

Conciliation – is there a Set Process to conduct?

Blog Series – 99 December 01, 2020 PoSH – Vol.50

In continuation my blog on Conciliation, many readers were asking me, whether there is any procedure prescribed to complete the Conciliation process?

There is no prescribed procedure by the Act.

The best practice or industry practice by following the provisions of the Act and principles of natural justice, a draft is prepared and shared here. It can be amended according to the needs of the Internal Committee,

1. Post receipt of Complaint and finding it is genuine & acceptable, a copy of the same is forwarded to the Respondent, for his reply.
2. Meanwhile, after discussion with the Members of Internal Committee the Presiding Officer or any other Member can talk to the aggrieved woman-cum-complainant, about the alternative mechanism of Conciliation.
3. In the initial stage itself, it shall be clarified that the Conciliation is,
 - a. Not on Monetary consideration
 - b. It is not a forced mechanism on the Complainant
 - c. It is a privilege available only for the Complainant
 - d. Once accepted by both parties, either parties cannot go for review or appeal in the higher forum
4. If aggregable by the complainant, the same can be obtained as a written request
5. Complainant may set out terms for conciliation except monetary consideration, as mentioned above
6. Same communication must be shared, to the Respondent
7. Mutually convenient time and venue is to be fixed to initiate the talk
8. Internal committee cannot waste time on Conciliation, as they have only 90 days to conclude the Inquiry and in case the Conciliation fails, they need to continue the process of Inquiry.
9. Either Presiding Officer or any other nominated member can facilitate the Conciliation

10. External Member also can oversee the proceedings
11. Entire process is to be either video graphed and/or documented.
12. Both the parties shall sign the document, post conciliation
13. If settlement is arrived, signed copies (by Complainant, Respondent and Internal Committee) shall be shared to the parties. One copy shall be sent to Employer
14. Confidentiality to be maintained during and after the Conciliation process
15. Under no circumstances, before or during the proceedings, the Internal or External member shall influence either of the parties. They can only assist the parties.
16. In case of failure (of Conciliation), the inquiry shall be commenced at the earliest.

Anandan S

Feature Writer, Skill Enhancer & Webinar Specialist