

THE SEXUAL HARASSMENT OF WOMEN AT THE DELHI HIGH COURT (PREVENTION, PROHIBITION AND REDRESSAL) GUIDELINES, 2025

The Hon'ble Supreme Court in *Vishaka and Ors. V. State of Rajasthan and Ors.* (decided on 13.08.1997) had laid down guidelines and norms to be observed to provide for the effective enforcement of the basic human right of gender equality and guarantee against sexual harassment and abuse, more particularly against sexual harassment at work places, for due observance at all work places or other institutions, until a legislation was enacted for the purpose.

Thereafter "The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013" (hereinafter referred to as the "Act") was published in the Official Gazette on 23.04.2013 though it came into force on 09.12.2013.

Pursuant to Section 29 of the Act, the Central Government, Ministry of Women and Child Development vide notification dated 09.12.2013 notified "The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 (hereinafter referred to as the Rules, 2013).

Amendments were carried out in Central Civil Services (Conduct) Rules, 1964 by inserting Rule 3-C declaring sexual harassment of working women as a misconduct vide Notification dated 13.02.1998 published in Gazette of India as G.S.R. 49 dated 07.03.1998.

Subsequently, Central Civil Services (Classification, Control & Appeal) Rules, 1965 were also amended by inserting a provision below sub-rule (2) of Rule 14 in connection with treatment of the Internal Complaints Committee as Inquiring Authority and to follow the procedure as laid down in the said Rules to hold inquiry into complaints of sexual harassment. This was done vide Notification dated 01.07.2004 published in Gazette of India vide G.S.R. No.225 dated 10.07.2004.

Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training ("DOPT") vide Office Memorandum ("OM") dated 16.07.2015 has provided a guide on "*Steps for Conduct of Inquiry in Complaints of Sexual Harassment*" which is intended to give the procedure as prescribed in the rules. As mentioned in the OM itself, it is not intended as a substitute for reference to the Rules and instructions.

The Government of India, DoPT has also issued a comprehensive Office Memorandum dated 04.11.2022 on the prevention of sexual harassment of working women at workplace.

The Hon'ble Supreme Court in a recent judgment in **Aureliano Fernandes v. State of Goa and Others** (Civil Appeal No.2482 of 2014) decided on 12th May, 2023 has given directions that a provision should be made for submitting an online complaint on the website of the organization.

Section 11 of the Act deals with Inquiry into Complaint and refers to two kinds of situations, i.e.

- Firstly, where the respondent is an employee in which case the Internal Complaints Committee, shall proceed to make the inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent.
- Secondly, where no such rules exist, the Internal Committee has to proceed to make inquiry into the complaint in such manner as may be prescribed.

Applying the first situation contemplated under Section 11 of the Act, the employees of the High Court of Delhi are governed by the Central Civil Services (Classification, Control and Appeal) Rules, 1965 and these Rules are followed while conducting an inquiry into a complaint of sexual harassment against an employee of the High Court of Delhi.

The second situation contemplated under Section 11 of the Act may include cases where the respondent is a litigant/ an advocate/ contractual employees of the Court/ Law Researcher or a similarly positioned party to whom the service rules are not applicable.

In order to streamline the process of conducting an inquiry into a complaint of sexual harassment of women at workplace made to the Internal Complaints Committee constituted of the High Court of Delhi, the High Court of Delhi, hereby, makes the following Practice Guidelines:

THE SEXUAL HARASSMENT OF WOMEN AT THE DELHI HIGH COURT (PREVENTION, PROHIBITION AND REDRESSAL) GUIDELINES, 2025

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement:

- (1) These Guidelines may be called “The Sexual Harassment of Women at the Delhi High Court (Prevention, Prohibition and Redressal) Guidelines, 2025”.

- (2) These Guidelines shall be applicable to all individuals present within the precincts of the Delhi High and including in a workplace undersection 2 (o) (v) and (vi) of the Act.
- (3) They shall come into force on such date as Hon'ble the Chief Justice of the Delhi High Court may direct.

