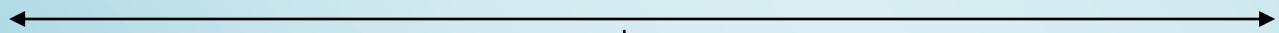


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WORKPLACE WOES ON WOMEN

***G.S.VENUMADHAVA, **M.TEJASHWINI.**

ABSTRACT

The greatest assailant against realizing our fundamental right to equality and dignity in our everyday spaces, including home or workplaces, is often the forbearing by standers. As more and more women are going out to work, they face an increasing risk of being subjected to some sort of sexual harassment. According to the protection of Human Rights Act, 1993 "human rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the constitution or embodied in the International covenants and enforceable by Courts in India. It is necessary and expedient for employers in work places as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women as to live with dignity is a human right guaranteed by our Constitution. This article focuses on problems at workplace; the prospect of defending a workplace class action inspires fear and loathing in all employers and with good reason. Workplace woe is attracting rising identification and is an issue of concern for human resource managers and other actors in employment relations.

Keywords: Workforce, Managing, Family Conditions, Disturbance.

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INTRODUCTION

Sexual harassment at the workplace is not a new thing. Sixty per cent of working women have faced sexual harassment at some point of time in their working lives. For every woman who raises an outcry, there are hundreds of others who suffer in silence, quit their jobs or get transfers. For years, sexual harassment was considered an inescapable part of a working woman's life. Now awareness is slowly rising that no woman should meekly accept sexual harassment as part of her lot.

WHAT IS SEXUAL HARASSMENT?

Sexual harassment is described as harassment in subtle ways, which may include sexual innuendoes, inappropriate sexual gestures and propositions for dates or sexual favors'. In more unashamed forms, such harassment may include leering, pinching, grabbing, hugging, patting, brushing against and touching. The Supreme Court's guidelines describe physical contact or advances; demand or request for sexual favors'; sexually colored remarks and showing pornography as offensive conduct. Sexual harassment becomes even more serious when the granting of sexual favors' is made a term or condition of the individual's employment, when it interferes with the individual's work performance or it creates an intimidating or hostile work environment. The offensive conduct could be exhibited by a superior, a colleague, a subordinate or a client.

WHAT IS THE WORKPLACE?

Any place where working relationship and/or employer-employee relationship between the company and the person exists. This includes our premises including transit houses & guest houses and any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such a journey. The workplace is any area where the employee is required to represent, carry out, perform or implement any duties, obligations or services required. By this token, a home would be a workplace for a domestic maid. For a person engaged in a field job, the area that she covers in the course of her work represents her workplace.

SOME OF THE WELL-KNOWN CASES

- *Bhanwari Devi Case*

In 1992 Bhanwari Devi, a social worker in Rajasthan was brutally gang raped by a number of upper class men, because she had tried to stop a child marriage. Bhanwari Devi was determined to get justice and lodged a case against the offenders. However, the accused was acquitted by a trial court. This appalling injustice, together with the fighting spirit of Bhanwari Devi, inspired several women's groups and NGOs to file a petition in the Supreme Court under the collective platform of Vishakha.

- ❖ *Shehnaz Mudbhatkal case*

Sexual harassment at the workplace, as an issue, captured the collective consciousness of working women, following the Shehnaz Mudbhatkal case. Shehnaz worked as a hostess for Saudi Arabian airlines. She was subjected to sexual harassment by her boss in 1985, and dismissed when she complained to higher authorities. But Shehnaz would not give in. Filing suit, she fought for 11 years and won her case in 1996 when the Bombay labor court judged it to have been a case of unfair dismissal under the Industrial Disputes Act. It ordered her reinstatement with full back payment, perks and promotions. Sadly, the airlines appealed to Bombay High Court, which granted a stay.

- ❖ *Sailaja Suman Case*

In 1994, Doordarshan (Hyderabad) producer Sailaja Suman took director P L Chawla to court on charges of defamation, criminal intimidation and trying to outrage her modesty. She filed two separate cases in the metropolitan magistrate's court. Unfortunately, Suman was transferred to Lucknow.

