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SEXUAL HARASSMENT OF WOMEN AT THE WORKPLACE

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WHAT ARE SEX DISCRIMINATION AND SEXUAL HARASSMENT?

Discrimination refers to unfair or unequal treatment based on sex, race, religion, region, etc. Sex discrimination is when a person is treated disadvantageously or poorly on the basis of their sex. It includes limited access to jobs, education, healthcare, etc. Sex discrimination is a human rights violation. Sex discrimination can affect both men and women, but it primarily affects women. We live in a male-dominated society and women are considered inferior to men. This is the main reason behind discrimination against women. Sex discrimination is illegal around the world. In India, women are protected by laws that uphold their rights to safeguard their dignity. Harassment refers to unwelcomed behaviour- physical or verbal, that violates or hurts human dignity.

Sexual harassment refers to unwelcomed or unwanted acts of touch or behaviour. It includes actions and words that are sexual, whether directly or indirectly that hurt human dignity. It includes sexual remarks, sexual advances, sexual comments, suggesting looks, indecent exposure, showing pornography, etc. Sexual harassment includes verbal remarks or advances made over the phone or through emails or text. Sexual harassment can take place in various social settings—for example- school, office, home, etc. Sexual harassment is illegal and victims of sexual harassment are protected by law all over the world.

WHAT IS SEXUAL HARASSMENT AT WORKPLACE?

Unwelcomed advances or sexual gestures made to a person at his/her place of work constitute sexual harassment at the workplace. A workplace is a place an employee visits during his/her course of employment. It includes transport that is provided for by the employer or organization. It is observed that the situation starts with innocent remarks and often ends up in unprofessional behaviour that hurts the dignity of the victim. The perpetrator here holds a dominant position

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over the prey and this generally is a situation arising out of threat. These threats may constitute loss of job, increase in salary in return for sexual favours, etc. Sexual harassment at workplace may lead to loss of interest in work, feeling unsafe at workplace and surroundings, loss of salary, feeling and being objectified, defamation etc.

Sexual harassment at workplace is of two types. These are 'hostile work environment' sexual harassment and 'quid-pro-quo' sexual harassment.

'Hostile work environment' sexual harassment happens when a senior at work holding a dominant position over you makes you a target for offensive sexual remarks, inappropriate touch, sexual jokes and pranks. This affects your ability to concentrate on and complete your work. It makes the workplace environment toxic and unsafe for you and often leads to increased absence at work.

'Quid-pro-quo' sexual harassment is when a senior or supervisor provides an incentive or promotion in return for sexual favours. Even if the person didn't deny to provide sexual favours, it can be considered sexual harassment because the person asking for sexual favours holds a dominant position over the victim. It is seen that most women are unable to deny in such situations due to fear of loss of job, humiliation at workplace, etc.

HISTORY OF SEXUAL HARASSMENT LAWS IN INDIA

The issue of sexual harassment of women at workplace initially emerged after the brutal gang rape of Bhanwari Devi in the year 1992. This landmark case is popularly known as the case of Vishakha & Ors Vs State of Rajasthan. Where Bhanwari Devi worked as a social worker in a small village in Rajasthan. She actively participated in attempting to stop the child marriage of an infant at one Ramakant Gujjar's family. But she was unable to do it. In September 1992, five men of the Gujjar community brutally gang-raped her in front of her husband. This landmark case Identified sexual harassment at the workplace as a form of discrimination against women and a violation of their fundamental rights. It served as a precedent for the implementation of the POSH Act. The complaints for sexual harassment at workplace were filed under Section 354 and Section 509 of the Indian Penal Code, 1860 before the Vishika guidelines were formed. However, there was no law as per against sexual harassment in India.

Many years later, on 7th December 2010, The Government Introduced The Protection of Women against Sexual Harassment at Workplace Bill, 2010 in the Lok Sabha and it was passed by both houses on 26th February 2013. The bill was introduced to protect women from sexual harassment in workplaces of all kinds. This includes the public sector, private sector, and organized and unorganised sectors. This proposal would also include women who were employed as well as those

who joined as customers, clients, students and research researchers at colleges and universities and patients in hospitals. After being passed, this bill was popularly known as the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act or POSH Act.