2. Definitions:-In these Guidelines, unless the context otherwise requires:

- (a) **“Act”** refers to The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013;
- (b) **“Aggrieved woman”** means, in relation to the Delhi High Court, a female, of any age, whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent within the precincts of the Delhi High Court including in a workplace undersection 2 (o) (v) and (vi) of the Act;
- (c) **“Appropriate Authority”** means in relation to the Delhi High Court, Hon'ble the Chief Justice of Delhi High Court;
- (d) **“CCS (CCA) Rules”** mean the Central Civil Services (Classification, Control and Appeal) Rules, 1965;
- (e) **“Chairperson”** means the Chairperson of the Internal Complaints Committee (ICC) constituted by the Delhi High Court;
- (f) **“Complaints Committee”** means the Internal Complaints Committee constituted in terms of Section 4 of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and clause 6(iii) of these Guidelines;
- (g) **“Disciplinary Authority”** means Hon'ble the Chief Justice of the Delhi High Court;
- (h) **“Employer”** means Hon'ble the Chief Justice of the Delhi High Court in respect of law researchers and law interns, temporary employees and all other employees not employed through a contracting agency and means the contracting agency in respect of the contractual employees;
- (i) **“Internal Complaints Committee”** means the Internal Complaints Committee constituted in terms of Section 4 of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and clause 6(ii) of these Guidelines;
- (j) **“Nodal Officer”** means an Officer, not below the rank of Joint Registrar designated to perform such tasks as assigned by Hon'ble the Chief Justice in matters relating to complaints of sexual harassment of women at the Delhi High Court;

- (k) **“Precincts”** includes the whole physical and virtual premises/ offices of the Delhi High Court including the Court Blocks, administrative blocks, open grounds, parking area, libraries, canteens, eateries, bar-rooms, waiting rooms, health centres, crèche and/ or any other part of the premises under the control of Hon’ble the Chief Justice of the Delhi High Court and any place connected with and/ or where the business/work/official function of the High Court and its officials is carried out, including residence and other places of accommodation to the extent that work connected with the High Court is carried out at such place of residence or accommodation;
- (l) **“Respondent”** means a person against whom the aggrieved woman has made a complaint under the Act and would include:-
- i) An officer or official of the Registry;
 - ii) Any staff in High Court of Delhi, including contractual staff;
 - iii) Law researchers/Interns;
 - iv) Any litigant coming to High Court of Delhi if the place of incident is High Court of Delhi;
- (m) **“Rules, 2013”** mean the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013;
- (n) **“Service rules”** mean the Central Civil Services (Classification, Control and Appeal) Rules, 1965;
- (o) **“Sexual harassment”** includes any one or more of the following unwelcome 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, nonverbal conduct of a sexual nature.

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.
(The same have been incorporated as Rule 3C by way of an amendment in the Central Civil Services (Conduct) Rules, 1964);
- (p) Words and expressions used herein and not defined but defined in the Act or the Rules, 2013 shall have the same meaning respectively as assigned to them in the Act or the Rules, 2013.

CHAPTER II

APPLICABILITY OF THE GUIDELINES

3. These Guidelines would be applicable to conduct inquiry in cases of sexual harassment of women at workplace:
 - (a) wherein the respondent is an employee of the High Court who is governed by the Central Civil Services (Classification, Control and Appeal) Rules, 1965; and
 - (b) wherein the respondent is a person who is employed in the establishment of the Delhi High Court but to whom the service rules are not applicable.

Explanation: Where the aggrieved woman is not an employee of the Delhi High Court and both (a) and (b) are not applicable but the alleged incident happens in the precincts of the Delhi High Court:

- (i) the complaint shall be forwarded to the Local Complaints Committee constituted under the Act; or
 - (ii) the Internal Complaints Committees of the Delhi High Court Bar Association or the Bar Council of Delhi, in case the Respondent is an Advocate as applicable
 - (iii) the aggrieved woman would be informed of the availability of legal services from the Delhi High Court Legal Services Committee (<https://www.dhclsc.org>).
4. Complaints may be filed by the Complainants/ aggrieved women using the dedicated portal of the Delhi High Court. The following are the different categories of complaints:
 - (i) Complaint against regular or contractual staff of the Delhi High Court.
 - (ii) Complaints against an advocate who is a member of the Delhi High Court Bar Association or staff member or court clerk of an advocate of the Delhi High Court Bar Association.

(iii) Complaint against any other advocate or court clerk of an advocate, who is not a member of Delhi High Court Bar Association, to the Bar Council of Delhi.

(iv) Complaint against a respondent who is not covered by any of the above 3 categories such as litigants, interns, Law Researchers, etc., which shall be referred to the Chairperson, Internal Complaints Committee, through the Nodal Officer, for being marked to the appropriate Internal Complaints Committee.

5. The portal enables filing of complaints with the appropriate Internal Complaints Committee of Delhi High Court or the Delhi High Court Bar Association or the Bar Council of Delhi. If for any reason any complaint is received under Category (ii) and (iii) of Clause 4 by the Nodal Officer in the Delhi High Court, the same shall be forwarded to the Delhi High Court Bar Association or the Bar Council of Delhi as the case may be.

CHAPTER III CONSTITUTION OF THE INTERNAL COMPLAINTS COMMITTEE

6. As per Section 4(1) of the Act, the Internal Complaints Committee is to be set up at every workplace. As per Section 4(2) of the Act, the Internal Complaints Committee shall be headed by a woman and at least half of its members shall be women. To prevent the possibility of any undue pressure or influence from senior levels, such Internal Complaint Committee shall induct a third party as a Member from either an NGO or some other body which is familiar with the issue of sexual harassment.
7. (i) The Chief Justice of the Delhi High Court shall, by an order in writing, constitute the Internal Complaints Committee in terms of Section 4 of the Act (“Internal Complaints Committee”) to conduct inquiry in cases of sexual harassment covered by clause 3(a) of these Guidelines.