- ❖ *Nutan Sharma case*

Nutan Sharma a steno in the Union Ministry of Railways was transferred, following her complaint that R P Sharma, secretary to the Chief Operating Manager, molested her.

- ❖ *Alisha Chinai Case*

Alisha Chinai's suit against music composer Anu Malik, demanding Rs. 26, 60,000 as damages for sexual harassment, met with a similar fate. Malik filed a Rs. 2 crore defamation suit. The most well-known instance of a sexually harassed woman taking the help of the law to teach the harasser a lesson is that of Rupan Deol Bajaj. Bajaj was slapped on the bottom by the then DGP of Punjab, K P S Gill. Accusing him of indecent behavior, Bajaj fought an 8-year legal battle. The hard work paid off. Gill was convicted and sentenced to three months RI.

➤ ***Rupan Deol Bajaj Case***

Tarun Tejpal, Editor of Tehelka was accused by a woman journalist colleague of sexual assault. Tejpal was charged under all the seven sections for which he has been booked: 354 [molestation], 354-A [sexual harassment and outraging the modesty of a woman], 341 [wrongful restraint], 342 [wrongful confinement], 376 [rape] and 376(2)(f) [rape by a person in a position of control or dominance over a woman] of the IPC; and 376(2)(k) [rape by a relative or guardian or a person in a position of trust or authority, and rape by a person in a fiduciary position] of the Criminal Law (Amendment) Act. Tejpal has been accused by a former junior colleague of assaulting her in a lift at the Grand Hyatt hotel, Bambolim, on two occasions on November 7 and 8, 2013, during the Think fest event. Investigators said this was the first time that charges had been brought anywhere in the country under the new section 376(2) (k).

WHAT ARE THE GUIDELINES THAT GOVERN SEXUAL HARASSMENT AT THE WORKPLACE?

Sexual harassment results in the violation of the fundamental right to "gender equality" and "the right to life and liberty" besides the right under article 15 of the Constitution (which deals with the prohibition of discrimination on grounds of religion, race, cast, creed, or sex). Keeping these rights in mind, the Supreme Court has passed guidelines that have the force of law. The guidelines have been broadly classified under preventive measures and coping measures. As part of preventive steps the guidelines include:

- ❖ Express prohibition of sexual harassment as defined above at the workplace should be notified, published and circulated in appropriate ways.
- ❖ The rules / regulations of government and public sector bodies relating to conduct and discipline should include rules / regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against offender.
- ❖ As regards private employers steps should be taken to include aforesaid prohibitions in the standing order under the Industrial Employment (Standing Orders) Act 1946.
- ❖ Appropriate work conditions should be provided in respect of work, leisure, health, and hygiene to further ensure that there is no hostile environment towards women at the workplace.

The guidelines as a part of the coping measures include:

- ❖ The complaint mechanism should ensure time bound treatment of complaints and should be adequate to provide where necessary a complaint committee, a special counselor or other support service, including the maintenance of confidentiality.

- ❖ The complaint committee should be headed by a woman and not less than half of its members should be women. Further to prevent the possibility of any undue pressure or influence from senior levels, such committee should involve a third party, either NGO's or other body who is familiar with the issue of sexual harassment.
- ❖ Employees should be allowed to raise issues of sexual harassment at worker's meeting and in other appropriate forums and it should be affirmatively discussed in employer- employee meetings.
- ❖ Where sexual harassment occurs as a result of an act or omission by any third party or an outsider, the employer will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

HOW DID THE GUIDELINES COME ABOUT?

When Bhanwari Devi was gang-raped as a punishment for trying to stop child marriage, women's Organizations filed a writ in the Supreme Court to intervene in the matter and take steps to discourage and penalize sexual harassment at the workplace. In the wake of this incident, the Supreme Court issued guidelines. The Bhanwari Devi case revealed the hazards to which a working woman is exposed and the depravity to which sexual harassment can stop.