In the year 2013, after the Nirbhaya Gange rape case, The Criminal Amendment Act of 2013 was passed which introduced Section 354A in the Indian Penal Code, 1860. Section 354A defines sexual harassment as any man committing any act such as physical contact and advances or a demand for sexual favours or showing pornography to a women against her will or sexually coloured remarks. This provision further lays down the punishment for sexual harassment which is imprisonment that may extend up to 3 years or a fine or both, except the punishment for making sexually coloured remarks is imprisonment which may extend to 1 year or fine or both.

HOW TO DEAL WITH SEXUAL HARASSMENT AT WORKPLACE?

Sexual harassment at work is illegal and employees are protected by laws. Sexual harassment at workplace is violation of human rights. There are labour laws that protect the employees from such harassment. But these may not always be effective. As sexual harassment can happen in such nuanced ways that it may not fall under the legal definition or category of workplace sexual harassment. In such cases the burden is on the victim to prove that they have been sexually harassed. It becomes difficult to prove when sexual harassment happens in verbal or psychological ways. There are many ways to ensure safety and security of workers or employees. These are as follows:

1. Policy formation- A formal and direct policy for sexual harassment can help regulate behavior of employees at the workplace. It can also help the management to deal with such complaints in an effective manner.
2. Action- It will lead to prompt action against the wrongdoer.
3. Training of employees- It makes the employees aware of their rights so as to how they can seek redressal in such situations.
4. Safe culture and environment- It helps in building a safe and secure culture at the workplace that inculcates a feeling of trust in the employees and increases their ability to work proficiently.

There are certain ways to deal with sexual harassment at workplace. These are as follows:

1. Tell your harasser to stop- If you do not feel comfortable in any situation, try your best to make it certain to your harasser that you feel uncomfortable.

2. Report it to the management- If you are sexually harassed at your workplace, make it known to the management of the organization.
3. Seek redressal- Ask the higher authorities or the management to take action regarding the matter.
4. Be cooperative during investigation- Act cooperatively during any investigation and follow any policies formed to prevent and control sexual harassment cases.

TYPES OF SEX DISCRIMINATION AT WORKPLACE

Sex Discrimination includes treating someone unfavorably or differently because of their sex, involving the person's sexual orientation, gender identity, or pregnancy.

Some common types of sex discrimination faced by women in the workplace are –

PREGNANCY DISCRIMINATION

It is a common perception that working mothers make less money than working fathers. Women at the workplace are often criticized for taking time off to give birth. Companies and organizations often hesitate to hire women who wish to start families. This is mostly because, after giving birth, they will go on paid maternity leave which will affect the workforce for some time. This is one reason why women are treated unfairly or fired at their workplaces.

HIRING DISCRIMINATION

One of the major forms of discrimination faced by women is during the recruitment process, where employers are consciously or unconsciously inclined towards the male candidate. Even for the higher positions in an organization, employers favour male employees. Due to this discrimination, highly qualified women are often overlooked for positions limiting diversity in the workforce.

THE PAY GAP

Women also face discrimination in equal pay for their work. Many organizations are not transparent about the amount of money they pay their employees or what these decisions are based on. Women earn less than men in more than 90% of occupations. Even this pay gap can majorly be seen with women in higher earning positions.

REPRESENTATION AT HIGHER POSITIONS

In many organizations and workplaces, men hold higher positions because there is a perception that women are not as good as men in leadership skills. Due to this, the gender gap becomes more

prevalent. This creates an imbalance in women, who cite a lack of access to better work opportunities as another issue holding them back from getting senior roles.

SEXUAL HARASSMENT

Harassment also includes 'sexual harassment' such as unusual and unwelcome sexual advances, requests for sexual favours and other physical or verbal harassment of a sexual nature. Women are disproportionately more likely to be victims of some or other form of sexual harassment at work. This is one of the reasons why it gets even more challenging for women to work in male-dominated industries.

EFFECT OF SEX DISCRIMINATION OF WOMEN AT THE WORKPLACE

IMPACT ON WOMEN AND EFFECT ON AN ORGANIZATION

Sex discrimination at the workplace can affect women in multiple ways including their physical, psychological, and emotional health. It can be disturbing how you are treated or viewed by others on account of your gender. This also creates concerns about a safe working environment for women and can also have a lasting effect on the productivity and workforce of women. The unusual remarks and discrimination can cause low self-esteem, hostile working environment, feelings of paranoia and anger, restricting social connections with other coworkers, lack of support, workplace conflicts, physical and mental stress, inability to give their best outcomes in work, creating stereotypes for women, bias in promotion and recruitment, increased wage gaps, hindrance in access to better working opportunities.

SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT/ POSH ACT

In the Vishaka Guidelines, the Supreme Court placed an obligation on the workplaces, institutions, organizations and those in positions of responsibility, to uphold the rights and dignity of working women.

The POSH Law is a legal framework to protect and prevent the sexual harassment of women at workplaces, and also provide redressal of the registered complaints.

The Act was passed by the Ministry of Law and Justice on 22nd April 2013 and the Rules were passed on 9th December 2013.

There are three objectives of this Act. These objectives are as follows:

1. Protection against sexual harassment of women at workplaces.
2. Prevention of sexual harassment of women at workplaces.
3. Redressal of registered complaints of sexual harassment.

Section 2(n) of the Act defines sexual harassment as any one or more of the following acts or behaviour (whether directly or by action), namely

- Physical contact and advances, or
- A demand or request for sexual favours, or
- Making sexually colored remarks, or
- Showing pornography, or
- Any other unwelcome physical, verbal, non- verbal conduct of sexual nature

Section 3 (2) of the Act elaborates that if any of the following circumstances occurs or is present in relation to or conducted with any acts or behaviour of sexual harassment among other circumstances, it may amount to sexual harassment-

- Implied or explicit promise of preferential treatment in her employment, or
- Implicit or explicit threat of detrimental treatment in her employment, or
- Implied or explicit threat about her present or future employment status, or
- Interference with her work or creating an intimidating or offensive or hostile work environment for her, or
- Humiliating treatment likely to affect her health or safety

Every woman has the right to a safe working place and environment. It is her legal right. The Preamble to the Constitution of India mentions that “equality of status and opportunity” must be secured for all its citizens. Sexual harassment of women at workplace is infringement of her fundamental right under Article 19 (1) (g) of the constitution of India.

The implementation of the POSH Act marks a significant milestone in the ongoing battle against the serious issue of sexual harassment of women in the workplace. The POSH Act was put into effect to address the issue of sexual harassment against women in the workplace, making it highly beneficial for

women who have experienced such mistreatment. It is time for us to come together to raise awareness about the POSH Act and its implementation in order to establish respectful and safe working environments.

LEGAL REMEDIES FOR WORKPLACE SEX DISCRIMINATION IN INDIA

In India, there are several remedies available to a person to protect himself against sex discrimination at his/her place of work. These are as follows:

1. Filing of complaint- the aggrieved person can file a complaint at the Internal complaints Committee at their organization or institution within three months of the incident.
2. Seek protection orders- the victim can seek protection orders from the court under the Domestic Violence Act to prevent further harassment.
3. Court proceedings- the aggrieved person may initiate civil or criminal proceedings at the court of law.
4. Equal Remuneration Act- if a female employee believes that she is being paid less as compared to her male colleague, she can claim the same amount of salary.

CONCLUSION

Sexual harassment of women at the workplace remains a significant challenge in Indian society, undermining the safety, dignity, and productivity of women. Despite the implementation of harassment laws like the **Prevention of Sexual Harassment (POSH) Act**, which aims to provide protection and avenues for redressal, the persistence of these issues highlights the need for broader societal and organizational commitment to change. Educating employees about their rights, establishing stringent policies, and taking adequate action against offenders are crucial steps toward achieving a safer work environment. Furthermore, continuous efforts to bridge gender gaps in leadership, pay, and representation are necessary to eliminate workplace inequality.

Many workplaces still lack awareness and enforcement mechanisms for addressing harassment complaints effectively. A strong commitment from management to foster a **zero-tolerance culture** is vital. Regular **POSH training sessions, anonymous reporting mechanisms**, and swift action on complaints can deter offenders. Encouraging more women in leadership positions and implementing gender-sensitive policies will also help create a more equitable work environment. Organizations should promote a workplace culture that values **mutual respect, inclusivity, and fairness**, ensuring that women feel empowered to speak up without fear of retaliation. Moreover, **social stigma** around reporting harassment must be addressed

through awareness campaigns and legal support. Only through **collective effort from society, businesses, and policymakers** can workplaces become truly safe, inclusive, and conducive to professional growth for women.