(ii) The Internal Complaints Committee shall include the following:

- (a) A Chairperson who shall be a woman Judge of the Delhi High Court, to be nominated by the Chief Justice of the Delhi High Court;

- (b) Two or more Judges of the Delhi High Court to be nominated by the Chief Justice of the Delhi High Court;
- (c) One woman officer in service of the Delhi High Court, not below the rank of Deputy Registrar;
- (d) One external member/ senior advocate/ person engaged in public work to be nominated by the Chief Justice of the Delhi High Court, who is familiar with the issues relating to sexual harassment.

Provided that at least one-half of the total Members so nominated shall be women.

- (iii) The Chief Justice of the Delhi High Court may constitute a Committee to inquire into complaints of sexual harassment against respondents covered under clause 3(b) (Complaints Committee), which shall include:

- (a) A Presiding Officer who shall be a woman, not below the rank of Registrar;
- (b) Not less than two Members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge;
- (c) One member from amongst non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment; and
- (d) One Senior Advocate/ Advocate who is familiar with the issues relating to sexual harassment:

Provided that at least one-half of the total Members so nominated shall be women.

- 8. The term of the Presiding Officer and of each Member of the Internal Complaints Committee and the Complaints Committee shall be not more than three years, from the date of their nomination. This shall not be construed to bar the nomination of the said Member for a fresh term.
- 9. The quorum for the meetings of the Internal Complaints Committee and the Complaints Committee shall be three members along with the Chairperson or Presiding Officer of the Internal Complaints Committee or the Complaints Committee respectively.

CHAPTER IV
PROCEDURE FOR INQUIRY INTO A COMPLAINT WHERE
RESPONDENT IS AN EMPLOYEE OF DELHI HIGH COURT

10. Where a complaint of sexual harassment at workplace is received against a respondent who is an employee of the Delhi High Court and to whom the CCS (CCA) Rules, 1965 [(covered under clause 3(a)] are applicable, the Internal Complaints Committee shall hold the inquiry, as far as practicable in accordance with the procedure laid down in Rule 14 of the CCS (CCA) Rules, 1965.

(i) Complaint

- (a) The Internal Complaints Committee shall act on complaints of sexual harassment when it receives them directly or through the online portal of the Delhi High Court or through administrative authorities etc., or of which it takes *suo motu* cognizance.
- (b) As per Section 9(1) of the Act, the aggrieved woman or complainant shall make a complaint within three months of the incident and in case there has been a series of incidents, within three months from the date of the last incident. The Internal 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 aggrieved woman or complainant from filing a complaint within the stipulated period.
- (c) In case the aggrieved woman or complainant is unable to make a complaint on account of physical incapacity, mental incapacity or any other reason in terms of Rule 6 of the Rules, 2013, the Chairperson/Presiding Officer, may direct any member of the ICC or Nodal Officer or legal aid personnel to render assistance in making of the complaint.
- (d) Where an aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or for any other reason, the persons specified under Section 9 of the Act and under Rule 6 of the Rules, 2013 may make or continue with a complaint.

(ii) Conciliation/ Mediation

- (a) The Internal Complaints Committee, may, before initiating an inquiry under Section 11 of the Act, and with the consent of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation or mediation through the Delhi High Court Mediation Centre. No monetary settlement shall be made the basis of conciliation or mediation.
- (b) Where settlement has been arrived at, the Internal Complaints Committee shall record the settlement and forward the same to the employer to take action as specified in the recommendation. Copies of the recorded settlement shall be provided to the aggrieved woman and the respondent.
- (c) Where a settlement is thus arrived at, no further inquiry shall be conducted by the Internal Complaints Committee. However, where the aggrieved woman informs the Internal Complaints Committee that any term or condition of the settlement arrived at has not been complied with by the respondent, the Internal Complaints Committee shall proceed to make an inquiry into the complaint.

(iii) Preliminary Inquiry

- (a) In light of proviso to Rule 14(2) of the CCS (CCA) Rules, 1965, the Internal Complaints Committee would normally be involved at two stages, the first stage being Preliminary Enquiry and the second stage being when it acts as the Inquiring Authority.
- (b) On receipt of a complaint, facts of the allegation are required to be verified. This is the preliminary enquiry/fact finding enquiry. The Internal Complaints Committee will first conduct the preliminary enquiry/ fact finding enquiry. It may 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/ aggrieved woman.
- (c) The Internal Complaints Committee, after conducting preliminary enquiry shall make recommendations to the Disciplinary Authority on whether there is *prima facie* substance in the allegations which calls for conducting a formal inquiry and whether a formal Charge Sheet needs to be issued to the Charged Officer.

