

**DIRECTORATE GENERAL NCC**  
**MINISTRY OF DEFENCE,**  
**WEST BLOCK 0 IV, RK PURAM**  
**NEW DELHI - 110066.**

**CONSTITUTION OF COMPLAINTS COMMITTEE ON**  
**SEXUAL HARASSMENT OF WOMEN AT WORK PLACE**

1. In accordance to the Hon'ble Supreme Court Judgment and DOPT directions, a Complaint Committee on sexual harassment of women at work place has been constituted at HQ DGNCC with the approval of DGNCC. The composition of the Committee is as under:-

**Chairperson**

Smt Vibha Sood, Dy DG (P&F)

**Member**

- (a) Shri VL Renga Hriller, Dir (Estt & IT), DGNCC
- (b) Lt Col Atul Suri, JD (PI), DGNCC
- (c) Smt Jayshri Chandrasekar, Dy Director (Pers), DGNCC
- (d) Smt V Premlatha, AD Lgs (A-2), DGNCC

2. The Complaints Committee will enquire all types of complaints relating to harassment of women at work place submitted by women employee (including AFHQ Cadre and Casual employees) posted at HQ DGNCC.

3. A women employee can submit complaint on sexual harassment at work place to Chairperson of the Committee directly. Any complaint submitted to other offices of DGNCC, concerned coord will transfer the complaints to the Chairperson for further necessary action.

4. Copy of detailed complain mechanism, inquiry procedure alongwith "Frequently Asked Questions (FAQ) and Answers" are given below as Annexures.

**MINISTRY OF DEFENCE**  
Office of the JS (Trg) & CAO

Subject:-**STEPS FOR CONDUCTING INQUIRY IN CASE OF  
ALLEGATION OF SEXUAL HARASSMENT**

A copy of Ministry of Personnel, Public Grievances and Pensions (DOP&T) OM No. 11013/2/2014-Estt (A.III) dated 16 Jul 2015 on the subject is forwarded herewith for information and necessary action.



(Poonam Goila)  
Dy, CAO (DCW)

Encl: As stated

All Coord Sections of Service HQrs/ISOs

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MoD, O/o JS (Trg) & CAO, ID No.A/22234/CAO/JCM dated 28 Jul 2015

Copy to:-

Sr PPS to JS (Trg) & CAO, PS to Dir (HR), PS to Dir (E&A)

All recognized Associations of AFHQ/ISOs

CAO/EDP

- For uploading in official website



F. No. 11013/2/2014-Estt (A-III)  
Government of India  
Ministry of Personnel, Public Grievances and Pensions  
Department of Personnel & Training  
\*\*\*\*

North Block, New Delhi  
Dated July 16<sup>th</sup>, 2015

OF MEMORANDUM

Subject: Steps for conducting inquiry in case of allegation of Sexual Harassment

Undersigned is directed to say that during the meeting of the Chairpersons of Complaints Committees with Secretary (Personnel) on the 16<sup>th</sup> April, 2015 it was suggested that the Department of Personnel and Training may prepare a step guide for conduct of inquiry in complaint cases of sexual harassment. Rule 14(2) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 lays down that the Complaints Committee established in each Ministry or Department for inquiring into complaints of sexual harassment shall hold such inquiry as far as practicable in accordance with the procedure laid down in these Rules.

2. The annexed guide on "*Steps for Conduct of Inquiry in complaints of Sexual Harassment*" is intended to give the procedure as prescribed in the rules/instructions. This is, however, not intended as a substitute for reference to the Rules and instructions. Members of the Complaints Committees and others who are required to deal with such inquiries should acquaint themselves with Central Civil Services (Classification, Control and Appeal) Rules, 1965, and instructions issued thereunder.

  
(Mukesh Chaturvedi)  
Director (E)

To

The Secretaries of All Ministries/Departments  
(as per the standard list)

Copy to:

1. President's Secretariat, New Delhi.
2. Vice-President's Secretariat, New Delhi.
3. The Prime Minister's Office, New Delhi.
4. Cabinet Secretariat, New Delhi.
5. Rajya Sabha Secretariat/Lok Sabha Secretariat, New Delhi.
6. The Comptroller and Auditor General of India, New Delhi.
7. The Secretary, Union Public Service Commission, New Delhi.
8. The Secretary, Staff Selection Commission, New Delhi.
9. All attached offices under the Ministry of Personnel, Public Grievances and Pensions.
10. National Commission for Scheduled Castes, New Delhi.
11. National Commission for Scheduled Tribes, New Delhi.
12. National Commission for OBCs, New Delhi.
13. Secretary, National Council (JCM), 13, Feroze Shah Road, New Delhi.
14. CVOs of all Ministries/Departments.
15. ADG (M&C), Press Information Bureau, DoP&T
- ✓ 16. NIC, Department of Personnel & Training, North Block, New Delhi (for uploading the same on the website of this Ministry under the Head OMs & Orders Establishment Conduct Rules).
17. Hindi Section, DoP&T

