POSH Handout

Silver Oak Health

THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION, AND REDRESSAL) ACT, 2013

Introduction

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 which is more commonly known as the POSH Act was introduced to protect women. The act offers a remedy to women who have faced sexual harassment at their workplace. Facing workplace sexual harassment is a form of gender discrimination that is faced by millions of women around the world. It also affects a woman physically, emotionally, economically, and socially, which makes prevention the best tool to reduce sexual harassment at the workplace. For a woman who has undergone sexual harassment at work, registering a complaint can be perceived as a risk for several reasons and this risk is what stops them from taking the necessary action. The power and authority imbalance, contractual or non-formal employment status, being the sole family breadwinner, low or no family support; may all affect a woman's actions as making a complaint can directly affect their job and primary needs.

While the need for a specific law for workplace sexual harassment was observed for the first time after the landmark judgment of Vishaka v. State of Rajasthan where the Supreme Court of India framed a set of guidelines and issued directions to the Government of India to enact an appropriate law for sexual harassment faced by women in their workplaces. It was only after 16 years that the POSH Act and the POSH Rules were enacted, till then the guidelines laid down by the Supreme Court were made mandatory for every employer.

Salient Features of The POSH Act

The act extends to the whole of India and has defined an 'aggrieved woman' (a woman who has faced sexual harassment in relation to a workplace) as a woman of any age, who is either employed at the workplace or isn't and has faced sexual harassment. It is important to note that the aggrieved woman doesn't need to be an employee, the woman can also be a customer or a client who has been sexually harassed at a workplace. Moreover, the act is not gender-neutral, which means that it only protects women. The gender-neutral narrative has been heavily discussed for limiting equality. It was also debated during the legislative process

of the bill. In 2011, the Parliamentary Standing Committee addressed the issue and recommended the law to be kept gender-specific rather than be made gender-neutral.

Further, the act describes 'sexual harassment as any unwelcome sexual behaviour. Which can be direct or implied, such as; any physical contact, a demand or request for sexual favours, sexual remarks, showing pornography, or any other unwelcome physical, verbal or non-verbal conduct of a sexual nature which may also include a promise of preferential treatment, threat of detrimental treatment, threat employment status, creating a hostile work environment, any humiliating treatment which affects the health or safety of the woman; all of which can be implied or explicit. Moreover, the act is timebound. The registration of complaint, inquiry, filing of an appeal, etc has to be done within the specified period.

Internal Committee (IC)

Under the act, an employer is legally required to establish an Internal Committee (IC) (previous to the 2016 amendment, the committee was referred to as the Internal Complaints Committee (ICC)) under the POSH act is a body created to receive complaints from any woman who has faced sexual harassment at the workplace. The committee also conducts inquiries and makes recommendations. This is only required for establishments with ten or more employees. For organizations with less than ten employees, the government is required to form a Local Complaints Committee at each district. The Ministry of Women and Child Development in 2016 introduced an online platform for employees to lodge their complaints due to the ineffectiveness of the Internal Committees. Subsequently, an online complaint portal called the Sexual Harassment Electronic Box (SHE-Box) was launched in 2017 for aggrieved women to lodge their complaints online. Initially, it was only accessible to Government employees, the portal was soon opened to women working in all sectors; whether organized or unorganized, private or public institutions.

The Internal Committee is composed of one presiding officer who shall be employed at a senior level at the same workplace or from another workplace of the same employer, two members from amongst employees who preferably have experience in social work or legal

knowledge, one outside counsel who is from an NGO or any organization committed to the cause of women or a person familiar with the issues relating to sexual harassment. The act also provides for at least one-half of the total members to be women. Lastly, the presiding officer and all members hold their positions for a period not exceeding 3 years.

Conclusion

The act was introduced to ensure the safety and the wellbeing of women at their workplace by reducing discrimination and increasing the growth, development, and contribution of women at their place of work.

References

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