(The relevant OM dated 16.07.2015 issued by DoPT is annexed as **Annexure A** and the Information Sheet updated on 04.11.2022 issued by the DoPT is annexed as **Annexure B**)

(iv) **Initial relief**

During pendency of the inquiry, on a written request made by the aggrieved woman, the Internal Complaints Committee shall have the powers to recommend:-

- (a) transfer of the aggrieved woman or the respondent to any other workplace;
- (b) grant of leave to the aggrieved woman up to a period of three months (the leave will not be deducted from her leave account in view of Rule 48 of CCS (Leave) Rules, 1972);
- (c) restrain the respondent from reporting on the work performance of the aggrieved woman or writing her confidential report, and assign the same to another officer;
- (d) grant such other relief to the aggrieved woman/witnesses as may be warranted in the circumstances of the case.

(v) **Decision to issue Charge Sheet, and conduct Inquiry**

- (a) On receipt of the Report of Preliminary Enquiry, the Disciplinary Authority shall examine the report with a view to see as to whether there are grounds for inquiring into the truth of any imputation of sexual harassment and whether a formal Charge Sheet needs to be issued to the respondent.
- (b) In case the Disciplinary Authority decides to issue Charge Sheet, the Disciplinary Authority shall deliver or cause to be delivered to the respondent a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained and shall require the respondent to submit, within a specified time, a written statement of his defence and to state whether he desires to be heard in person.

- (c) As per Rule 14(5) of the CCS (CCA) Rules, a decision to conduct the inquiry has to be taken after consideration of the reply of the respondent/ charged officer.
- (d) The respondent/ charged officer would be required to submit a list of documents along with the documents and a list of witnesses (which shall state in brief what is to be proved through a particular witness) whom he/she would want to produce in defence along with the reply.
- (e) If the respondent 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.

(vi) The Inquiry stage

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 Internal Complaints Committee for formal inquiry along with the documents mentioned in Rule 14 (6).

These documents may include:

- (i) A copy of the articles of charge and a statement of the imputations of misconduct or misbehaviour;
 - (ii) A copy of the written statement of defence, if any, submitted by the respondent;
 - (iii) A copy of the statements of witnesses, if any, along with a list of witnesses which shall state in brief what is to be proved through a particular witness;
 - (iv) Evidence proving the delivery of the documents to the respondent; and
 - (v) A copy of the order appointing the “Presenting Officer”.
- (a) The Disciplinary Authority shall in terms of Rule 14(5)(c) of the CCS (CCA) Rules appoint a Government servant as a Presenting Officer to present evidence on its behalf before the Internal Committee/ Inquiring Authority. The listed documents are to be sent to the Presenting Officer.
 - (b) As per Section 11(3) of the Act, for the purpose of making an inquiry, the Internal 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:--

- (i) summoning and enforcing the attendance of any person and examining him on oath;
 - (ii) requiring the discovery and production of documents; and
 - (ii) any other matter which may be prescribed.
- (c) The Internal Complaints Committee shall have the power to take expert opinion including that of a forensic expert on any matter on which such opinion is considered necessary, such as where any electronic material or evidence, including electronic documents, digital data, digital video, mobile phones, computer evidence are relied on by any of the parties.
- (d) In conducting the inquiry, a minimum of three of the Members of the Internal Complaints Committee including the Chairperson shall be present.
- (e) The Internal Complaints Committee would, thereafter, summon the Presenting Officer and the respondent.
- (f) As a first step, the respondent/ charged officer would be formally asked as to whether he admits the charges. In case of any clear and unconditional admission of any Article of Charge, the Internal Complaints Committee would record the plea, sign the record and obtain the signature of the respondent on the same. No inquiry would be held in respect of that Article and the admission of the respondent would be taken on record.
- (g) The inquiry would be held, thereafter, in respect of those charges which have not been admitted by the respondent. The respondent/ Charged Officer is also entitled to engage a Defence Assistant. The provisions relating to Defence Assistant are given in Rule 14(8) of the CCS (CCA) Rules.
- (h) The Internal Complaints Committee/ Inquiring Authority would, thereafter, ask the Presenting Officer to have the prosecution documents, listed in the Charge Sheet inspected by the respondent.
- (i) The respondent may be allowed to submit his documents and list of witnesses, if not already submitted with the permission of the Internal Complaints Committee. The Internal Complaints Committee/ 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 defence may be allowed.

