

## **(B) COMPLAINTS COMMITTEE:**

- ❖ Complaints Committees have been set up in all Ministries/Department and organizations under them in pursuance to the judgement 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.

[Para 1 of OM No. 11013/2/2014-Estt.(A-III) dated 16.07.2015]

### **❖ Section 4 of the SHWW (PPR) Act-**

*"4. Constitution of Internal Complaints Committee.— (1) Every employer of a workplace shall, by an order in writing, constitute a Committee to be known as the "Internal Complaints Committee":*

*Provided that where the offices or administrative units of the workplace are located at different places or divisional or sub-divisional level, the Internal Committee shall be constituted at all administrative units or offices.*

*(2) The Internal Committees shall consist of the following members to be nominated by the employer, namely: —*

*(a) a Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees:*

*Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section(1):*

*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 organisation;*

- (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:*
- (3) *The Presiding Officer and every Member of the Internal Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the employer.*
- (4) *The Member appointed from amongst the non-governmental organisations or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the employer, as may be prescribed.*
- (5) *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 has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; 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 in accordance with the provisions of this section."*

[Section 4 of the SHWW (PPR) Act]

❖ **Seniority of the Chairperson of the Complaint Committee-**

There is no bar either in the CCS (CCA) Rules or under the *Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013* to the Chairperson of the Complaints Committee being junior to the suspect officer or the charged officer. Hon'ble Allahabad High Court has in *Smt. Shobha Goswami vs State of U.P. and 2 Ors*, in WRIT – A No. – 31659 of 2015 observed as follows:

*"In my opinion, there is nothing in the Scheme of the section which requires the lady member to be senior in rank to the officer against whom the allegation of sexual harassment are brought. The language of Section 4 of the Act only requires the lady member to the Senior Level".*

This also does not in any way cause any prejudice to the charged officer.

[Para 2 of OM No. 11013/2/2014-Estt.A-III dated 09.09.2016]

❖ **Complaints Committee to be Inquiring Authority**

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.

[Para 6 of OM No. 11013/2/2014-Estt.(A-III) dated 16.07.2015]

❖ **Proviso to Rule 14(2) of the CCS (CCA) Rules, 1965-**

*"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 harassment, the inquiry as far as practicable in accordance with the procedure laid down in these rules."*

[Proviso to Rule 14(2) of the CCS (CCA) Rules, 1965]