## **Steps for Conduct of Inquiry in Complaints of Sexual Harassment**

### **Complaints Committees**

1. Complaints Committees have been set up in all Ministries/Department and organisations under them in pursuance to the judgment of the Hon'ble Supreme Court in the *Vishakha* case. As per Section 4(1) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013("the Act"), the Internal Complaints Committee (referred to as "Complaints Committee" hereafter) is to be set up at every workplace. As per Section 4(2), this will be headed by a woman and at least half of its members should be women. In case a woman officer of sufficiently senior level is not available in a particular office, an officer from another office may be so appointed. To prevent the possibility of any undue pressure or influence from senior levels, such Complaints Committees should involve a third party, either an NGO or some other body which is familiar with the issue of sexual harassment.

### **What is Sexual Harassment?**

2. "sexual harassment" includes any one or more of the following acts or behaviour, (whether directly or by implication), namely:—

- (i) physical contact and advances; or
- (ii) demand or request for sexual favours; or
- (iii) sexually coloured remarks; or
- (iv) showing any pornography; or
- (v) any other unwelcome physical, verbal, non-verbal conduct of a sexual nature.

3. The following circumstances, among other circumstances, in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment: -

- (i) implied or explicit promise of preferential treatment in employment; or
- (ii) implied or explicit threat of detrimental treatment in employment; or
- (iii) implied or explicit threat about her present or future employment status; or
- (iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or
- (v) humiliating treatment likely to affect her health or safety.

### **Workplace defined:**

4. As per Section 2(o) of the Act, the following places are included within the ambit of the expression "workplace":

- (i) any department, organisation, undertaking, establishment, enterprise, institution, office, etc. --established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the Central Government;
- (ii) hospitals or nursing homes;
- (iii) any sports institute, stadium, etc., used for training, sports or other activities relating thereto;
- (iv) any place visited by the employee arising out of or during the course of employment -including transportation provided by the employer for undertaking such journey;



### Initial relief

5. The Committee will also have the powers to recommend:-

- (a) to transfer the aggrieved woman or the charged officer to any other workplace; or
- (b) to grant leave to the aggrieved woman up to a period of three months. (The leave will not be deducted from her leave account.)

### Complaints Committee to be Inquiring Authority

6. As per Proviso to Rule 14(2) of CCS (CCA) Rules, 1965, in case of complaints of sexual harassment, the Complaints Committee set up in each Ministry or Department etc. for inquiring into such complaints shall be deemed to be the Inquiring Authority appointed by the Disciplinary Authority for the purpose of these rules. Complaints Committee, unless a separate procedure has been prescribed, shall hold the inquiry as far as practicable in accordance with the procedure laid down in the Rule 14.

### Need for investigation

7. The Complaints Committees may act on complaints of sexual harassment when they receive them directly or through administrative authorities etc, or when they take cognizance of the same suo-moto. As per Section 9(1) of the Act, the aggrieved woman or complainant is required to make a complaint within three months of the incident and in case there has been a series of incidents, three months of the last incident. The Complaints Committee may however extend the time limit for reasons to be recorded in writing, if it is satisfied that the circumstances were such which prevented the complainant from filing a complaint within the stipulated period.

8. As mentioned above, the complaints of sexual harassment are required to be handled by Complaints Committee. On receipt of a complaint, facts of the allegation are required to be verified. This is called preliminary enquiry/fact finding enquiry or investigation. The Complaints Committee conducts the investigation. They may then try to ascertain the truth of the allegations by collecting the documentary evidence as well as recording statements of any possible witnesses including the complainant. If it becomes necessary to issue a Charge Sheet, disciplinary authority relies on the investigation for drafting the imputations, as well as for evidence by which the charges are to be proved. Therefore this is a very important part of the investigation.