WHAT IS THE EMPLOYER'S RESPONSIBILITY?

The employer is responsible for creating appropriate working conditions for health, work, leisure and hygiene. When the victim complains to the employer, the onus is on the employer to make appropriate investigations. If the employer does not pay heed to the complaint, he can be held responsible. The employer must set up a complaint mechanism in each department of the company. The Supreme Court's guidelines are binding on Central and State governments and the private and public sector. If the employer does not comply, he has to face a writ petition for contempt of court.

WHAT CAN WOMEN DO?

As women, we can make it easier for ourselves:

- ❖ We must shed our mentality of tolerance. We have to stop telling ourselves that this kind of behavior on the part of men is inevitable and unavoidable.
- ❖ Express strong resistance the first time it occurs. If you allow the action to take place without expressing your strongest disapproval, the offender will assume that he has your consent.

- ❖ Don't encourage males to behave unbecomingly with you or try to attract their undue attention. At all times, maintain your own self-respect.
- ❖ Dress in a manner that befits a work environment.
- ❖ In case someone behaves with you in a manner that makes you feel uncomfortable, protest loudly and at once. Let others know that such conduct has been meted out to you.
- ❖ Keep safe distance from the offending party.
- ❖ Register a First Information Report with the police station.

CONCLUSION

As more and more women join the workforce, the law must ensure that women are able to enjoy the rights promised to them by the Constitution. We must ensure that they are treated with dignity and assured of gender equality and that they are not discriminated against on account of their gender. Considering that until retirement, we spend a little less than two-thirds of our lives working, we must take pains to ensure that we spend it in a dignified and productive manner.

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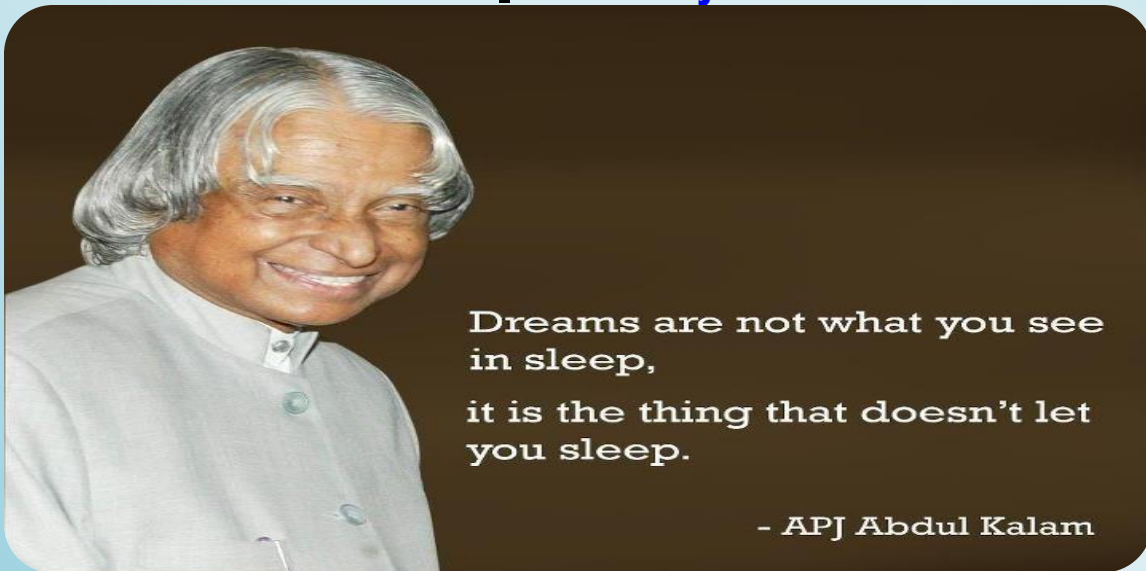
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Dreams are not what you see
in sleep,
it is the thing that doesn't let
you sleep.

- APJ Abdul Kalam