

HAL/HR/19(2)/Vol.II/2016

8th July 2016

Sub: The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

**Ref: (i) Circular No. HAL/P&A/19(2)/2013 dated 20.6.13
(ii) Circular No. HAL/HR/19(2)/Vol.II/2016 dated 1.3.16**

The Government had promulgated the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for related matters. The said Act was notified in the Company vide the Circular dated 20.6.13, highlighting the salient features of the Act, for implementation.

2. Different Divisions have raised queries with regard to the procedure to be followed in handling complaints received in sexual harassment cases, conducting Inquiries by the Internal Complaints Committee (ICC) and disposal of the Case thereof after receipt of the Inquiry Report, etc.

3. In this regard, it is felt appropriate to issue clarifications / amplifications on the aspects related to sexual harassment matters, as detailed below. The purpose of this Circular is also to aid the Internal Complaints Committee (ICC) in performing their functions effectively.

4. Acts amounting to Sexual Harassment:

The following circumstances, amongst others, if it occurs or is present in relation to or connected with any act or behaviour of sexual nature, would also amount to sexual harassment:

- a) implied or overt promise of preferential treatment in her employment; or
- b) implied or overt threat of detrimental treatment in her employment; or
- c) implied or overt threat about her present or future employment status; or
- d) conduct of any person which interferes with her work or creates an intimidating or offensive or hostile work environment for her; or
- e) humiliating conduct constituting health and safety problems for her.

5. **Constitution of Internal Complaints Committee (ICC):**

The Constitution of the ICC shall, in addition to complying with the provisions in the Act, be in accordance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013. Amongst other Members, there should be one Member in the Committee from amongst Non-Governmental Organisations or Associations committed to the cause of women or a person familiar with the issues relating to sexual harassment. Such a member should not be an employee of HAL.

6. **Tenure of Members in the ICC:**

The Presiding Officer and every Member of the ICC shall hold office for a period not exceeding three years from the date of their nomination. They will be eligible for re-nomination.

7. **Verification of ICC:**

Each Complex Office shall verify the correctness of the ICCs constituted in the Offices/Divisions under its Control.

8. **Register for maintaining Sexual Harassment Complaints:**

Each Office/Division shall maintain a Register in which details of Sexual Harassment Complaints should be entered.

9. **Procedure to be followed:**

Suggested procedure which can be followed by the ICCs is detailed in **Annexure - I**. For reasons to be recorded in writing, the ICC will have the right to make exceptions to the said procedure, within the purview of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act / Rules, 2013 / HAL CDA Rules, 1984 (as amended) / Certified Standing Orders.

10. **Submission of Report by the ICC:**

The ICC shall submit its Report to the Competent / Disciplinary Authority, as applicable to the employee against whom the complaint was made, as per the HAL CDA Rules / Standing Orders.

11. **Powers of Competent / Disciplinary Authority:**

11.1 The Competent / Disciplinary Authority shall have the same powers as under the HAL CDA Rules / Standing Orders. The Report received from the ICC will be processed like in the case of a Domestic Enquiry Report.

11.2 Upon receipt of the Enquiry Report, a copy of the same shall invariably be given to the delinquent by the Competent / Disciplinary Authority and Representation, if any, from the delinquent called for.

11.3 Thereafter, the Report will be considered by the Competent / Disciplinary Authority, taking into account the Representation, if any, of the Delinquent and appropriate decision taken / punishment imposed, as provided under the HAL CDA Rules / Standing Orders.

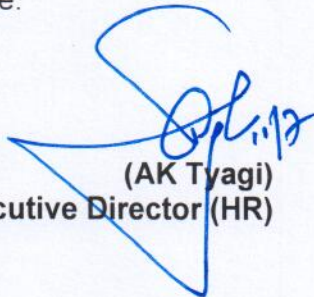
12. **Power of Suspension:**

Nothing contained herein or in the Circular dated 20.6.13, shall impede the right of the Authority competent to take Disciplinary Action against the employee or the next Higher Authority or the concerned Appointing Authority, as the case may be, to suspend an employee pending enquiry in the sexual harassment case, as per the provisions of the HAL CDA Rules / Standing Orders, as applicable to him.