### Dual Role

9. In the light of the Proviso to the Rule 14 (2) mentioned above, the Complaints Committee would normally be involved at two stages. The first stage is investigation already discussed in the preceding para. The second stage is when they act as Inquiring Authority. It is necessary that the two roles are clearly understood and the inquiry is conducted as far as practicable as per Rule 14 of CCS (CCA) Rules, 1965. Failure to observe the procedure may result in the inquiry getting vitiated.

10. As the Complaints Committees also act as Inquiring Authority in terms of Rule 14(2) mentioned above, care has to be taken that at the investigation stage that impartiality is maintained. Any failure on this account may invite allegations of bias when conducting the inquiry and may result in the inquiry getting vitiated. As per the instructions, when allegations of bias are received against an Inquiring Authority, such Inquiring Authority is required to stay the inquiry till the Disciplinary Authority takes a decision on the allegations of bias. Further, if allegations of bias are established against one member of the Committee on this basis, that Committee may not be allowed to conduct the inquiry.



11. In view of the above, the Complaints Committee when investigating the allegations should make recommendations on whether there is a prima facie substance in the allegations which calls for conducting a formal inquiry. They should avoid making any judgmental recommendations or expressing views which may be construed to have prejudiced their views while conducting such inquiry.

#### **Decision to issue Charge sheet, and conducting Inquiry**

12. On receipt of the Investigation report, the Disciplinary Authority should examine the report with a view to see as to whether a formal Charge Sheet needs to be issued to the Charged Officer. As per Rule 14(3), Charge Sheet is to be drawn by or on behalf of the Disciplinary Authority. In case the Disciplinary Authority decides on that course, the Charged Officer should be given an opportunity of replying to the Charge sheet. As per Rule 14(5), a decision on conducting the inquiry has to be taken after consideration of the reply of the charged officer.

13. If the Charged Officer admits the charges clearly and unconditionally, there will be no need for a formal inquiry against him and further action may be taken as per Rule 15 of the CCS (CCA) Rules.

#### **The Inquiry-stages**

14. In case the Charged Officer denies the charges and his reply is not convincing, the Charge sheet along with his reply may be sent to the Complaints Committee for formal inquiry, and documents mentioned in Rule 14 (6) will be forwarded to the Complaints Committee. As per Section 11(3) of the Act, for the purpose of making an inquiry, the Complaints Committee shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely:--

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents; and
- (c) any other matter which may be prescribed.

The Section 11(4) of the Act requires that the inquiry shall be completed within a period of ninety days.

15. The Disciplinary Authority shall also in terms of Rule 14(5) (c) appoint a Government servant as a Presenting Officer to present evidence on behalf of prosecution before the Complaints Committee/ Inquiring Authority. The listed documents are to be sent to the Presenting Officer. The Complaints Committee would, thereafter, summon the Presenting Officer and the Charged Officer. As a first step, the charged officer would be formally asked as to whether he admits the charges. As mentioned above, in case of any clear and unconditional admission of any Article of Charge, no inquiry would be held in respect of that Article and the admission of the Charged Officer would be taken on record. The inquiry would be held, thereafter, in respect of those charges which have not been admitted by the Charged Officer. The Charged Officer is also entitled to engage a Defence Assistant. The provisions relating to Defence Assistant are given in Rule 14(8).

16. The Inquiring Authority is, thereafter, required to ask the Presenting Officer to have the prosecution documents, listed in the Charge Sheet inspected by the Charged Officer. Copies of such documents, if not only given to the Charged Officer, would be handed over to him. The Charged Officer would, therefore, be required to submit a list of documents and witnesses which he wants to produce in support of his defense. The Inquiring Authority would consider allowing such documents or witnesses on the basis of their relevance. Normally, any document or witness which reasonably appears to be relevant and helpful in defense may be allowed. Once the documents have been allowed, the Inquiring Authority would send a requisition for these documents to the custodian of such documents.



17. When the regular hearing commences, the Inquiring Authority would ask the Presenting Officer to produce the documentary evidence. Such documents as are disputed by the Charged Officer have to be proved by the witnesses before they are taken on record. The undisputed documents would be taken on record and marked as exhibits.

#### Examination of Witnesses

18. Summons would, thereafter, be sent to the witnesses listed in the Charge sheet. The Presenting Officer may choose to produce them in any order he finds appropriate. These witnesses would be examined in the inquiry in the following manner. The examination in chief would be done by the Presenting Officer where the Presenting Officer may ask questions of the witness to ascertain the facts. The witness would, thereafter, be cross-examined by the Defense. After the cross-examination, the Presenting Officer would be given an opportunity to re-examine the witness. In the examination in chief, leading questions are not allowed. These are however allowed in the cross examination.

