

Sexual Harassment of Women At Work Place



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Recently newspapers are flooded with tahalka news where a women employee was harassed by co-employee. We are still carrying the attitude where women are treated as secondary to men. True, the times have changed with Industrial Revolution and then the technological advances; women have been recognized as equal to men all over. But Women have generally been looked upon with contempt for centuries with various strictures inflicted upon them reducing their status to the mercy of men and it takes time to change the mind sets of all Indians. The political system in some extent change the entire systems but customs like Sati etc. which are still rampant in some parts of India and yes the dowry system which is present everywhere have to go if women have to enjoy equal respect along with men. As long as these evil practices continue and till commercialization of women through each and every useless advertisement is practiced harassment of women not only in work place but in home, in street, in college everywhere will continue and male tries to dominate the female submissiveness everywhere.

According to the Protection of Human Right Act, 1993 "human rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India. 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 as to live with dignity is a human right guaranteed by our constitution.

In India Sexual harassment has been termed as "Eve teasing" and is described as: unwelcome sexual gesture or behavior whether directly or indirectly as sexually colored remarks; physical contact and advances; showing pornography; a demand or request for sexual favors; any other unwelcome physical, verbal/non-verbal conduct being sexual in nature. The critical factor is the unwelcomed behavior, thereby making the impact of such actions on the recipient more relevant rather than intent of the perpetrator. As per the Indian Constitution, sexual harassment infringes the fundamental right of a woman to gender equality under Article 14 of the Constitution of India and her right to

life and live with dignity under Article 21 of the Constitution. Although there is no specific law against sexual harassment at workplace in India but many provisions in other legislations protect against sexual harassment at workplace, such as Section 354, IPC deals with "assault or criminal force to a woman with the intent to outrage her modesty, and Section 509, IPC deals with "word, gesture or act intended to insult the modesty of a woman.

In 1997 in Vishakavs. State of Rajasthan and others, for the first time sexual harassment had been explicitly-legally defined as an unwelcome sexual gesture or behaviour whether directly or indirectly as :-

1. Sexually coloured remarks
2. Physical contact and advances
3. Showing pornography
4. A demand or request for sexual favours
5. Any other unwelcome physical, verbal/non-verbal conduct being sexual in nature.

Section 354, IPC deals with assault or criminal force to a woman with the intent to outrage her modesty . In cases where the accused sexually harasses or insults the modesty of a woman by way of either- obscene acts or songs or- by means of words, gesture, or acts intended to insult the modesty of a woman, he shall be punished under Sections.294 and 509 respectively.

Under Sec.294 the obscene act or song must cause annoyance. Though annoyance is an important ingredient of this offence, it being associated with the mental condition, has often to be inferred from proved facts. However, another important ingredient of this offence is that the obscene acts or songs must be committed or sung in or near any public place. Section 509, IPC deals with word, gesture or act intended to insult the modesty of a woman. Section 7 (Offenses by Companies) holds companies where there has been "indecent representation of women" (such as the display of pornography) on the premises guilty of offenses under this act, with a minimum sentence of 2 years.

Effects of sexual harassment

Sexual Harassment has an adverse effect on the organization as the working enthusiasm of the sexually harassed female employee goes down, she is

not able to work in the same way as she was before being harassed and thus she is not able to give her 100% to the organization thereby leading to decreased job satisfaction. Moreover, effects of sexual harassment can vary depending on the individual, and the severity and duration of the harassment. Often, sexual harassment incidents fall into the category of the "merely annoying." However, many situations can, and do, have life-altering effects particularly when they involve severe/chronic abuses, and/or retaliation against a victim who does not submit to the harassment, or who complains about it openly. Indeed, psychologists and social workers report that severe/chronic sexual harassment can have the same psychological effects as rape or sexual assault. Moreover, every year, sexual harassment costs hundreds of millions of dollars in lost educational and professional opportunities, mostly for girls and women.

However, the quantity of men implied in these conflicts is significant. Increased health care costs and sick pay costs because of the health consequences of harassment, the knowledge that harassment is permitted can undermine ethical standards and discipline in the organization in general, as staff and/or students lose respect for, and trust in, their seniors who indulge in, or turn a blind eye to, sexual harassment, if the problem is ignored, a company's or school's image can suffer, legal costs if the problem is ignored and complainants take the issue to court.

Supreme Court steps to prevent Sexual Harassment

In Vishaka Vs. State of Rajasthan and others, for the first time a writ petition was filed by 'Vishaka'- a non Governmental organization working for gender equality and enforcement of fundamental rights of working women under Article.21 of the Constitution. For effective enforcement of basic human rights of gender equality and guarantee against sexual harassment, laid down the following guidelines:

- (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, 1940.

(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.

In AK. Chopra's case, is the first case in which the Supreme Court applied the law laid down in Vishaka's case and upheld the dismissal of a superior officer of the Delhi based Apparel Export Promotion Council who was found guilty of sexual harassment of a subordinate female employee at the place of work on the ground that it violated her fundamental right guaranteed by Article.21 of the Constitution.

In both cases the Supreme Court observed, that " In cases involving Human Rights, the Courts must be alive to the International Conventions and Instruments as far as possible to give effect to the principles contained therein- such as the Convention on the Eradication of All forms of Discrimination Against Women, 1979 [CEDAW] and the Beijing Declaration directing all state parties to take appropriate measures to prevent such discrimination."

Conclusion

Sexual harassment is damaging to the victims and to the workplace in general. It is also against the law. Managers can be held responsible for the sexual harassment of one employee by another if the manager knew or should have known about the conduct and did nothing to stop it. Managers can do a lot to create work environments where sexual harassment will be less likely to occur. They have a duty to be vigilant for signs of a problem, to inform themselves and their employees, to act as role models, to be accessible to employees, to be good listeners, to be objective and consistent, and to respond quickly and with sensitivity to complaints.

If sexual harassment is reported or observed, managers may have a significant role to play in the investigation and resolution of an alleged incident, including supporting a victim, recommending or implementing punishment of a harasser, and healing the workplaces in the aftermath. It is important that managers know about the laws, policies, and procedures governing sexual harassment so they can fulfill their responsibilities, protect their organizations from costly legal action, and provide a respectful work environment for all.

REFERENCE

1. AIR 1997 SUPREME COURT 3011
2. AIR 1999 SC 625