inserted vide Notification of even Number dated 19-11-2014.

7. It may also be noted that the Committee may recommend action to be taken against the person who has made a complaint, if the Committee arrives at the conclusion that the allegation is malicious or the aggrieved woman or the person making the complaint has made the complaint knowing it to be false or has produced any forged or misleading document. The Committee may also recommend action against any witness if it comes to the conclusion that such witness has given false evidence or produced any forged or misleading document.

8. Attention is also invited to the following provisions of SHWW (PPR) Act:

- Sec 16 & 17 : Prohibition of publication or making known contents of complaint, inquiry proceedings and recommendations of the Committee.
- Sec 19 : Duties of employer. This may be read with provisions of Rule 3(C) (2) of CCS (Conduct) Rules.
- Sec 21, 22 of SHWW(PPR) Act and Rule 14 of the SHWW (PPR) Rules Annual Reports

9. All the Ministries/Departments are requested to bring the contents of this OM to the notice of all officers and staff working under them. The Ministries/ Departments are also requested to advise the PSEs /Autonomous Bodies under their administrative control to align their service rules with the SHWW (PPR) Act/ Rules.


(Mamta Kundra)
Joint Secretary to the Government of India
Tel: 23094276

To

All Ministries/Departments (as per standard list)