19. The procedure of Inquiry requires opportunity to the Charged Officer to cross-examine all the witnesses that appear on behalf of the Prosecution. Failure to do so may be construed as a denial of reasonable opportunity to the charged officer, resulting in vitiation of the Inquiry. If the complainant appears as a witness, she would also be examined and cross-examined. The Inquiry Officer may however disallow any questions which are offensive, indecent or annoying to the witnesses, including the complainant.

20. If Inquiring Authority wishes to ascertain some facts for clarity, he may pose questions to the witnesses. This should however, be done in such a manner as to not show any bias for or against the Charged Officer. This has to be done in the presence of the Presenting Officer and the Charged Officer/Defence Assistant. No inquiry should be conducted behind the back of the charged officer. The witnesses will be examined one by one, and the other witness who are either yet to be examined, or have been examined are not allowed to be present during the examination of a witness.

#### Daily Order Sheet

21. The Inquiring Authority would also maintain a document called Daily Order Sheet in which all the main events of the inquiry and including requests/representations by the Charged Officer or the Presenting Officer, and decisions thereon would be recorded. For example (i) if the Charged Officer refuses to cross-examine the witnesses, this should be recorded in the Daily Order Sheet (ii) the Daily Order Sheet should record that the Charged Officer had been advised that he has the right to engage a Defense Assistant (iii) it should also be clearly mentioned that the Charged Officer was also informed as to who are eligible to assist him as Defense Assistant. (iv) the Daily Order Sheet should also record in case request of the Charged Officer for engaging a particular person as Defense Assistant is disallowed in the light of the existing instructions. Daily Order Sheet should be signed by the Inquiring Authority, Presenting Officer and the Charged Officer/Defence Assistant.

#### Defence Evidence

22. After the prosecution evidence is over, the Charged Officer is required to submit his statement of defense. In this statement, the Charged Officer is required to briefly indicate his line of defense. After this, the Defense evidence will be taken. The evidence will be produced in the same order as the prosecution evidence. First, the documents allowed by the Inquiry Authority would be taken on record and then the witnesses called and their examination, cross-examination and re-examination done. The only difference here would be that the Examination in Chief would be done by defense while the cross-examination would be done by the prosecution. The defense would then have the opportunity of re-examining the witness.



### General Examination of the Charge Officer

23. After the Defense evidence is presented, the Inquiring Authority shall ask Charged Officer as to whether he wishes to appear as his own witness. In case he does so, he will be examined like any other defense witness. In case he declines to do so, the Inquiring Authority is required to generally question him. At this stage due care is required to be exercised that as per Rule 14(18) the purpose of this stage is to apprise Charged Officer of the circumstances which appear to be against him. This is to enable the Charged Officer to explain them to the Inquiring Authority. Presenting Officer and the Defence Assistant do not take any part in the General Examination. Charged Officer may not be compelled to answer questions during examination by the Inquiring Authority.

### Brief

24. After this, the Presenting Officer would be asked to submit his brief. A copy of this brief would be given to the Charged Officer. Both the Presenting Officer and the Charged Officer may be allowed reasonable time for submission of their brief.

25. The Inquiring Authority then writes the Inquiry Report in which the evidence in support of the charges and against them will be examined. The Report should be a speaking one clearly bringing out as to the evidence on the basis of which any particular conclusion has been reached. Based on this analysis, the Inquiring Authority will give its findings on the Articles as proved or not proved. In case any Article of charge is proved only partially, then the Inquiring Authority should record the extent to which that Article has been proved.

### Powers of the Committee to make recommendations

26. Normally, the Inquiry Officer is not allowed to make any recommendations in his report. Here the function of the Complaints Committee acting as the Inquiring Authority differs. The Complaints Committee may however, make recommendations including what has been mentioned in para 2 above:

- (c) to grant such other relief to the aggrieved woman as may be prescribed; or
- (d) to deduct from the salary or wages of the charged officer such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs.
- Any amount outstanding at the time of cessation of the services of the charged officer due to retirement, death or otherwise may be recovered from the terminal benefits payable to the officer or his heirs.
- Such compensation will not amount to penalty under Rule 11 of CCS (CCA) Rules in terms of the Explanation (ix) to Rule 11 inserted vide Notification of even Number dated 19-11-2014.
- Committee may recommend action to be taken against complainant, if the allegation is malicious, or the complainant knows it to be false, or has produced any forged or misleading document.
- The Committee may also recommend action against any witness if such witness has given false evidence or produced any forged or misleading document.