- (j) Once the documents have been allowed, the Internal Complaints Committee/ Inquiring Authority would send a requisition for those documents to the custodian of such documents.
- (k) The parties would then be required to give their respective statements/ affidavits of admission/ denial of documents.
- (l) All pleadings and documents will be filed by either party with an advance copy to the other side.
- (m) When the regular hearing commences, the Internal Complaints Committee/ Inquiring Authority would ask the Presenting Officer to produce the documentary evidence. Such documents as are disputed by the respondent 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.

(vii) Examination of Witnesses

- (a) Summons would, thereafter, be sent to the witnesses listed in the Charge Sheet or the witnesses may be produced by the Presenting Officer. The Presenting Officer may choose to produce them in the order he finds appropriate.
- (b) The witnesses would be examined in the inquiry in the following manner:
 - 1. The examination in chief of each witness would be done by the Presenting Officer.
 - 2. The witness would, thereafter, be cross-examined by the Defence.
 - 3. The Presenting officer would then be given an opportunity to re-examine the witness on any point on which he has been cross-examined, and on any new matter only with the permission of the Internal Committee.
- (c) During cross-examination of a witness, the Internal Complaints Committee/ Inquiring Authority may disallow any questions which are offensive, indecent or annoying to the witnesses, including the complainant/ aggrieved woman. The Internal Complaints Committee may require the questions put in cross-

examination to be given in writing to the Chairperson of the Internal Complaints Committee who may then put them to the complainant/ aggrieved woman or the witnesses.

- (d) If the Internal Complaints Committee/ Inquiring Authority wishes to ascertain some facts for clarity, it may pose questions to the witnesses. However, no inquiry should be conducted in the absence of the respondent/ charged officer
- (e) During the examination of witnesses, only the witness being examined shall remain present and the other witnesses will not be allowed to be present.
- (f) Additional evidence may be permitted in exceptional circumstances with the leave of the Internal Complaints Committee/ Inquiring Authority. The Internal Complaints Committee may itself call for new evidence or recall and re-examine any witness and in such case, the respondent shall be entitled to have, if he demands it, a copy of the list of further evidence proposed to be produced.

(viii) Defence Evidence

- (a) After the evidence on behalf of the Disciplinary Authority is over, the respondent is required to submit his statement of defence in writing briefly indicating his line of defence.
- (b) Thereafter, the Defence evidence will be taken. The evidence will be produced in the same order as the prosecution evidence. The witnesses may also be examined by the Internal Complaints Committee/ Inquiring Authority as in the case of the witnesses of the prosecution.
- (c) The respondent can appear in his defence if he so desires.

(ix) General Examination of the Charged Officer

- (a) After the Defence evidence is over, the Internal Complaints Committee/ Inquiring Authority shall ask the respondent as to whether he wishes to appear as his own witness, if he has not already done so. In case he does so, he will be examined like any other defence witness.

- (b) In case the respondent does not appear in his defence, the Internal Complaints Committee/ Inquiring Authority will generally question him on the circumstances appearing against him in the evidence for the purpose of enabling him to explain any such circumstances. The respondent may not be compelled to answer any questions during such examination by the Internal Complaints Committee/ Inquiring Authority.

(x) **Submissions**

Both the Presenting Officer and the respondent/ Defence Assistant would then be allowed to advance their arguments and to file their submissions.

(xi) **Inquiry Report**

- (a) After the conclusion of the inquiry, the Internal Complaints Committee shall prepare a report which shall contain:

1. The articles of charge and the statement of the imputations of misconduct or misbehaviour;
2. The defence of the respondent in respect of each article of charge;
3. An assessment of the evidence in respect of each article of charge;
4. The findings on each article of charge as proved or not proved and the reasons therefor.
5. In case any Article of charge is proved only partially, then the Internal Complaints Committee/ Inquiring Authority should record the extent to which the Article has been proved.

- (b) If in the opinion of the Internal Complaints Committee, the proceedings of the inquiry establish any article of charge different from the original articles of charge, it shall record its findings on such article of charge.

- (c) After the arguments are concluded, the Internal Complaints Committee shall submit its Report to the Disciplinary Authority within a period of ten days and such report shall be made available to the concerned parties. The records of inquiry shall also be forwarded, likewise to the Disciplinary Authority.

(xii) **Power of the Internal Complaints Committee to make recommendations**

- (a) Where the Internal Complaints Committee arrives at the conclusion that the allegation against the respondent has not been proved, it may recommend to the Disciplinary Authority that no action is required to be taken in the matter.
- (b) No recommendation regarding award of punishment may be made by the Internal Complaints Committee. However, the Internal Complaints Committee may, make recommendations for:
- (1) Any of the reliefs mentioned in (iv) above (to grant such other relief to the aggrieved woman as may be prescribed);
 - (2) Award of compensation and for that purpose to deduct from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs, as it may determine in accordance with Section 15 of the Act.

Provided that any amount outstanding at the time of cessation of the services of the respondent due to retirement, death or otherwise may be recovered from the terminal benefits payable to the respondent or his heirs.

