

COMPLAINT PROCEDURE/ APPEAL PROCEDURE

❖ INQUIRY PROCEDURE BY THE ORGANIZATION'S INQUIRY COMMITTEE

- If the complainant submits a complaint to the inquiry committee of organization. It will proceed under **Section 4** of the Protection against Harassment of Women at the Workplace Act 2010.
- Charge sheet/statement of allegation shall be conveyed to the accused within three days of the receipt of written complaint. (**Section 4 (1)** of the Protection against Harassment of Women at the Workplace Act, 2010).
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- The accused shall submit his/her written defense within 7 days from the day charge is communicated to him/her (**Section 4(1) (a)** of the Protection against Harassment of Women at the Workplace Act, 2010).
- If the accused is unable to do so without any reasonable cause, the committee can decide the case in his/her absence (**Section 4(1) (a)** of the Protection against Harassment of Women at the Workplace Act, 2010).
- The committee shall Conduct inquiry and also examine written or oral evidence in support of charges/defense as the case may be (**Section 4 (b)** of the Protection against Harassment of Women at the Workplace Act, 2010).
- Each party (complainant or accused) can cross examine the witnesses against him/her. (**Section 4 (b)** of the Protection against Harassment of Women at the Workplace Act, 2010)
- The inquiry committee can regulate its own procedure about its sitting and also place of sitting (**Section 4 (2)** of the Protection against Harassment of Women at the Workplace Act, 2010)
- All statements and evidence acquired in the inquiry process shall be confidential (**Section 4 (3) (a)** Protection against Harassment of Women at the Workplace Act, 2010).
- If considered necessary, advice and assistance may be provided to each party through a nominated officer (**Section 4 (3) (b)** of the Protection against Harassment of Women at the Workplace Act, 2010)
- Any party (complainant or accused) can present himself/herself through Collective Bargaining Agent / representative / friend or colleague (**Section 4(3) (c)** of the Protection against Harassment of Women at the Workplace Act, 2010).

- No adverse action shall be taken against the complainant or the witnesses (**Section 4 (3) (d)** of the Protection against Harassment of Women at the Workplace Act, 2010).
- The Inquiry committee shall ensure that the accused or the employer shall not create any hostile environment to pressurize the complainant from freely pursuing his/her complaint (**Section (4) (3) (e)** of the Protection against Harassment of Women at the Workplace Act, 2010).
- After completing the inquiry, the committee shall submit its findings in writing (**Section (4) (3) (f)** of the Protection against Harassment of Women at the Workplace Act, 2010).
- The committee shall submit its findings/recommendations within 30 days of initiation of the inquiry (**Section 4 (4)** of the Protection against Harassment of Women at the Workplace Act, 2010).
- If accused is found guilty, penalty (ies) can be imposed upon accused (**Section 4(4) (i) (ii)** of Protection against Harassment of Women at the Workplace Act, 2010).
- The competent authority shall impose the penalty recommended by the inquiry committee under sub section 4 within one week of the receipt of the recommendations (**Section 4(5)** of the Protection against Harassment of Women at the Workplace Act, 2010).
- Powers of the inquiry committee are explained in **section 5 (a to d), 5 (2) 5 (3) and 5 (4)** of the Protection Against Harassment of Women at the Workplace Act, 2010

❖ **INQUIRY PROCEDURE BY OMBUDSMAN**

- Any employee shall have the option to submit a complaint to the Ombudsman (**Section 8** of Protection against Harassment of Women at the Workplace Act, 2010).
- The Ombudsman shall issue a Show Cause Notice to the accused within 3 days of the receipt of the complaint (**Section 8(2)** of Protection against Harassment of Women at the Workplace Act, 2010).
- Accused shall submit written defense to the Ombudsman within 5 days of receipt of the show Cause Notice and if he is not able to do so without any reasonable cause, the case may go ahead in his absence (**Section 8 (2)** of the Protection against Harassment of Women at the Workplace Act, 2010).
- An inquiry shall be conducted after written defense is received (**Section 8 (3)** of the Protection against Harassment of Women at the Workplace Act, 2010). The Ombudsman shall summon the parties for personal hearing.

- The parties shall appear before the Ombudsman with supporting information, documents and evidence.
- If any information or document is required by Ombudsman for inquiry it can be called from any office or member of the organization concerned (**Section 8 (4)** of the Protection against Harassment of Women at the Workplace Act, 2010).
- The Ombudsman shall record his decision and inform both parties and management of the concerned organization (**Section 8 (5)** of the Protection against Harassment of Women at the Workplace Act, 2010).
- Powers of Ombudsperson are explained in **Section 10** of the Protection Against harassment of Women at the Workplace Act, 2010

❖ **APPEAL BEFORE OMBUDSMAN**

- Any party (accused /Complainant), after final decision is conveyed to him/ her from Inquiry committee, can file appeal before Ombudsman, within 30 days of communication of decision.
- The Ombudsman shall decide the appeal within **30 days** of its filing/ receipt. The Ombudsman can"
 - ✓ Confirm
 - ✓ Set aside
 - ✓ Vary
 - ✓ Modify
- The decision should be conveyed to both parties and employer as well (**Section 6** of Protection against Harassment of Women at Workplace Act 2010).

❖ **APPEAL BEFORE GOVERNOR**

- If Inquiry is finalized by Ombudsman, any party (complainant / accused) may make a representation to the Governor within 30 days of communication of decision of Ombudsman, and decision of Governor shall be final (**Section 9** of Protection against Harassment of Women at Workplace Act 2010)