

**CHAPTER V**  
**SEXUAL HARASSMENT AT WORK PLACE**

Mitali's parents were worried to see their otherwise bright and vivacious daughter gloomy and depressed for more than a month. Meanwhile Meera Didi one day visited their home and she was told about Mitali's behaviour. During her conversation Meera didi came to know that Mitali's research guide had made some indecent proposals in lieu of her success in completing her PhD. Mitali was confused and worried at the same time, as she knew that he had not molested her and had just made a proposal. She could not accept it and her refusal meant that her career would be ruined. Meera didi however came to her rescue and told her that it is a clear case of sexual harassment at work place and her research guide could be held liable even for passing remarks coloured with sexual connotations.

❖ **Sexual Harassment is said to take place:**

- When one person subjects another person to an unwelcome act of physical intimacy/ contact such as grabbing, brushing, touching, pinching, eve teasing, etc.
- Makes an unwelcome demand or request directly or by implication for sexual favors from another person.
- Shows a person any sexually explicit visual material, in the form of pictures/cartoons/pin-ups/calendars/screensaver version computers/any offensive written material/pornographic e-mails, etc. or any other form of unwelcome conduct of a sexual nature.
- Eve teasing, jokes likely to cause awkwardness or embarrassment, innuendos, sexist remarks



❖ **What is a workplace?**

- All offices institutions in public or private sector, Construction site, factory, educational institutions, etc., mine are work places.

❖ **What you should do?**

- Hold the harasser accountable for his actions. Let people know what he did. Privacy protects harassers, but visibility undermines them.
- Objecting to harassment is a matter of principle and ones right.
- Don't respond to the harasser's excuses or diversionary tactics.
- Speaking out: Speaking about sexual harassment is an effective tool in combating it. It mobilizes public opinion against it.
- Report such harassment immediately or as soon as possible to the superior officer or to the police or seek the assistance of any NGO



*Report sexual harassment - Don't ignore sexual harassment in the hope that it will go away.*

### **IMPORTANT COURT DECISIONS**

- ❖ ***Vishakha v. State of Rajasthan & Ors. AIR 1997 SC 3011***
- ***Duty of the Employer or other responsible persons in work places and other institutions*** to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required.
- **All employers or persons in charge of work place whether in the public or private sector** should take appropriate steps to prevent sexual harassment including the following:
  - (a) Express prohibition of sexual harassment 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, 1946.
- (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.

- **Criminal Proceedings:** Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority. In particular, it should ensure that victims, or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.
- **Disciplinary Action:** Where such conduct amounts to misconduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.
- **Complaint Mechanism :** 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 is organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints.

- **Complaints Committee** : The complaint mechanism, referred to in (6) above, should be adequate to provide, where necessary, 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.
- *Workers' Initiative*: Employees should be allowed to raise issues sexual harassment at workers' meeting and in other appropriate forum and it should be affirmatively discussed in Employer - Employee Meetings.
- **Awareness**: Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in a suitable manner.
- **Third Party Harassment**: Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the employer and person in charge will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.
- The Central / State Governments were requested to consider adopting suitable measures including legislation to ensure that the guidelines laid down by this order are also observed by the employers in Private Sector.

❖ ***Apparel Export Promotion Council v. A.K. Chopra,***  
**AIR 1999 SC 625**

The respondent was working as a Private Secretary to the Chairman of the Apparel Export Promotion Council. It was alleged that on 12.8.1988, he tried to molest a woman employee of the Council, Miss X (name withheld by us) who was at the relevant, time working as a Clerk-cum-Typist. She was not competent or trained to take dictations. The respondent tried to sit close to her and touch her despite her objections and repeated his overtures. Miss X told the respondent that she would “leave the place if he continued to behave like that”. The respondent did not stop. Though he went out from the Business Centre for a while, he again came back and resumed his objectionable acts. The respondent had tried to molest her physically in the lift also while coming to the basement but she saved herself by pressing the emergency button, which made the door of the lift to open.

Held that sexual harassment is a form of sex discrimination projected through unwelcome sexual advances, request for sexual favours and other verbal or physical conduct with sexual overtones, whether directly or by implication, particularly when submission to or rejection of such a conduct by the female employee was capable of being used for effecting the employment of the female employee and unreasonably interfering with her work performance and had the effect of creating an intimidating or hostile working environment for her.

***Removal of the respondent from service was upheld***