

CHAPTER 18: SEXUAL HARASSMENT POLICY (POSH)

Objective

The Organization is committed to provide safe & conducive working environment to its employees and expects them to “Expertise with Responsibility”. Towards this, it is essential that, each employee deals with their colleagues, other stake holders and third parties with full awareness, fairness and respect and realizes that his/her behavior will be attributed to the Organization and can affect its inward as well as outward reputation.

Act Definition

Under the Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (herein after referred as “the Act”) and Company Compliance, harassment of any kind including sexual harassment is forbidden. Every employee has the rights to be protected against harassment, regardless of whether the accused considers his/her own behavior to be normal and acceptable and whether the harassed person had the opportunity to avoid the harassment.

Company is committed to provide a work environment free of sexual harassment. Sexual harassment is a kind of harassment which is sexual in nature and it is a violation of an individual’s fundamental rights to equality and the individual’s right to life and to live with dignity under the article 14, 15 & 21 of the Constitution of India respectively and right to practice any profession or to carry on any occupation, trade or business which includes a right to safe environment free of sexual harassment.

Company’s Prevention of Sexual Harassment Policy (herein after referred as “the policy”) has been formed to prohibit, prevent or to deter the commission of acts of sexual harassment at workplace and to provide procedure for the Redressal of complaints pertaining to sexual harassment.

“Employee” under section 2 (f) of the Act, means a person employed at a workplace for any work on regular, temporary, ad hoc or daily wage basis, either directly or through an agent, including a contractor, with or, without the knowledge of the principal employer, whether for remuneration or not or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co – worker, a contract worker, a probationer, a trainee or called by any other such name;

“Employer” means:-

- in relation to any department, organisation, undertaking, establishment, company,
- enterprise, branch, office or unit as the case may be, (i) in any other workplace not covered clause (ii), any person responsible for the management, supervision and control of the workplace;

“Compliant Committee” (herein after referred as “the committee”) means the Internal Complaints Committee constituted by the Management of the Organization.

“Member” means a member of the Internal Committee;

“Presiding Officer” means the Presiding Officer of the Internal Committee nominated under sub – section (2) of section 4 of the Act;

“Respondent” means a person against whom a complaint has been made;

“Aggrieved person – any employee in relation to a work place, against whom an act of sexual harassment has been alleged to have been committed and includes an employee, trainee, any other person covered under the definition of employee;

“Sexual harassment” means any one or more any of the following unwelcome acts or behaviour (whether directly or by implication) namely:-

- physical contact and advances; or
- a demand or request for sexual favours; or
- making sexually coloured remarks; or

- showing pornography; or
- any other unwelcome physical, verbal or non – verbal conduct of sexual nature;

The following circumstances, in addition to the above, if it occurs or is present in relation to or occurred with any act or behavior may amount to sexual harassment:

- implied or explicit promise of preferential treatment in employment; or
- implied or explicit threat of detrimental treatment; or
- implied or explicit threat about an individual's present or future employment status; or
- interference with the individual's work or creating an intimidating or offensive or hostile work environment for her/ him; or
- humiliating treatment likely to affect her/his health or safety;

“Workplace” includes –

- any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled wholly or substantially by Company
- any place visited by the employee in individual or in group arising out of or during the course of the employment including transportation provided by NALIPL for undertaking such journey;

Purpose

The purpose of framing this policy is to provide protection against sexual harassment of at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

Scope & Effective Date

This policy applies to all employees, working with Company whether in the office premises or outside while on official assignment and is deemed to be incorporated in the service conditions of all employees comes into effect immediately.