27. The Complaints Committee should also remember that as per the Section 16 of the Act, notwithstanding the RTI Act, 2005 information as regards identity and addresses of the aggrieved woman, respondent and witnesses, Inquiry proceedings, Recommendations of the Committee, shall not be published or communicated or made known to public, press or media in any manner. Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under the Act without disclosing the name, address, identity or any other particulars calculated to lead to identification of the aggrieved woman and witnesses.

28. With the above stage, the inquiry would be formally over. The Inquiring Authority should prepare separate folders containing the documents mentioned in Rule 14(23(ii)).

### Suspension

29. A Government servant may also be placed under suspension before or after issue of a Charge Sheet where his continuance in office will prejudice the investigation, for example if there is an apprehension that he may tamper with witnesses or documents. Suspension may also be resorted to where continuance of the Government servant in office will be against wider public interest such as there is a public scandal and it is necessary to place the Government servant under suspension to demonstrate the policy of the Government to deal strictly with officers involved in such scandals. It may be desirable to resort to suspension in case of misdemeanor involving acts of moral turpitude.

### Special provisions to deal with threats or intimidation

30. Disciplinary Authority may also dispense with inquiry under Rule 19(ii), and action may be taken without the inquiry when the Disciplinary Authority concludes that it is not reasonably practicable to hold such an inquiry. The circumstances leading to such a conclusion may exist either before the inquiry is commenced or may develop in the course of the inquiry. Such situation would be deemed to have arisen:

- (i) where the Government servant, through or together with his associates terrorizes, threatens or intimidates witnesses who are likely to give evidence against him with fear of reprisal in order to prevent them from doing so; or
- (ii) where the Government servant himself or with or through others threatens, intimidates and terrorizes the Disciplinary Authority, Members of the Committee, the Presenting Officer or members of their family.

Disciplinary Authority is not expected to dispense with the inquiry lightly, arbitrarily or with ulterior motive or merely because the case against the Government servant is weak.

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F. No. 11013/2/2014-Estt.A-III  
Government of India  
Ministry of Personnel, Public Grievances and Pensions  
Department of Personnel & Training  
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North Block, New Delhi – 110001  
Dated July 30<sup>th</sup>, 2015

CORRIGENDUM

Subject: Steps for conducting inquiry in case of allegation of Sexual Harassment.

The undersigned is directed to say that a step guide for conduct of inquiry in complaint cases of sexual harassment was prepared by this Department and the same was circulated vide O.M. of even no. dated 16.07.2015.

2. In the step guide the definition of 'workplace' is based on section 2(o) of the Sexual Harassment of Women (Prevention, Prohibition and Redressal) Act, 2013. However, in para 4 'a dwelling place or a house' was inadvertently omitted. Therefore, in the step guide under the heading 'workplace' the following may be added in para 4 after (iv):

*'(v) a dwelling place or a house'*

  
(M. P. Rama Rao)

Under Secretary to the Government of India

To

The Secretaries of All Ministries/Departments  
(as per the standard list)

Copy to:

1. President's Secretariat, New Delhi.
2. Vice-President's Secretariat, New Delhi.
3. The Prime Minister's Office, New Delhi.
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9. All attached offices under the Ministry of Personnel, Public Grievances and Pensions.
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12. National Commission for OBCs, New Delhi.
13. Secretary, National Council (JCM), 13, Feroze Shah Road, New Delhi.
14. CVOs of all Ministries/Departments.
15. NIC, Department of Personnel & Training, North Block, New Delhi (for uploading the same on the website of this Ministry under the Head OM's & Orders → Establishment → Conduct Rules).
16. Hindi Section, DoP&T



