

RULES

THE PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE RULES 2013

Short title and commencement:-

(1) These rules may be cited as the Protection against Harassment of Women at the Workplace Rules 2013.

(2) They shall come into force at once.

2. Definitions: -

(1) In these rules:

(a) "Act" means the Protection against Harassment of Women at the Workplace Act, 2010 (IV of 2010); and (b) "Ombudsperson" means an Ombudsperson appointed under section 7 of the Act.

(2) The words and expressions used but not defined in these rules shall have the same meanings as assigned to them in the Act.

3. Competent Authority: -

(1) each organization shall, by order, nominate the competent authority in terms of subsection (4) of section 3 of the Act.

(2) The organization shall, within seven days of the nomination of the competent authority, send a copy of the order to the Ombudsperson and circulate it to the employees of the organization for information.

(3) An organization shall not discriminate against any gender while nominating a competent authority.

4. Complaint: -

(1) A complainant may, under subsection (1) of section 8 of the Act, prefer a complaint either to the Inquiry Committee through any of its member or the Ombudsperson.

(2) The Inquiry Committee or the Ombudsperson shall, under confidential cover, inform the employer of the complainant about the complaint received under subsection (1).

(3) At any stage of the proceedings but before the final decision on a complaint, the complainant may, with the permission of the Inquiry Committee or the Ombudsperson withdraws the complaint.

5. Contents of the complaint:-

(1) A complaint shall contain a comprehensive statement of the facts relating to the incident of harassment, all necessary details, names of witnesses and any other material, details or evidence in support of the complaint.

(2) All documents, evidence or other supporting material in whatever form such as audio, video or documentary, shall be annexed with the complaint.

(3) The complaint shall verify that the information contained in the complaint is true and correct to the best of knowledge and belief of the complainant.

(4) A party may amend the complaint or written defense at any stage of the inquiry.

(5) The complainant shall sign the complaint or affix the thumb impression on the complaint.

(6) The accused shall sign the written defense or affix the thumb impression on the written defense.

6. Inquiry Committee: -

(1) Each organization shall constitute one or more Inquiry Committees as specified in section 3 of the Act.

(2) In case of occurrence of any vacancy in the membership of an Inquiry Committee, the organization shall immediately appoint another person as member of the Inquiry Committee in order to fill such vacancy.

7. Procedure of Inquiry Committee :-

(1) The Inquiry Committee shall:

(a) Hold the Inquiry in fair and impartial and non-discriminatory manner after giving opportunity of being heard to the parties;

(b) Obtain documents or other information relating to incident of reported harassment and consider the same;

(c) Not make public any document or statement of any party to an inquiry and maintain high standards of confidentiality as provided under clause (a) of subsection (3) of section 4 of the Act; and

(d) Make suitable arrangements for safe custody of all documents, record or other material relating to inquiry proceedings.

(2) All documents, information, record, proceedings and findings of the Inquiry Committee shall be confidential and no copies thereof shall be provided to any person not related to the case.

8. Recommendations:-

(1) The Inquiry Committee may, after recording reasons, either dismiss the complaint or recommend any of the penalties under section 4 of the Act.

(2) The Inquiry Committee shall provide a copy of its recommendations to both the parties free of cost.

9. Imposition of penalty:-

(1) If an Inquiry Committee recommends the imposition of any penalty on the accused, the competent authority may, within seven days of the

receipt of recommendation of the Inquiry Committee, impose the penalty or refer back the case to the Inquiry Committee for further enquiry on specified aspects of the case.

(2) The Ombudsperson shall, after the enquiry, record the decision and shall inform both the parties and the organization for implementation of the decision.

(3) The competent authority shall send a copy of the final order to both the parties, the Inquiry Committee and the Ombudsperson.

10. Procedure before the Ombudsperson: -

(1) The show cause notice under subsection (2) of section 8 of the Act shall contain all the allegations leveled against the accused by the complainant and copy of the complaint shall be provided along with the notice.

(2) Subject to subsection (2) of section 8 of the Act, on receipt of written defense from the accused, the Ombudsperson shall summon the parties for personal hearing before taking any decision.

(3) The parties shall appear before the Ombudsperson along with supporting material, documents, information or other evidence available with the complainant or the accused.

(4) The Ombudsperson may summon any witness, record or any other material in possession of anybody or authority for the just decision of the case.

(5) The Ombudsperson shall, on the basis of the available evidence, record this decision along with reasons.

(6) In the absence of any express provision regarding conduct of proceedings or inquiry, the Ombudsperson may conduct the proceedings or inquiry in such manner as the Ombudsperson may consider necessary and appropriate for purposes of arriving at just decision of an appeal or a complaint.

(7) The Ombudsperson shall decide a case under the Act as expeditiously as possible and send a copy of his decision to the competent authority for implementation.

(8) Subject to the decision of the Governor on the representation of any party, the competent authority shall implement the decision of the Ombudsperson within thirty days from the date of the receipt of the decision or within such further period as the Ombudsperson may specify and shall within seven days of the implementation of the decision inform the Ombudsperson, the accused and the complainant.

11. Remedial measures:-

The Inquiry Committee or the Ombudsperson may recommend to the employer any remedial measures in case the complainant or the accused is in a state of trauma, depression or other psychological shock.

12. Advice and counseling :-

(1) An employer may nominate an officer possessing knowledge of law, psychology or sociology to provide necessary advice, counseling and assistance to the complainant or the accused under clause (b) of subsection (3) of section 4 of the Act.

(2) The counseling officer may recommend such steps to the employer as may be necessary to avoid harassment keeping in view the socio-cultural requirements of the area and the organization.

Policy

The policy regarding protection against harassment at workplace is governed by the Protection against Harassment of Women at the Workplace Act, 2010 and the Protection against Harassment of Women at the Workplace Rules 2013.

Procedure

The procedure to be observed by an Inquiry Committee, Competent Authority and the Ombudsperson has been specified in the Protection Against Harassment of Women at the Workplace Act, 2010 and the Protection against Harassment of Women at the Workplace Rules 2013.