13. **Quorum:**

In conducting the inquiry, a minimum of three Members of the ICC including the Presiding Officer or the Chairperson, as the case may be, shall be present as required under the Act.

14. Divisions / Offices may take action accordingly, please.


(AK Tyagi)
Executive Director (HR)

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Suggested Procedure to be followed by the ICC during Inquiry

The suggested procedure to be followed by the ICC is detailed in the following paras. However, for reasons to be recorded in writing, the ICC will have the right to make exceptions to the procedure stated hereunder, within the purview of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act / Rules, 2013 / HAL CDA Rules, 1984 (as amended) / Certified Standing Orders:

1. Number of copies of the Complaint:

- 1.1 Subject to Section 9 of the Act, the Complainant shall submit to the ICC, six copies of the Complaint along with supporting Documents and the names and addresses of the Witnesses.
- 1.2 Any Complaint received by the Members should be immediately forwarded to the Presiding Officer or Chairperson, and this must be notified to the other Committee Members at the earliest and not later than 3 days; and a meeting should be called by the Presiding Officer/Chairperson for discussing the matter.

2. Assistance to Complainant:

- 2.1 The Committee shall provide assistance to the aggrieved woman, if she so chooses, to file a Police Complaint in relation to an offence under the Indian Penal Code.

3. Complaint copy to be given to the Respondent:

- 3.1 On receipt of the Complaint, the ICC shall give a copy of the same to the Respondent, within seven working days.

4. Time period for the Respondent to file his reply:

- 4.1 The Respondent shall file his reply within ten working days from the date of receipt of the Complaint, along with copies of the Documents referred and names and addresses of his Witnesses.

5. Conciliation:

- 5.1 The Committee may, before initiating the Inquiry, at the request of the aggrieved woman, take steps to settle the matter between her and the Respondent through Conciliation as per Section 10 of the Act. No Monetary Settlement shall be made as basis of Conciliation. The ICC shall record the Settlement so arrived and forward the same to the Competent / Disciplinary Authority to take action as specified in the ICC recommendation.
- 5.2 When a Settlement is arrived at, no further Inquiry shall be conducted by the ICC. However, if any Terms or Conditions of the Settlement arrived through Conciliation has not been complied with and if the same has been brought to

the notice of the ICC, an Inquiry shall be conducted by the ICC and necessary action may be taken accordingly, as the case may be.

6. Interim Measures:

- 6.1 As an interim measure, the ICC can recommend any action as per Section 12 of the Act.

7. Intimation of Proceedings:

- 7.1 The Complainant and the Respondent should be informed in writing of the date and time when the Inquiry will be held. Both the Parties should be informed that they are eligible to be assisted during the Proceedings by a Co-Officer / Workman, as prescribed in the HAL CDA Rules / Standing Orders. Parties shall not be entitled to engage a Legal Practitioner to represent them in the Case at any stage of the Proceedings before the ICC.

8. Admission of guilt by Respondent:

- 8.1 On the date fixed for Inquiry by the ICC, the Respondent shall appear before the ICC at the time, date and place specified in the Notice. The ICC shall ask the Respondent whether he pleads guilty or not. If the Respondent admits the guilt, such admission should be recorded in the presence of and signed by the Respondent concerned and the same should also be recorded in the ICC's Report. If the Respondent does not plead guilty, the ICC shall continue with the Inquiry.

9. Ex parte Proceedings:

- 9.1 The ICC shall have the power to terminate the Inquiry Proceedings or to give an ex parte decision on the Complaint, if the Complainant or the Respondent fails to present herself or himself for three consecutive hearings, unless exempted / ordered by ICC.
- 9.2 However, such termination or ex parte order may not be passed without giving fifteen days advance notice in writing to the party concerned to attend the hearing.