## Department of Personnel and Training

## Establishment (A-III)

**Frequently Asked Questions(FAQs) and Answers**  
**on**  
**Sexual Harrassment of Women**  
**at**  
**Working Place**

Sl. No.	Question	Answer
1.	Whether there is any Rule for prohibition of sexual harassment of working woman?	Yes. Rule 3-C of CCS (Conduct) Rules, 1964 prohibits sexual harassment of any woman at her workplace.
2.	What are the specific provisions of the Rule?	(1) No Government servant shall indulge in any act of sexual harassment of any woman at her work place. (2) Every Government servant who is incharge of a workplace shall take appropriate steps to prevent sexual harassment to any woman at such workplace. Explanation.- For the purpose of this Rule, 'sexual harassment' includes such unwelcomed sexually determined behaviour whether directly or otherwise, as – (a) physical contact and advances; (b) demand or request for sexual favours ; (c) sexually coloured remarks; (d) showing any pornography; or (e) any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.
3.	What are the guidelines and norms to be maintained to prevent and deal with cases of sexual harassment in working place?	The Hon'ble Supreme Court has laid down guidelines and norms in this matter in the case of <b>Vishakha &amp; Ors. Vs. State of Rajasthan &amp; Ors. (Jt. 1997(7) SC 384)</b> . These guidelines and norms to be observed to prevent sexual harassment of working woman have been circulated to all Ministries and Departments vide DOPT's O.M. No. 11013/10/1997-Estt.A dated 13.2.1998. A copy of these guidelines are available on the website on the Ministry at <a href="http://www.persmin.nic.in">www.persmin.nic.in</a> . As per above guidelines, there should be a Complaints Committee, a special Counsellor or other support service including maintenance of confidentiality. (DOPT's O.M. dated 21.7.2009 and 7.8.2009)
4.	Composition of Complaints Committee.	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

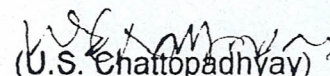


		<p>other body who is familiar with the issue of sexual harassment. (enclosure of DOPT's O.M. dated 13<sup>th</sup> Feb., 1998)</p>
5.	What will be the rank of the Chairperson of the Committee?	<p>Committee should be headed by an officer sufficiently higher in rank so as to lend credibility to the investigations. (DOPT's O.M. 11013/10/97-Estt.A dated 13.7.1999)</p>
6.	What about complaints against senior level officers?	<p>For inquiring into complaints made against officers of the level of Secretary, Addl Secretary and equivalent level of Govt. of India, a separate Complaints Committee has been set up by the Cabinet Secretariat with the approval of the Prime Minister. (DOPT's O.M. No. 11013/3/2009-Estt. A dated 2<sup>nd</sup> Feb., 2009, Cab. Secretariat's O.M. 501/28/1/2008-CA.V dated 26.9.2008)</p>
7.	Whether separate Complaints Committee should be set up for each complaint of sexual harassment case?	<p>No. It is necessary to have in place at all times an effective mechanism for dealing with cases of sexual harassment and to create awareness in this regard. There should be Standing Committee in each organisation for inquiring into any such complaints. The Complaints Committee must make an Annual Report to the Government Department concerned of the complaints and action taken by them. It would also be desirable of the Committees to meet once in a quarter even if there is no live case and review preparedness to fulfil all requirements of the Vishakha judgment in the Department / Ministry / Organisation concerned. (DOPT' s O.M. dated 21.7.2009, 7.8.2009 and 3<sup>rd</sup> August, 2009)</p>
8.	What is the status of the report of the Complaints Committee?	<p>In its Order dated 26.04.2004 in the Writ Petition No. 173-177/1999 in the case of Medha Kotwal Lele and Ors. Vs. UOI &amp; Ors. the Hon'ble Supreme Court has directed that 'the Reports of the Complaints Committee shall be deemed an Inquiry Report under the CCS Rules. Thereafter, the Disciplinary Authority will act on the report in accordance with the Rules'. Sub-Rule (2) of Rule 14 of CCS (CCA) Rules, 1965 has accordingly been amended to provide that the Complaints Committee shall be deemed to be the Inquiry Authority for the purpose of these Rules by the Notification No. 11012/5/2001-Estt.A dated 01.07.2004 (GSR 225 dated 10<sup>th</sup> July, 2004). In view of the said amendment made to the CCS(CCA) Rules, the instructions contained in DOPT's O.M. dated 12<sup>th</sup> Dec., 2002 stands modified and the report of the Complaints Committee should be treated as an inquiry report and <u>not</u> a preliminary report.</p> <p><b>[DOP&amp;T O.M. No.11013/3/2009-Estt. (A) Dated the 21st July, 2009]</b></p> <p><b>[DOPT OM dated 12.12.2002 as amended by O.M. dated 4.8. 2005]</b></p>



