

A Critical Analysis on Harassment & Sex Discrimination ACT at Workplace

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Abstract: *Workplace harassment and sex discrimination are a violation of human rights & Internationally condemned. Absenteeism, turnover, less productivity and job dissatisfaction are the result of harassment and sex discrimination at workplace. Due to enactment of various laws still it remains pervasive and underreported so no legislation has been able to eliminate it. In this study the researcher has tried to know the opinion of employees about the harassment and sex discrimination which they had encountered. For this study, total 200 employees from BPO and Hospitality sector were selected randomly. The study has suggested that in reducing the harassment & sex discrimination, strong workplace policies prohibiting harassment, workplace training and complaint process that protect from employees from retaliation seem to offer the most promised.*

Keywords: *Harassment, Sex Discrimination, Workplace Policies, Complaint Process, Retaliation.*

1. INTRODUCTION

Harassment is defined as a wide range of behaviours, from glances to unparliamentarily language, to make comments on gender stereotypes to sexual assault and other act of misbehavior. It is understood in a fairly comprehensive definition as verbal or physical misconduct, request for unconcerned favour that might reasonably be expected or be perceived to cause offense or humiliation to another. Such cases of harassment may be made a condition of employment or created an intimidating or offensive work environment. There are so many types of harassment is as follows:

- a. Harassment on the basis of- Race, Sex, Religion and National Origin.
- b. Harassment on the basis of age.
- c. Harassment on the basis of disability.
- d. Defamation- To defame is to damage the reputation or image of the person
- e. Criminal History- An employee may be harassed for his previous criminal record, whose penalty he has already suffered.
- f. Citizenship Status- A person belonging to a different nationality may become subject to harassment.
- g. Racial Harassment- Discrimination on the basis of race.

- h. Harassment due to different Political Beliefs- Though minor issue but can lead to harassment of the employee by the employer or fellow employees.
- i. Sexual Orientation and Marital Status.
- j. Stalking.
Examples include leaving repeated or alarming messages on voice mail or e-mail, following people home, or approaching co-workers to ask for personal information.
- k. Hostile Workplace Harassment.
- l. Bullying by the supervisor.

2. LAWS AGAINST HARASSMENT

Indian labour laws under its purview cover a large number of acts and since labour laws are covered under the concurrent list of the Seventh Schedule of the Constitution of India, so both central and state governments have jurisdiction to pass their own laws on relations between the labourers and relating to issues of the employment.

Harassment of Women at Workplace Act, 2013: Sexual harassment at workplace was becoming an intolerable and uncontrollable menace. The Indian Legislature finally enacted the Sexual Harassment of Women at Workplace, Act

2013 to put in place a redressal mechanism to handle complaints. The harassment act provides protection where the force of law focuses on elimination discrimination of every type possible.

Harassment by Deduction of Unreasonable Wages by Employer: Payment of Wages Act, 1936 is made by the 'Employer' or unjustified delay in payment of wages intended to be a remedy against the unreasonable and unauthorized deductions. Section 5 of the Act specifies the Time of payment of wages- Timely payment of wages should be made. If manpower is less than 1000, then 7th day of the month and if more than 1000, then 10th day of the month. Section 7-13 defines the Deductions- No unreasonable and unauthorized deductions should be made from the wages.

Harassment by Sex Discrimination: Employees can be harassed by not following the Principle of Equal Pay for Equal Work. According to Article 39(d) of the Constitution and Section 2(h) of the Equal Remuneration Act 1976 it is the duty of the employer that every employee should receive same remuneration for similar nature of work.

Harassment by Defamation: Section 499 of the IPC defines the Defamation if it is a Criminal Wrong. Otherwise in civil cases defamation can be included under the Law of Torts.

Harassment by Unreasonable Clauses in the Employment Agreements: This Act lays down that a 30 to 90-day notice period applies in order to terminate 'workmen' (as defined in the Industrial Disputes Act, 1947) – that is, employees whose role is not primarily supervisory, administrative or managerial) for convenience.

Discrimination on Grounds of Pregnancy and Disability: According to Maternity Benefit Act, 1961 it is unlawful and unauthorized on the part of the employer to discharge or dismiss women when she absents herself from work within the provision of this act. Section 24A of The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 guarantees no discrimination in employment.

3. CONSTITUTION OF INTERNAL COMPLAINTS COMMITTEE

The criticism of the constitution of this committee has been dealt with in a three-pronged manner. Primarily, it should be noted that in-house management of complaints may act as a deterrent to victims. It is therefore suggested

that the complainant with the Internal Complaints Committee need not forcibly file a complaint. A more adequate forum in a more efficient manner would be an independent employment tribunal to handle complaints, which would simultaneously be preferable to a victim. The Act for the employer determinedly creates an obligation for the employer to establish a complaints committee for each of its branches (which employs 10 or more people), even if the branches are in the same city. The committee has been awarded vast discretionary powers.

4. RESEARCH DESIGN

This study is explanatory in nature. For the study, total 200 employees from BPO and Hospitality sector were selected on the random basis. They were asked to answer questions about the harassment and sex discrimination which they faced or still facing at workplace. The sample in this study majorly were female as it is observed that female face such type of incidents. Through personally meeting, verbally conversation were held and assured them that their responses were kept confidentially.

5. FINDINGS OF THE STUDY

The findings of the study is concluded as given below:

- Majority of respondents said that they had encountered harassment and sex discrimination at workplace but they fear to report to their higher authority for sake of their job. Some of them responded that they reported these incidents but they were threatened to fire. Some said that they did not get justice just to loose their jobs.
- Organizations have established complaint procedures against harassment and sex discrimination.
- Legislation varies by the intensity of mis-happenings under both civil and criminal law. The victims receive a compensation from their employers for risk, injury or death.
- In every organization there is a policy indicated the punishment for harassment and sex discrimination. The efficacy of legislation is reduced as many harassment and sex discrimination cases were underreported.
- Employees are subject to retaliation when they are likely to report about such incidents.
- In comparison to men, women face a higher risk of harassment and sex discrimination. If these are not considered seriously they it ruins the organization and as well as victims. The findings also concluded that

employees have been harassed by their male colleagues and some accused their bosses.

6. CONCLUSION

Thus we see that Indian Labour Laws not only takes Sexual Harassment at Workplace into consideration but also all other types of harassment that can happen at the workplace as stated above. Certain acts have been laid down by the government governing every issue to protect the interest of the employees and workmen in almost every sector of the industry. In practicality, there is enough evidence to conclude that circumstances are not totally so as they were envisaged by the legislation. On the other hand, Act provides no mechanism to deal with the same. In providing to protection to women although this Act is a great step and leaves a wide scope for false allegations.

Healthy and safe environment at workplace is the need of the hour for the existence of free and unmonitored work environment along with co-existence of liberties to be frank and humorous with each other. This when exercises, leads to improved understandings and work efficiency. All these help in building up ambient relations & allow the opposite sexes to break the ice and come to terms and understandings which they need to do both as matured individuals and professionals.

7. REMEDIES HARASSMENT AT WORKPLACE

There is no law in India that states the other forms of sexual harassment and remedies available for the same. But most of the enterprise do take this into consideration and provides the remedies to the aggrieved, which may differ from place to place.

Some of the remedies that can be provided are listed below:

1. Injunction of that particular practice.
2. Actual and Compensatory damages can be paid for the loss suffered.
3. The perpetrator can be asked to compensate from out of pocket expenses.
4. Promotion and Incentives can be provided by the Enterprise.

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