Provided further that such compensation will not amount to penalty under Rule 11 of the CCS (CCA) Rules in terms of Explanation (ix) to Rule 11 of the CCS (CCA) Rules.

(xiii) **Proceeding Sheet**

A Proceeding Sheet shall be drawn up for each hearing of the Internal Complaints Committee recording the proceedings of the day. The same shall be signed by the Chairperson and Members of Internal Complaints Committee/ Inquiring Authority.

CHAPTER V
PROCEDURE FOR INQUIRY INTO A COMPLAINT WHERE
RESPONDENT IS COVERED UNDER CLAUSE 3 (b) OF THE PRESENT
GUIDELINES

11. In case of complaints of sexual harassment against persons who are covered by clause 3(b), the following procedure for inquiry shall be followed:

(i) Complaint

The same procedure will be applicable for making of complaint as in clause 9(i) of Chapter IV except that reference to Internal Complaints Committee therein shall be construed as a reference to the Complaints Committee.

(ii) Conciliation/ Mediation

The same procedure will be applicable as in clause 9(ii) of Chapter IV.

(iii) Procedure on receipt of complaint

- (a) On receipt of a complaint, the Complaints Committee shall send one copy of the complaint received from the aggrieved woman to the respondent within a period of seven working days.
- (b) The respondent shall file his reply to the complaint along with the list of documents and the documents and list of witnesses (which shall state in brief what is to be proved through a particular witness), within a period not exceeding ten working days from the date of receipt of the documents.
- (c) If the Complaints Committee is of the view that there is *prima facie* substance in the allegation which calls for conducting a formal inquiry, it shall proceed to conduct a formal inquiry in the case.

(iv) Initial relief

During pendency of the inquiry, on a written request made by the aggrieved woman, the Complaints Committee will have the powers to recommend the same reliefs as provided in clause 9(iv) of Chapter IV.

(v) Procedure for Conducting the Inquiry

- (a) The Complaints Committee will examine the complaint and issue notice to the complainant/ aggrieved woman and the respondent to appear before it on a specified date and time.

- (b) The Complaints Committee will inform the respondent generally of the allegations against him. If the respondent admits the allegations clearly and unconditionally, there will be no need for a formal inquiry against him and further action may be taken as per the Act and the Rules, 2013.
- (c) In case the respondent denies the charges and his reply is not convincing or if he does not submit any reply, the Complaints Committee will proceed with conducting the Inquiry. The Complaints Committee shall make inquiry into the complaint in accordance with the principles of natural justice.
- (d) 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:-
 - (i) summoning and enforcing the attendance of any person and examining him on oath;
 - (ii) requiring the discovery and production of documents; and
 - (iii) any other matter which may be prescribed.
- (e) The Complaints Committee shall have the power to take expert opinion including that of a forensic expert on any matter on which such opinion is considered necessary, such as where any electronic material or evidence, including electronic documents, digital data, digital video, mobile phones, computer evidence are relied on by any of the parties.
- (f) In conducting the inquiry, a minimum of three Members of the Complaints Committee including the Presiding Officer shall be present.
- (g) The aggrieved woman/ complainant and the respondent shall be at liberty to engage any person to assist them during the inquiry.
- (h) The parties would be required to give their respective statements/ affidavits of admission/ denial of documents.

- (i) All pleadings and documents will be filed by either party with an advance copy to the other side.
- (j) When the regular hearing commences, the Complaints Committee would ask the aggrieved woman/ complainant to produce the documentary evidence. Such documents as are disputed by the respondent 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.

(vi) Examination of Witnesses

- (a) The aggrieved woman/ complainant would then be asked to produce her witnesses. The aggrieved woman/ complainant may choose to produce them in any order she finds appropriate, though the aggrieved woman/ complainant should normally be asked to examine herself first.
- (b) The witnesses would be examined in the inquiry in the following manner:
 - 1. The examination in chief of each witness.
 - 2. The witness would, thereafter, be cross-examined by the Defence.
 - 3. The aggrieved woman/ complainant would then be given an opportunity to re-examine the witness on any point on which he has been cross-examined, and on any new matter only with the permission of the Complaints Committee.
- (c) Opportunity should be afforded to the respondent to cross-examine all the witnesses that appear on behalf of the aggrieved woman/ complainant. The Complaints Committee may disallow any questions which are offensive, indecent or annoying to the witnesses, including the aggrieved woman/ complainant. The Complaints Committee may require the questions put in cross-examination to be given in writing to the Presiding Officer of the Complaints Committee who may then put them to the aggrieved woman/ complainant or the witnesses.
- (d) If the Complaints Committee wishes to ascertain some facts for clarity, it may pose questions to the witnesses. However, no inquiry should be conducted in the absence of the respondent.
- (e) During the examination of witnesses, only the witness being examined shall remain present and the other witnesses will not be allowed to be present.

