



CENTRAL WAREHOUSING CORPORATION
(A GOVT. OF INDIA UNDERTAKING)



No. CWC/I-SHR/115/Eectt.

29th May, 2013

CIRCULAR

The Corporation, taking cognizance of the Hon'ble Supreme Court directions in the case of 'Vishaka & Others Vs. State of Rajasthan and Others' (1997)7SCC 323, brought in 24th and 30th amendments in order to give full effect to the Hon'ble Supreme Court judgement. Accordingly, the relevant Regulations 40(a), 40(b) and 40(c) were incorporated in the CWC (Staff) Regulations, 1986. 'The Sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal) Act, 2013' hereinafter referred as Act 2013 (copy available on website egazette.nic.in/WriteReadData/2013/E_18_2013_214.pdf) notified vide notification dated 23/4/2013 has replaced the guidelines/norms laid down by Hon'ble Supreme Court on sexual harassment as above. The Govt. of India is yet to make rules for carrying out the provisions of this Act, 2013 and as and when such rules are made, based on that the Corporation would like to carry out further amendments in the Staff Regulations to give full and complete effect to the various provisions of Act, 2013. However, in the light of the enactment of 'The Sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal) Act, 2013', following guidelines are issued.

A. Constitution of Internal Complaints Committees:

Internal Complaints Committees shall be constituted at Corporate Office as well as at Regional Office level.

The Internal Complaints Committees shall consist of the following members to be nominated at C.O. level by Head of Division, Personnel and at R.O. level by RM keeping in view following criteria:

- (i) A Presiding Officer who shall be a woman employed at a senior level at C.O. or R.O. as the case may be from amongst the employees:

Providing that in case a senior level woman employees is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace.

Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the presiding Officer shall be nominated from any other workplace of the same employer or other department or organization;

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;

One member from amongst non-government organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment;

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

- (ii) The Presiding Officer and every Member of the Internal Committee shall not hold office for such period, not exceeding three years from the date of their nomination as may be specified by the employer.
- (iii) The Member appointed from amongst the non-government organizations or associations shall be paid such fees or allowances for holding the proceedings of the internal Committee, by the employer, as may be prescribed.
- (iv) Where the Presiding Officer or any Member of the Internal Committee.
 - (a) Contravenes the provisions of section 16; or
 - (b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or
 - (c) he/she has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him/her; or
 - (d) has so abused his position as to render his continuance in office prejudicial to the public interest.

Such Presiding Officer or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination.

B. Inquiry into the Complaint:

The Internal Complaints Committee shall inquire into the complaint as per the provisions of Section 11 of the Act, 2013. During pendency of inquiries the Committee may give recommendations as may be considered necessary under the provision of Section 12 of the Act, 2013 and based on these recommendations, authorities concerned at C.O. and R.O. as the case may be shall take appropriate action.

C. Inquiry Reports:

After completion of inquiry, the Internal Complaints Committees shall submit inquiry report along with its recommendations to the Competent Authority namely, Disciplinary Authority with copies to concerned parties, i.e. Complainant and Respondent. In case there is any recommendation against any of the witnesses, then a copy of Inquiry report is to be made available to the concerned witness also. The inquiry report is to be submitted within 10 days from the completion of inquiry.

D. Action on Inquiry report:

The Disciplinary Authority shall take action on recommendations of Internal Complaints Committee within sixty days of receipt of inquiry report as per provision of CWC (Staff) Regulations, 1986 and provisions of The sexual harassment of women at workplace (Prevention, Prohibition and Redressal), Act, 2013.

E. Appeal:

- (i) Any person aggrieved by the recommendation made by Internal Complaints Committee in its report may prefer an appeal within ninety days of the recommendations to the Committee of persons to be constituted at Corporate office level & given below:
 - (a) A woman member from NGO
 - (b) Any GM, who is not Disciplinary Authority or Appellate Authority as prescribed in the CWC (Staff) Regulations, 1986.

The above Committee shall consider and dispose of the appeal.

- (ii) An appeal may also be preferred for non implementation of the recommendation of Internal Complaints Committees and such an appeal shall be addressed to the Appellate Authority as prescribed in (Staff) Regulations/next higher authority to the Disciplinary Authority.

F. Other Actions:

All HODs, RMs, CC Heads are advised to provide necessary assistance/facilities to Internal Complaints Committee, besides ensuring the compliance of Act, 2013 which interalia provide that every employer shall

- (a) Provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace;
- (b) Display at any conspicuous place in the workplace, the penal consequences of sexual harassments; and the order constituting the Internal Committee
- (c) Organise workshops and awareness programmes at regular intervals for sensitizing the employees with the provisions of the Act, 2013 and orientation programmes for the members of the Internal Committee in the manner as may be prescribed.
- (d) Provide necessary facilities to the Internal Committee or the Local Committee, as the case may be, for dealing with the complaint and conducting an inquiry.
- (e) Assist in securing the attendance of respondent and witnesses before the Internal Committee or the Local Committee, as the case may be;
- (f) Make available such information to the Internal Committee or the Local Committee, as the case may be, as it may require having regard to the complaint.
- (g) Provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code or any other law for the time being in force;
- (h) Cause to initiate action, under the Indian Penal Code or any other law for the time being in force, against the perpetrator, or if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place.

- (i) Treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct.
- (j) Monitor the timely submission of reports by the Internal Committee.

All the Regional Managers are, therefore, advised to immediately take necessary action to constitute the Internal Complaints Committee besides compliance of other provision of the Act, 2013 and also circulate the contents to all Warehouse Managers for guidance and compliance at their end under intimation to this Office.

These guidelines are issued in supersession of all previous guidelines/instructions on this issue.

[Handwritten Signature]
29/5/13

(PAWAN KANT)
DY. GENERAL MANAGER (PERSONNEL)

Circulation to :

1. The Regional Manager, CWC, RO, Ahmedabad/Bangalore/Bhopal/Bhubaneswar/Chandigarh/Chennai/Delhi/Guwahati/Hyderabad/Jaipur/Kochi/Kolkata/Lucknow/Mumbai/NaviMumbai/Panchkula Patna/Raipur, for guidance & necessary compliance.
2. CC Heads , Bhubaneswar/Kolkata/Chennai/Delhi, for guidance & necessary compliance.

- Copy to :
1. All HODs, CWC, C.O., New Delhi, for guidance and necessary compliance.
 2. GM(Systems), CWC, CO, New Delhi, with the request to upload the Circular on CWC website.
 3. PS to MD/SAM to Dir.(Pers.)/PA to Dir.(MCP)/PS to Dir.(Fin.)/PS to CVO, CWC, CO, New Delhi.
 4. Smt. Mitali Guha, M(G), & Chairperson, Complaints Committee to redress sexual harassment of working women at work place, CWC, CO, New Delhi
 5. The Secretary General, Federation CWCEU