9.	Is there any Charge Sheet in such cases?	The Complaint forwarded by the DA to the Complaint Committee is treated as Charge Sheet. Specific Charge Sheet may also be made on the basis of complaints.
10.	Is the procedure prescribed in the CCS(CCA) Rule 14 followed in such enquiries?	The Complaint Committee is the competent authority in such cases to decide the procedure. However, since the report of the committee is to be treated as the enquiry report under the CCS(CCA) rules and the Disciplinary Authority is to take action on that report as per the same rules (as mentioned at point no 8 above) the procedure prescribed in rule 14 of the CCS(CCA) Rules are to be followed as far as practicable. [DOP&T O.M. No. 11013/3/2009-Estt. (A) dated the 3 <sup>rd</sup> August, 2009]
11.	Whether copy of the report should be given to the Charged Officer / Complainant?	Yes, may be given.
12.	Whether any special leave or transfer is to be granted to the complainant if such request is made by her?	As per the existing Leave Rules, there is no special type of leaves that can be granted to the aggrieved woman. However, she can be granted any kind of regular leave that is admissible to her under the provisions of CCS (Leave) Rules, 1972 (as amended from time to time). The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer. (DOPT's O.M. No 11013/10/97-Estt.A dated 13 <sup>th</sup> Feb., 1998)
13.	Whether any amendment to the existing Rules / instructions is being made on this issue?	The existing Rules / Instructions / guidelines / norms / mechanisms have been formulated on the basis of direction of the Supreme Court in the case of Vishakha & Others vs. State of Rajasthan and Medha Kotwal Lele & Ors vs. UOI & Ors. as mentioned above. However, Ministry of Women & Child Development have introduced a Comprehensive Bill in the Parliament on the issue of sexual harassment at working place – Government, Semi-Government, Private Sector as well as unorganized sectors. After passing of the Bill in the Parliament detailed Rules vis-a-vis that Act may be formulated by the Government.

This has the approval of Joint Secretary (Establishment).

  
(U.S. Chattopadhyay)

Under Secretary to the Government of India

Director (NIC), DOPT with the request to upload the same on the website of this Ministry.

**No.11013/3/2009-Estt. (A)**  
**Government of India**  
**Ministry of Personnel, Public Grievances and Pensions**  
**(Department of Personnel and Training)**

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North Block,  
New Delhi,  
Dated the 21st July, 2009

**OFFICE MEMORANDUM**

**Subject : CCS (Conduct) Rules, 1964 – Guidelines regarding prevention of sexual harassment of working women in the workplace.**

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The undersigned is directed to refer to Department of Personnel and Training's O.M. No. 11013/10/97-Estt. (A) dated 13.02.1998 and 13.07.1999, O.M. No. 11013/11/2001-Estt. (A) dated 12.12.2002 and 04.08.2005 and O.M. No. 11013/3/2009-Estt. (A) dated 02.02.2009 on the abovementioned subject and to say that it is necessary to have in place at all times an effective Complaint Mechanism for dealing with cases of sexual harassment of working women and to create awareness in this regard, particularly amongst working women. The salient features of the Complaint Mechanism and inquiry procedure are as follows :-

(i) Rule 3 C of the CCS (Conduct) Rules, 1964 provides that no Government servant shall indulge in any act of sexual harassment of any women at her work place. Every Government servant who is incharge of a work place shall take appropriate steps to prevent sexual harassment to any woman at such work place. "Sexual harassment" includes such unwelcome sexually determined behaviour, whether directly or otherwise, as --

(a) physical contact and advances;

(b) demand or request for sexual favours;

(c) sexually coloured remarks;

(d) showing any pornography; or./-

(e) any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.

(ii) 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.



(iii) The complaint mechanism 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 member 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.

(iv) The Committee constituted for redressal of the complaints by the victims of sexual harassment should be headed by an officer sufficiently higher in rank so as to lend credibility to the investigations.

(v) The Complaints Committee established in each Ministry or Department or Office for inquiring into complaints of sexual harassment shall be deemed to be the Inquiring Authority appointed by the Disciplinary Authority and that the Complaints Committee shall hold, if no separate procedure has not been prescribed for the Complaints Committee for holding the inquiry into such complaints, the inquiry, as far as practicable in accordance with the procedure laid down in the said rules. [In 2004 a proviso was added to rule 14(2) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (**copy enclosed**) to this effect].

(vi) The Complaints Committee in terms of Cabinet Secretariat's Order No. 1 dated 26.09.2008 will inquire into complaints made against officers of the level of Secretary and Additional Secretary and equivalent level in the Government of India in the Ministries/Departments and Organisations directly under the control of the Central Government (other than the Central PSUs). The existing Complaints Committee established in each Ministry or Department or Office will, inquire into complaints of sexual harassment against only those Government servants who are not covered by the Cabinet Secretariat's Order No. 1 dated 26.09.2008.

