

Guidelines and norms laid down against Sexual Harassment at Workplaces of Income Tax Appellate Tribunal (ITAT)

As per

The Sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal) Act, 2013 (4 of 2013)

Along with

The Sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal) Rules, 2013

HAVING REGARD to the definition of 'Human Rights' in Section 2(d) of Protection of Human Rights Act, 1993,

WHEREAS sexual harassment results in violation of fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment;

AND WHEREAS protection against sexual harassment and right to work with dignity are universally recognised human rights by international conventions and instruments such as Convention on Elimination of all Forms of Discrimination against Women, which has been ratified on the 25th June, 1993 by the Government of India;

TAKING NOTE of the fact that present Civil and Penal laws in India do not adequately provide for specific protection of women from sexual harassment in work place Legislature enacted "***The Sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal) Act, 2013*** along with **Rule 6, 7, 8, 9, 10, 11 and 12** of "***The Sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal) Rules, 2013,*** Published vide G.S.R. 769(E) dated 09.12.2013, published in Gazette of India, Ext. Pt.II, S.3(i) dated 09.12.2013.

It is necessary and expedient for employers in work places as well as other responsible persons of Income Tax Appellate Tribunal (ITAT), to observe certain guidelines to ensure prevention of sexual harassment of women.

AND WHEREAS it is expedient to make provisions for giving effect to the said Convention for protection of women against sexual harassment at workplace.

Duty of Employer or other responsible persons in work place of Income Tax Appellate Tribunal (ITAT)

It shall be the duty of the employer or other responsible persons in work place of Income Tax Appellate Tribunal (ITAT), to prevent or deter the commission of acts of sexual harassment and to provide procedures for resolution, settlement or prosecution of acts, of sexual harassment by taking all steps as required under the Act.

Definition

For this purpose, sexual harassment as defined u/s 2(n) of the Act 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, 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 raised any objection thereto.

Preventive Steps

All employers or persons in charge of Income Tax Appellate Tribunal (ITAT), should take appropriate steps to prevent sexual harassment. Without prejudice to the generality of this obligation they should take following steps:

- A. Express prohibition of sexual harassment, as defined above at work place of Income Tax Appellate Tribunal (ITAT), 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. 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.
- D. No woman shall be subjected to sexual harassment at any work place –
 - (i) Implied or explicit promise of preferential treatment in her employment;
 - (ii) Implied or explicit threat of detrimental treatment in her employment (or)
 - (iii) Implied or explicit threat of detrimental treatment in her employment; or
 - (iv) Implied or explicit threat about her present or future employment status; or
 - (v) Interference with her work or creating an intimidating or offensive or hostile work environment for her; or
 - (vi) Humiliating treatment likely to affect her health or safety.

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.

Disciplinary Action

Where such conduct amounts to misconduct as defined in **Rule-3C of Central Civil Service (Conduct) Rules, 1964**, or, any other Rules as may be applicable, depending upon the position held by the accused, appropriate disciplinary action would be initiated in accordance with such Rules.

Complaint Mechanism

Whether or not such conduct constitutes an offence under law, or a breach of Central Civil Service (Conduct) Rules 1964, complaint mechanism as per chapter IV, V of ***"The Sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal) Act, 2013*** along with **Rule 6, 7, 8, 9, 10, 11 and 12** of ***"The Sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal) Rules, 2013***, for redress of such complaint, made by the victim shall come into play. Such complaint shall be addressed by the complaints committee in a time bound manner.

Complaints Committee

The complaint mechanism, referred to above, should be adequate to provide, where necessary, a Complaints Committee, a Special Counselor or other support service, including 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 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. Such third party shall be nominated with prior consent from such 3rd party by following due procedures

The Complaints Committee must make annual report to Government department concerned, regarding complaints if any 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.

Worker's Initiative

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

Awareness

Awareness regarding rights of female employees in this regard should be created in particular by prominently notifying the guidelines in a suitable manner and by conducting/organising workshops etc., as per Rule 19 ***"The Sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal) Rules, 2013,***

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.