- (f) Additional evidence may be permitted in exceptional circumstances with the leave of the Complaints Committee. The Complaints Committee may itself call for new evidence or recall and re-examine any witness and in such case, the respondent shall be entitled to have, if he demands it, a copy of the list of further evidence proposed to be produced.

(vii) Defence Evidence

- (a) After the evidence on behalf of the aggrieved woman/ complainant is over, the respondent is required to submit his statement of defence in writing briefly indicating his line of defence.
- (b) Thereafter the Defence evidence will be taken. The evidence will be produced in the same order as the complainant evidence. The witnesses may also be examined by the Complaints Committee as in the case of the witnesses of the aggrieved woman/ complainant.
- (c) The respondent can appear in his defence if he so desires.

(viii) General Examination of the respondent

- (a) After the Defence evidence is over, the Complaints Committee shall ask the respondent as to whether he wishes to appear as his own witness, if he has not already done so. In case he does so, he will be examined like any other defence witness.
- (b) In case the respondent does not appear in his defence, the Complaints Committee will generally question him on the circumstances appearing against him in the evidence for the purpose of enabling him to explain any such circumstances. The respondent may not be compelled to answer any question during such examination by the Complaints Committee.

(ix) Submissions

Both the aggrieved woman/ complainant and the respondent would then be allowed to advance their arguments and to file their submissions.

(x) **Inquiry Report**

- (a) After the conclusion of the inquiry, the Complaints Committee shall prepare a report which shall contain:
1. The allegations made in the complaint;
 2. The defence of the respondent in respect of the allegations;
 3. An assessment of the evidence in respect of the allegations;
 4. The findings on the allegations whether they are proved or not proved and the reasons therefor.
- (b) If in the opinion of the Complaints Committee, the proceedings of the inquiry establish any act of sexual harassment different from the original allegation, it may record its findings on the same.
- (c) After the arguments are concluded, the Complaints Committee shall submit its Report to the employer within a period of ten days and such report shall also be made available to the concerned parties. The records of inquiry shall also be forwarded, likewise to the employer.
- (d) Upon reviewing the material on record and the Inquiry Report of the Complaints Committee, the employer may accept the Inquiry Report.
- (e) The employer shall act upon the recommendations of the Complaints Committee within sixty days of receipt of the Inquiry Report.

(xi) **Recommendations of the Complaints Committee**

- (a) Where the Complaints Committee arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer that no action is required to be taken in the matter.
- (b) If the allegations of sexual harassment stand proved against the respondent, the Complaints Committee may recommend to the employer:
- (1) Any of the reliefs mentioned in (iv) above;

- (2) To take any action including a written apology, warning, reprimand, withholding of pay rise (where applicable), terminating the services of the respondent (where applicable) or undergoing a counselling session or carrying out community service.
 - (3) Award of compensation and for that purpose to deduct from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs, as it may determine in accordance with Section 15 of the Act.
- (c) Where the employer is unable to make deduction from the salary in terms of sub-clause (3) of (b) above, it may direct the respondent to pay such sum to the aggrieved woman.
- (d) Where the respondent fails to pay the sum referred to in sub-clause (3) of (b) above, the employer/ Complaints Committee may forward the order for recovery of the sum as an arrear of Land Revenue to the District Officer.

(xii) Proceeding Sheet

A Proceeding Sheet shall be drawn up for each hearing of the Complaints Committee recording the proceedings of the day. The same shall be signed by the Presiding Officer and Members of the Complaints Committee.

CHAPTER VI MISCELLANEOUS

- 12. Time for completing the Inquiry:** The inquiry shall be completed within a period of ninety days. However, where the Inquiry is conducted in accordance with the provisions of CCS (CCA) Rules extension of time beyond the period of 90 days may be sought from the employer.
- 13. Proceeding ex-parte:** The Internal Complaints Committee or the Complaints Committee shall have the right to terminate the inquiry proceedings or to give an ex-parte decision on the complaint, if the aggrieved woman/ complainant or the respondent fails, without sufficient cause, to present herself or himself for three consecutive hearings convened by the Chairperson/ Presiding Officer. Such

termination or ex-parte order may not be passed without giving a notice in writing, fifteen days in advance, to the party concerned.

14. If during the course of inquiry, it comes to the notice of the Internal Complaints Committee or the Complaints Committee that any other offence is made out from the material which comes before it, the Internal Complaints Committee or the Complaints Committee may forward the information to the appropriate authority.

15. **Counselling:** The Internal Complaints Committee or the Complaints Committee may provide assistance of a counsellor or of a doctor or psychologist to either party, in case the same is required or felt necessary.

16. **Appeal:** Provisions for Appeal shall be governed by the “Act” and the “Rules, 2013”.

