

GOVERNMENT OF RAJASTHAN
Department of Personnel

No.F.9(2)(59)/Karmik/Ka-3/97 Pt.-1 Dated: July 23, 2001

1. All Principal Secretaries / Secretaries to Government
2. All Divisional Commissioners
3. All Heads of Departments (including District Collectors)

C I R C U L A R

SUBJECT: Compliance of the directions of the Hon'ble Supreme Court of India contained in the judgment in the case of Vishaka & Others Vs. State of Rajasthan & Others.

In the case of Vishaka & Others Vs. State of Rajasthan & Others (JT 1997 (7) SC 384) the Hon'ble Supreme Court of India has laid down guidelines and norms to be observed to prevent sexual harassment of working women. A copy of the norms and guidelines is enclosed with this Circular for ready reference.

In this connection your attention is invited to this Department's Notification No.F.9(2)(59) Karmik/Ka-3/97 Pt. I dated June 14, 2000 whereby a new Rule 25 AA has been inserted in the Rajasthan Civil Services (Conduct) Rules, 1971 for prohibiting sexual harassment of working women. This new rule 25 AA provides that no government servant shall indulge in any act of sexual harassment of any woman at her work place. It further provides that every government servant who is in charge of a work place shall take appropriate steps to prevent sexual harassment to any woman at such work place whenever such a matter is brought to his notice.. As per the explanation provided under this new rule, "sexual harassment" has been defined to include such unwelcome sexually determined behaviour, whether directly or otherwise as : (a) physical contact and advances; (b) demand or request for sexual favours; (c)

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sexually coloured remarks; (d) showing any pornography; or (e) any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.

The Rajasthan Civil Services (Conduct) Rules, 1971 provide 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 misconduct. Appropriate disciplinary action should, therefore, be initiated in such cases against the delinquent government servant in accordance with the rules.

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 the law by making a complaint with the appropriate authority.

In particular, it should be ensured that the victims, or witnesses are not victimised 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.

Complaint Mechanism : As per the guidelines and norms prescribed by the Hon'ble Supreme Court of India (copy enclosed) it is essential that a Complaint Mechanism should be set up in each organisation for redressal of the complaints made by the victims. Keeping in view the directions of the Hon'ble Supreme Court of India, all Principal Secretaries to Government / Secretaries to Government / Heads of Departments are requested to ensure as follows :

1. A Complaints Committee should be setup for redressal of the complaints made by the victims in each Department as well as in each of the Attached / Subordinate Offices and Autonomous Organisations / Public Sector Undertakings etc.
2. Subject to the availability of suitable women officers in the organisation, the Complaints Committee should be headed by a woman and not less than half of its members should be women.
3. All the complaints received by the Complaints Committee should be entered in a permanent register to be maintained in each organisation for this purpose. A gist of the action taken on each complaint should also be recorded in this register.

4. The Complaints Committee should ensure time bound treatment of complaints.

All the Principal Secretaries to Government / Secretaries to Government / Heads of Departments are requested to ensure that Complaint Committees are immediately set up in each Department as well as in each of the Attached / Subordinate Offices and Autonomous Organisations / Public Sector Undertakings etc. under their administrative control. A certificate to this effect may be furnished to this Department within a month's time. A copy may be sent to Principal Secretary Home Department and Secretary Women & Child Development Department.

All the Principal Secretaries to Government / Secretaries to Government / Heads of Departments are also requested to monitor the functioning of the Complaints Committees once in three months.

Awareness : Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the enclosed guidelines and norms in a suitable manner in the various offices as well as in each of the Attached / Subordinate Offices and Autonomous Organisations / Public Sector Undertakings etc.

Annual Report: All Principal Secretaries to Government / Secretaries to Government / Heads of Departments are further requested to send an Annual Report for the period ending 31st March by 30th June each year to the Women & Child Development Department regarding the functioning of Complaint Committees in the various offices as well as in each of the Attached / Subordinate Offices and Autonomous Organisations / Public Sector Undertakings etc. under their administrative control.



(Ashok Sampatram)
Secretary to Government

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 of 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 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 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.

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.