Sexual Harassment would mean and include any of the following;

- Unwelcome sexual advances, request and demand for sexual favours either explicitly or implicitly, in return for employment, promotion, examination or evaluation of a person towards any company activity;
- Unwelcome sexual advances involving verbal, non – verbal, or physical conduct such as sexually coloured remarks, jokes, letters, phone calls, e – mail, messages, gestures, showing of pornography, lurid stares, physical contact or molestation, stalking, sounds, display of pictures, signs or any sort act which offends the individual's sensibilities and affect her/his performance;
- Eve teasing, innuendos and taunts, physical confinement, clicking of photographs against one's will and likely to intrude upon one's privacy;
- Act or conduct by a person in authority which creates the environment at workplace hostile or intimidating to a person belonging to opposite sex;
- Conduct of such as workplace or outside in relation to an employee of NAL or vice versa during the course of employment; and
- Any unwelcome gesture by an employee having sexual overtones.
- Humiliating conduct constituting health and safety problems;

Where sexual harassment occurs to an employee as a result of an act by a third party or an outsider, while the employee on official duty, company will take all necessary and reasonable steps to assist the affected person in terms of support and preventive actions.

The Complaints Committee

A committee has been constituted by the Management to consider and redress the complaints of sexual harassment.

The Presiding Officer and members of the committee are as follows;








A quorum of three members is required to be present for a proceeding to take place. The quorum shall include the Presiding Officer; at least two members one of whom shall be a female.

In case of casual vacancy of the Presiding Officer or any of the member of the Complaint Committee within 15 days from the vacancy with the due approval from management /director, appoint any female employee above the cadre of middle management.

Non- Compliance of Complaints Committee where the Presiding Officer or any member of the Complaint Committee:

- contravenes the provisions of this policy or;
- 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/her, or;
- has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or;
- has so abused his position as to render his / her continuance in office prejudicial to the public interest; such Presiding Officer or Member, as the case may be, shall be penalised or 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 the policy.

Committee Members:

-  Ruchi Gera – Senior General Manager HR & Administration- Presiding Officer
-  Kavita Shome – Asst. General Manager Customer Service
-  Hina Khan - Deputy Manager Customer Service
-  Pawan Kumar Mittal – Vice President Legal
-  Rajan Sahore – Vice President Operations
-  Ramkinker N – Terminal Head Mumbai
-  Shefali Sangal- External member

Dealing with the Complaint

Any employee who feels and is being sexually harassed directly or indirectly may submit a complaint of the alleged incident to any member of the committee in writing with her/his signature within 30 days of occurrence of such incident.

Provided further that the Complaint Committee or, as the case may be, for the reasons to be recorded in writing, extend the time limit by one week, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period; Where the aggrieved person is unable to make a complaint on account of his /her physical or mental incapacity or death otherwise, her legal heir or any third party as may be prescribed may make complaint.

The Committee will maintain a register to endorse the complaint received by it and keep the contents confidential, if it is so desired except to use the same for discreet investigation. If any member including the Presiding Officer, who discloses any details of the same to the media or press or makes it public in any way, will be liable for immediate disqualification from the Committee.

The Committee will hold a meeting with the complainant within 07 days of receipts of such complaint but not later than 15 days any case.

At the first meeting, the committee members shall hear the complaint and record her/his allegations. The complainant should also produce any corroborative material with a documentary proof, oral or written material etc. to substantiate her/his complaint. In case the complainant does not wish to depose personally due to

embarrassment of narration of event, a female member of the committee for female employees and a male member of the committee for male employees, involved shall meet and record the statement.

Thereafter, the alleged person against whom the complaint is being made may be called for a deposition before the committee and an opportunity shall be given to him/her to submit an explanation, where after, a Domestic Enquiry (herein after referred as the “enquiry”) shall be initiated and concluded.

In the event, the complaint does not fall under the purview of Sexual Harassment or the complaint does not mean an offence under Sexual Harassment, the same would be dropped after recording the reasons thereof.

Domestic Enquiry Proceedings

The Committee shall immediately precede the enquiry and communicate the same to the complainant and the respondent.

The Committee shall prepare and hand over the formal statement of allegation to the respondent and give him/her an opportunity to submit a written explanation if he/she so desires within 7 days of receipt of the same.

The complainant shall be provided with a copy of the written explanation submitted by the respondent.

If the complainant or the respondent desires any witness/es to be called, they shall communicate in writing to the committee the name of the witness/es they propose to call.