17. **Confidentiality of proceedings:** As per the Section 16 of the Act, notwithstanding anything contained in the Right to Information Act, 2005:

- (a) the contents of the Complaint made under section 9 of the Act, identity and addresses of the aggrieved woman, respondent and witnesses;
- (b) any information relating to conciliation, mediation and Inquiry proceedings;
- (c) recommendations of the Internal Complaints Committee/ Complaints Committee; and
- (d) the action taken by the Disciplinary Authority/ employer under the provisions of the Act

shall not be published or communicated or made known to the public, press or media in any manner.

Information may however, 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 the identification of the aggrieved woman and witnesses.

18.Suspension:

- (a) An employee may be placed under suspension before or after issue of 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.
- (b) Suspension may also be resorted to where continuance of the respondent in office will be against wider public interest such as, there is a public scandal and it is necessary to place the respondent under suspension to demonstrate the policy of the High Court to deal strictly with officer involved in such scandals.
- (c) It may be desirable to resort to suspension in case of misdemeanour involving acts of moral turpitude.

19.Punishment for false or malicious complaint and false evidence:

- (a) The Internal Complaints Committee/ Complaints Committee may recommend action to be taken against the aggrieved woman/ complainant if:
 - (1) the allegation against the respondent is malicious, or
 - (2) the aggrieved woman/ complainant has made the complaint knowing it to be false, or
 - (3) the aggrieved woman/ complainant has produced any forged or misleading document,in accordance with the provisions of the service rules applicable to her or where no such service rules exist, in accordance with the provisions of Rule 9 of the Rules, 2013.
- (b) The malicious intent on part of the aggrieved woman/ complainant shall be established after an inquiry in accordance with the procedure prescribed, before any action is recommended.
- (c) The Internal Complaints Committee/ Complaints Committee may also recommend action against any witness if such witness has given false evidence or produced any forged or misleading document.

20. Special Provisions to deal with threats or intimidation:

- (a) Disciplinary Authority/ employer may dispense with inquiry under the applicable Rules or Guidelines, and action may be taken without the inquiry when the Disciplinary Authority/ employer 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 respondent, 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 respondent himself or with or through others threatens, intimidates and terrorizes the employer, Members of the Internal Complaints Committee/ Complaints Committee, the Presenting Officer or members of their family.
- (b) Disciplinary Authority/ employer is not expected to dispense with the inquiry lightly, arbitrarily or merely because the case against the respondent is weak.
- (c) **Special procedure in certain cases:** Notwithstanding anything contained in the relevant Rules or these Guidelines-
 - (i) where any penalty is imposed on an employee on the ground of conduct which has led to his conviction on a criminal charge, or
 - (ii) where the Disciplinary Authority is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an inquiry in the manner provided in these rules, or
 - (iii) where the Disciplinary Authority is satisfied that in the interest of the security of the State, it is not expedient to hold any inquiry in the manner provided in these rules,the Disciplinary Authority may consider the circumstances of the case and make such orders thereon as it deems fit:

Provided that the employee may be given an opportunity of making representation on the penalty proposed to be imposed before any order is made.

21. Protection of aggrieved woman/witnesses:

- (a) Where the grading of a person who was a witness in an inquiry in a complaint of sexual harassment is downgraded, the representation, if any made by such person would be referred to the Internal Complaints Committee/ Complaints Committee.
- (b) The Internal Complaints Committee/ Complaints Committee would then examine whether the reason for downgrading the official/ officer was due to her/ his being a witness in the sexual harassment inquiry.
- (c) The Internal Complaints Committee/ Complaints Committee may, if it is satisfied that the grading of the official/ officer was downgraded on account of her/ his being a witness in the inquiry into the complaint of sexual harassment, recommend that the previous grading be retained.
- (d) Such recommendation of the Internal Complaints Committee/ Complaints Committee will be binding on the employer.
- (e) Qua the aggrieved woman/ complainant, reference may be made to the DoPT OM No.11013/7/2016-Estt.A-III dated 22nd December, 2016 which reads as under:

“It should be ensured that the aggrieved women are not victimized in connection with the complaints filed by them. For a period of five years after a decision in a proven case of sexual harassment, a watch should be kept to ensure that she is not subjected to vendetta. She should not be posted under the Respondent, or any other person where there may be a reasonable ground to believe that she may be subjected to harassment on this account.”

Copy of the said OM is annexed as **Annexure C**.

- (f) In case of any victimization, the aggrieved woman/ complainant may submit a representation to the Disciplinary Authority/ employer. The said representation should be dealt with sensitively, in consultation with the Internal Complaints Committee/ Complaints Committee, and a decision taken within 15 days of the submission of the same.

22. In case any difficulty or question of interpretation or conflict arises in implementation of these Guidelines, the Act and the Rules, 2013 shall prevail.