10. Recording of the ICC Inquiry Proceedings:

- 10.1 The Inquiry Proceedings of the ICC shall be recorded by the Committee immediately with the signatures of the Committee Members and persons present during the Inquiry Proceedings.

11. Evidence to be in the presence of the Parties:

- 11.1 Unless otherwise decided by the Committee in writing or in an ex parte Proceeding, the evidence of each Party shall take place in the presence of both the Parties and/or authorised representative.

12. Power of ICC to disallow certain questions:

- 12.1 ICC may disallow any questions that it has reasons to believe to be irrelevant, mischievous, slanderous, derogatory or gender insensitive.

13. Evidence of Complainant:

- 13.1 On the date fixed for the Inquiry, the oral and/or documentary evidence by which the Complaint is to be proved shall be produced by the Complainant / authorised Representative. The Witnesses may be examined by the Complainant / authorised Representative and may be cross-examined by the Respondent / authorised Representative. The Complainant / authorised Representative may re-examine the Witnesses on any point on which they have been cross examined (but not on a new matter, without the permission of the ICC); and may be further cross-examined by the Respondent / authorised Representative. The ICC may also put such questions to the Witnesses as they think fit.
- 13.2 In appropriate Cases and for reasons to be recorded in writing, the ICC may disallow oral cross-examination of the Complainant and/or Witnesses by the Respondent / authorised Representative. In such cases, other methodology, like sharing the Statements made by Complainant and/or Witnesses and asking written response can be adopted, so as to provide opportunity to the Respondent.

14. Additional evidence by the Complainant:

- 14.1 The ICC may at its discretion shall allow the Complainant / authorised Representative to produce evidence not included in the Complaint or call for new evidence or recall or re-examine any Witness. In such cases, the Respondent / authorised Representative shall be given opportunity to inspect the documentary evidence, if any, before it is taken on record and to further cross examine the Witnesses who has/have been so produced.

15. Presentation of the Case by Respondent:

- 15.1 When the Complainant's disposition is completed, the Respondent / authorised Representative will be given opportunity to state his defence orally or in writing, as he may prefer. If the defence is made orally, it shall be recorded in the Proceedings and the Respondent shall be required to sign the same.

16. Evidence by the Respondent:

- 16.1 Evidence on behalf of the Respondent shall thereafter be adduced. The Respondent / authorised Representative may examine himself on his own behalf if he so prefers. Witnesses produced by him will be examined by the Respondent / authorised Representative. The Witnesses are also liable for cross-examination, re-examination and examination by the Complainant / authorised Representative, Respondent / authorised Representative and the ICC respectively.

17. Recording of evidence by the ICC:

- 17.1 Statements made by each Witness shall be succinctly recorded by the ICC and will be signed by the Witness, Committee Members and the persons present during the Inquiry Proceedings, as the case may be.

18. Sharing of Findings

- 18.1 After all the evidence which is necessary and relevant for the purpose of the Inquiry have been recorded by the ICC, it shall share the findings with the Parties, so that they can make their representations.

19. Powers of the Committee (ICC):

- 19.1 For the purpose of making Inquiry, the Committee will have powers of a Civil Court for the following aspects:
- a) Summoning and enforcing the attendance of any person related to the incident;
 - b) Requiring discovery and production of any documents;
 - c) Any other matter relating to the incident as decided by the ICC from time to time.

20. Format of the Report:

- 20.1 On completion of the Inquiry, the ICC may formulate its Inquiry Report in the following order:
- a) Introduction;
 - b) Allegations contained in the Complaint;
 - c) Summary of the evidences recorded;
 - d) Analysis of evidences and Committee's observations thereon;
 - e) Findings in respect of each of the allegations and reasons for arriving at these findings.

21. Time limit for completion of Inquiry Proceedings by the ICC:

- 21.1 As per Section 11(4) of the Act, the Inquiry by the ICC shall be completed within a period of 90 days.

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