

LAW AREA NAME : LABOUR
SECTION NAME : LABOUR ATROCITIES
SUB SECTION NAME : SEXUAL HARASSMENT AT WORK PLACE

LAW IN BRIEF

Sexual harassment is the reflection of unequal power in the work place. Harassment in the form of lewd remarks and displays of obscene pictures or cartoons makes the workplace hostile for women.

The Supreme court had issued guidelines for protection of women from sexual harassment at work place in the landmark Judgment of Vishaka v. Union of India (AIR 1997 SC 3011)

In the absence of proper legislation, these guidelines will have the force of law exercised by the Supreme Court under Article 141 of the Constitution of India.

LAW IN DETAIL

The Supreme Court of India had laid down guidelines to protect working woman from sexual harassment at work place. Sexual harassment at workplace is defined as:

Such unwelcome sexually determined behavior (whether directly or by implication) as:

- a) Physical contact and advances;
- b) A demand or request for sexual favors;
- c) Sexually colored remarks;
- d) Showing pornography;
- e) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

The law applies to any woman working either in:

- Government sector
- Public sector
- Private sector

She may be working voluntarily or for a salary or a honorarium.

Duty of the employer or other responsible persons in work places:

1. Preventive steps:

- To notify, publish and circulate express prohibition of sexual harassment.
- To provide appropriate work conditions for woman in respect of work, leisure, health and hygiene.

- To ensure that there is no hostile environment towards women at work places.
 - For private employers, the prohibitions must be included in the standing orders under the “Industrial Employment (Standing Orders) Act, 1946”
2. To create rights awareness among the female employees, the guidelines must be prominently displayed.
 3. Issue of sexual harassment should be discussed in the Employer-Employee meetings.
 4. Employer should ensure that the victim or witnesses are not victimized or discriminated while dealing with sexual harassment complaints.
 5. The women victim can ask for transfer of the perpetrator. She can even ask for her own transfer.
 6. In case of sexual harassment by third parties or an outsider, the employer should ensure that preventive action is taken and the victim is assisted and supported.
 7. It is the duty of the employers to send an annual report to the Government department regarding the compliance of the guidelines and the reports of the compliance committee.

PROCESS FOR SOLUTION

Complaint Under which Section ?

The rules framed by the employer organization in accordance with the guidelines issued by the Supreme court.

Whom to complain / where to complain?

If the conduct amounts to any offence under the Indian Penal Code or any other law the employer should lodge a complaint to the police or the magistrate.

The Employers should create sexual harassment complaints committee within the organizations for redressal of complaint.

It should provide special counselors or other support service.

How to file the Case ?

The complaints committee ensures confidentiality and must dispose complaints within the prescribed time-limit.

Disciplinary action will be initiated for misconduct according to the service rules.

What Next ?

The right to protection from sexual harassment is treated as a fundamental right of women and the Supreme court or High court may be approached under Article 32 or Article 227 of the Constitution of India.

ALTERNATE REMEDIES

As per the guidelines, employees must be allowed to raise issues of sexual harassment at worker's meetings and in other appropriate forum and it should be affirmatively discussed in the employer-employee meetings.