If the complainant desires to tender any documents by way of evidence to the committee, she/he shall submit original copies of such documents. Similarly, if the respondent desires to tender any documents by way of evidence to the committee, he/she shall submit original copies of such documents. Both shall affix his/her signature on the respective documents to certify these to be original copies.

The Committee shall call upon all witnesses mentioned by both the parties and record their respective statements.

The Committee shall provide every reasonable opportunity to the complainant and the respondent for putting forward and defending their respective cases.

The Committee shall complete the enquiry within reasonable period but not later than 90 days of receipt if the complaint and communicate its findings and recommendations for action to the Management within 10 days from the date of completion of the enquiry and such report be made available to the concerned parties. The report of the committee shall be treated as an enquiry report on the basis of which an erring employee can be awarded appropriate punishment straightaway.

Management will initiate appropriate action in accordance with the recommendations proposed by the committee.

The committee shall be governed by such rules as may be framed by the Honorable Supreme Court of India or the Constitution of India or any other legislation enacted later on.

Disciplinary Action

Where the compliant committee arrives at the conclusion that the allegations against the respondent has been proved, disciplinary action shall be taken against the respondent in accordance with the service rules, which may include transfer, withholding promotion, demotion, suspension or even dismissal.

Also Company will deduct from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the complainant or to her / his legal heirs, as it may determine in accordance with below provisions;

- the mental trauma, pain, suffering and emotional distress caused to the complainant;
- the loss in career opportunity due to incident of sexual harassment;
- medical expenses incurred by the victim for physical or psychiatric treatment;
- the income and financial status of the respondent;

- Feasibility of such payment in lump sum or in instalments.

The above actions shall be in addition to any legal recourse sought by the complainant if she/he 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.

Confidentiality

- Any information pertaining to any complaint of Sexual Harassment Case shall be kept strictly confidential. Any person (including witness) who breaches confidentiality shall be subject to disciplinary action.
- Protection against retaliation & pendency of an inquiry
- Regardless the outcome of the complaint made in good faith, the employee lodging the complaint and any person providing any person providing information or any witness, will be protected from any form of retaliation.
- Grant leave to the aggrieved person as may be prescribed. The leave granted to the aggrieved shall be in addition to the leave she would be otherwise entitled.
- While dealing with complaint of sexual harassment, the committee shall ensure that the complainant or the witnesses are not victimized or discriminated against by the accused.
- Any unwarranted pressures, retaliatory or any kind of unethical behaviour by the accused against the complainant while the investigation is in process should be reported by the complainant to the internal committee as soon as possible. In the event of such incident disciplinary action will be taken by the internal committee against any such complaints which are found genuine.

Documentation

- The committee shall keep complete and accurate documentation of the complaint, its investigation and the resolution thereof according to Income Tax rules files it has to be retained till 8 yrs after the conclusion of disciplinary proceeding.
- The incident will be documented in both the complainant's and the respondent's personal files with the full report of the Internal Committee.

Dissemination of the Policy

- A copy of this policy shall be given to all employees and to all new recruits and they shall sign a statement acknowledging that they have received, read, understood and abide by the policy.
- A copy of this policy shall be uploaded in Company Database, which can accessed by employees as and when required.

Complaints made with a Malicious Intent

- This policy has been evolved as a tool to ensure that in the interest of justice and fair play, our employees have a forum to approach in the event of instances of sexual harassment.
- Where the internal committee arrives at a conclusion that the allegation against the respondent is malicious or the complainant or any other person making the complaint has made the complaint knowing it to be false or the complainant or any other person making the complaint has produced any forged or misleading document, it may recommended to the Management to take disciplinary action against the

complainant or any other person who has made the complaint in accordance with provisions of the service rules applicable to her or him.

- Any employee who is victim of such malicious complaint may, in addition to the above, seek legal remedies as may be prescribed under various laws for the time being in force.

Appeal

Any person aggrieved by the recommendations made by the Compliant Committee or non-implementation of such recommendations may prefer an appeal to the Appropriate Government.