

A Complaint from an aggrieved Woman – What next?

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In Sexual Harassment cases, accepting and proceeding with Inquiry is very sensitive job for the Internal Committee. Where there is a complaint from any aggrieved woman – there are Different Scenarios. In today's blog, let us discuss about one particular situation and related scenarios:

Situation – I, is: Complainant woman is not an Employee

A woman need not be an Employee (working in such Organization), to file a Sexual Harassment Complaint against an Employee. A Woman can be any person who is in the Employer Premises

- She can be a Visitor
- She can be a Customer/Client
- She can be a Job Applicant / Intern
- She can be a Vendor
- She could have accompanied – a Visitor or a Customer, a Job Applicant/Intern or a Vendor

Scenario – I Complaint letter is given to someone in the office (who is not an Internal Committee Member)

Further Process

1. HR or Management needs to arrange for collection of the complaint and submit it to, any of the Internal Committee Member.
2. Ensure the person who received the complaint, do not disclose anything, to anyone.
3. Internal Committee to peruse the Complaint for,
 - a. Whether the incident has happened in "Workplace"
 - i. If yes, proceed
 - ii. If no, reply or inform the Complainant, that they have no Jurisdiction to entertain the complaint
 - b. If yes to above, to check whether the incident is "Sexual Harassment"
 - i. If yes, proceed
 - ii. If no, share the complaint to Human Resources / Management for further process
 - c. If yes to above, issue notice to the "Respondent employee"
 - d. Inform the Complainant
 - e. Proceed with the Inquiry

Scenario – II Complaint letter is given to IC Member (Internal Committee Member)

Further Process

Same as the Scenario – I, process from point number 3.

Scenario – III Complaint is given to (i) Local Committee or (ii) District Committee or (iii) Women & Child Department (WCD) or (iv) SHEbox or Police

Further Process

1. Internal Committee will receive information on the complaint (copy of the complaint) and to peruse the Complaint for,
 - a. Whether the incident has happened in "Workplace"
 - i. If yes, proceed
 - ii. If no, reply or inform the Complainant, that they have no Jurisdiction to entertain the complaint
 - b. If yes to above, to check whether the incident is "Sexual Harassment"
 - i. If yes, proceed
 - ii. If no, share the complaint to Human Resources / Management for further process
 - c. If yes to above, issue notice to the "Respondent employee"
 - d. Inform the Complainant
 - e. Inform the Authority from where the complaint was received
 - f. Proceed with the Inquiry
 - g. Update the Authority about the outcome of, prima-facie accepting or rejecting the complaint, with reasons
2. Upon accepting the complaint and further to the completion of the Inquiry, update the Authority, with the Recommendations of the Internal Committee

Where the complaint is received by the Police and copy was shared to the Internal Committee, the Inquiry by the Internal Committee must happen, irrespective of the parallel enquiry by the Police department. The case by the Police or Outcome of the enquiry by the Police do not have any bearing on the inquiry by IC or vice-versa.

Where the Complaint is on the Male Employee (Respondent employee), who is on a Contractual Roll, the Employer (Vendor) of such employee also shall be kept informed about the Complaint and the Inquiry can continue by the IC of the Principal Employer (the Employer of the premises where alleged Sexual Harassment has happened). For no reason, such employee can be terminated or asked to be withdrawn by the vendor, upon receipt of the complaint. Employer shall ensure "Principles of Natural Justice" at all times.

Post completion of enquiry, if any action is to be taken on such employee, the Employer of such Contractual employee needs to be kept informed. (In most of the cases, if the allegations are proved, he shall be terminated from providing his service with this Employer and if the misconduct is serious, the vendor may be asked to terminate him without any notice.)

Next Blog volumes will be on, other situations:

Situation II : Complainant woman is an outsourced Employee (engaged in the premises through a Contractor/Vendor)

Situation III : Complainant woman is an Employee

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