(vii) It may be ensured that the Complaints Committee shall at all times be in existence and changes in its composition, whenever necessary, should be made promptly and adequately publicized. The composition of the Complaints Committee be also posted on the websites of the concerned Ministries/Departments/Offices concerned.

3. All Ministries/Departments are requested to bring the foregoing to the notice of all concerned.

  
(C.B. PALIWAL)

Joint Secretary to the Government of India

**Encl. : as above**

All Ministries/Departments of the Government of India.

Copy forwarded to

1. Comptroller and Auditor General of India, New Delhi
2. Lok Sabha Secretariat/Rajya Sabha Secretariat/Ministry of Parliamentary Affairs.
3. Union Public Service Commission, New Delhi.
4. President's Secretariat/Vice-President's Secretariat/ Prime Minister's Office.
5. Election Commission of India, New Delhi.
6. Central Vigilance Commission, New Delhi.
7. Staff Selection Commission, New Delhi.
8. Central Bureau of Investigation, New Delhi.
9. All Attached and Subordinate Offices of the Ministry of Personnel, Public Grievances and Pensions.
10. All Officers and Sections in the Ministry of Personnel, PG and Pensions.
11. NIC (DOPT) with the request to place this O.M. in the Department's website ([www.persmin.nic.in](http://www.persmin.nic.in)).

(200 spare copies).



# **PROVISIONS OF RULE 14(2) OF THE CENTRAL CIVIL SERVICES (CLASSIFICATION, CONTROL & APPEAL) RULES, 1965**

**14(2)** Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a Government servant, it may itself inquire into, or appoint under this rule or under the provisions of the Public Servants (Inquiries) Act, 1850, as the case may be, an authority to inquire into the truth thereof.

Provided that where there is a complaint of sexual harassment within the meaning of rule 3 C of the Central Civil Services (Conduct) Rules, 1964, the complaints Committee established in each ministry or Department or Office for inquiring into such complaints, shall be deemed to be the inquiring authority appointed

**No.11013/3/2009-Estt. (A)**  
**Government of India**  
**Ministry of Personnel, Public Grievances and Pensions**  
**(Department of Personnel and Training)**

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North Block,  
New Delhi,  
Dated the 3<sup>rd</sup> August, 2009

**OFFICE MEMORANDUM**

**Subject : CCS (Conduct) Rules, 1964 – Guidelines regarding prevention of sexual harassment of working women in the workplace.**

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In continuation of Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, Government of India O.M. of even number dated the 21st July, 2009 on the abovementioned subject, the undersigned is directed to say the matter was considered by a Committee of Secretaries and the following decision was taken:-

**“As regards provisions for protection of women, it was suggested that the complaints committee mechanism provided under Vishakha guidelines relating to sexual harassment should be strictly in accordance with the judgment and steps should be taken to ensure that the committee is effective and functional at all times. It would also be desirable for the Committees to meet once a quarter, even if there is no live case, and review preparedness to fulfill all requirements of the Vishakha judgment in the Department/Ministry/organization concerned. DOPT will issue suitable directions.**

2. All Ministries/Departments are requested to ensure compliance.



(P.PRABHAKARAN)  
Deputy Secretary to the Government of India

All Ministries/Departments of the Government of India.



Copy forwarded to :

1. Comptroller and Auditor General of India, New Delhi
2. Lok Sabha Secretariat/Rajya Sabha Secretariat/Ministry of Parliamentary Affairs.
3. Union Public Service Commission, New Delhi.
4. President's Secretariat/Vice-President's Secretariat/ Prime Minister's Office.
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6. Central Vigilance Commission, New Delhi.
7. Staff Selection Commission, New Delhi.
8. Central Bureau of Investigation, New Delhi.
9. All Attached and Subordinate Offices of the Ministry of Personnel, Public Grievances and Pensions.
10. All Officers and Sections in the Ministry of Personnel, PG and Pensions.
11. NIC (DOPT) with the request to place this O.M. in the Department's website ([www.persmin.nic.in](http://www.persmin.nic.in)).

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Provided that where there is a complaint of sexual harassment within the meaning of rule 3 C of the Central Civil Services (Conduct) Rules, 1964, the complaints Committee established in each ministry or Department or Office for inquiring into such complaints, shall be deemed to be the inquiring authority appointed by the disciplinary authority for the purpose of these rules and the Complaints Committee shall hold, if separate procedure has not been prescribed for the complaints committee for holding the inquiry into the complaints of sexual harassments, the inquiry as far as practicable in accordance with the procedure laid down in these rules.