

What is Devotion to Duty?

(a lack of devotion to duty is constituted as Misconduct)

Following is mere a hypothetical situation, which you can related it to any of the critical job / project (or) every job, in your Organization.

- ☑ Consider a Surgeon, devoted his full day with continuous surgery. He performed surgery for 3 patients, one after other. He is a committed Surgeon, where all 3 were successful, at the end of the day.
- ☑ In case, after performing surgery on 1st patient, if he did not keep his hand hygiene (washing hand or changing gloves after each surgery), what will happen?
- ☑ Consider a Fireman in a building (while on performing a duty), he had slept or moved away from the workplace, and did not respond to an emergency call or Fire in the Building, resulting loss of few valuable human lives in the fire mishap. If any such situation arises, where such lives might have been saved if the emergency call was attended to, at the right time.

The above is mere an illustration, denotes “Breach of Core Value of their duties”. Though they had not involved in any grave misconduct (one can name as many from the Code of Conduct or HR Policy or Standing Order), above example signifies that there is a lack of devotion to duty which equals to a misconduct or a grave misconduct.

(courtesy: Illustration is from web portal. Thanks to the original writer.)

Women's Safety Is
Nation's Pride

Following Pages
are dedicated to
POSH

**HR Vidyalyaya,
POSH Compliance Buddy
for Employers**

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POWER PLAY

Employer needs to periodically Check for Misuse of "Power-play" by the Team Leader or Supervisor or Reporting Manager in Shop floor/Workplace against women employees.

Power-Play is most significant instrument which the Men Superiors utilize for sexual favours/demands, from the reporting women employees. They promise some or all, among the following, for such favours:

1. Rewards and Recognition
2. Leave Approvals
3. Best Ratings in Performance Appraisals
4. Job related benefits not entitled to
5. Concession in working hours
6. Promotions
7. Overtime benefits

Such demands of sexual favour is defined as Sexual Harassment under Sexual Harassment of Women Workplace (Prevention, Prohibition and Redressal) Act, 2013.

Any Sexual Harassment on Male employee by the Woman Superiors or Peers shall be treated as a Misconduct and disciplinary action needs to be taken under Industrial Employment Standing Order Act.



5th YEAR
In the Pursuit of
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Why there is need to build capacities of IC?

❖ In between their regular routine, the Internal Committee members had to perform the duty of "Inquiry", which is not like the Domestic Enquiry conducted in the Organizations.

❖ The IC member had to determine the "Act Committed" by the delinquent

❖ The Members need to learn how to bring "Consensus" while recommending

❖ The Recommendations of the IC is sensitive, as it has 'impact', on the Brand, when the action taken was appealed in the appropriate forum

❖ The Inquiry is neither similar to Police Inquiry nor Judicial Inquiry, it is quite distinct

❖ The Time is limited in POSH Inquiry

Process	Sexual Harassment	Domestic enquiry
Prima Facie for conduct of enquiry	Written complaint from the Complainant (Aggrieved woman) to ICC (within 3 months of date of the incident)	A complaint from TL / Supervisor, though there is no pre-condition, a formal communication is required for issue of show cause/ charge sheet
Charge sheet / Show cause	A copy of complaint is handed to the accused (within 7 working days), who has to reply within 10 days of receipt	A Charge-sheet is issued to the employee by the Disciplinary Authority (DA)
Conduct of enquiry by	By the IC with external member (to complete within 90 days)	DA to appoint, Internal or external independent Enquiry Officer (EO)
Conciliation	Immediately available.	No conciliation machinery available.
Inquest	Statements recorded & Cross examination allowed to Complainant and Accused	Statement recorded and Employee has liberty to cross-examine witnesses if any
Onus of proving	Aggrieved woman to prove the charges	Management must prove the charges
Outcome of enquiry	IC shall give their recommendation to the Management (within 10 days of completion)	EO can only probe into charges on the basis of material/witness and submit an enquiry report to DA.
2 nd Show cause post enquiry	No such process. IC can only invite comments upon recommendations, from both parties	If the employee is proved guilty, to serve 2 nd SCN asking why punitive action can't be taken.
Punishment in case of guilty	Management to take decision on recommendations (within 60 days of receipt)	Disciplinary Authority to consider representation with the proposed punishment before acting.

Only Women can be Sexually Harassed

This is a myth. Men also are subjected to Sexual Harassment @ workplace. Where Men is a Victim of a Sexual Harassment by woman, he can raise a complaint with the HR or Harassment Committee of the Organization, who will act as per the HR Policy/Code of Conduct, etc. but not under POSH Act.

Woman enjoy being commented on

Very rarely and only among close friends. Most of the Women feel such irrelevant and unwanted comments or eve-teasing as humiliating and painful. Any such unsolicited, distasteful comments will be treated as Sexual Harassment

Specific POSH Facts

Casual looking of woman's body is natural

Any such gazing at woman, more specifically, the body of the woman, is considered as Sexual Harassment. Any such act, whether the woman is in conversation with the man or even while she did not notice the man, it is considered as Sexual Harassment

Physical fight subsequent to quarrel

In continuation to a quarrel both male & female employees were physically fighting. In Such situation physical touching of the man is not considered sexual harassment, as there is no sexual intent here.

If your workplace has less than 10 employees (of any gender), the aggrieved woman can make a complaint before Local Committee:

- District Labour Officer's office or
- Women's Helpline or
- State Commission for Women or
- Women and Child Development/department (or) Through email in She Box



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Atypical Sexual Harassment @ workplace

CYBER BASED

1. Sending Hurting Messages through Social Media
2. Trolling / Stalking
3. Hurtful comments on posts in social media
4. Threatening messages / posts/replies/comments
5. Creating fake profile
6. Leaking private photo or videos, online without consent of the woman

VERBAL / NON-VERBAL

1. Say Obscene Words or Sing Obscene song or Doing Obscene Act
2. Sexual remarks passed in the street
3. Whistling
4. Vulgar faces or gestures at a woman



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

Any establishment which has 10 or more employees it is applicable – whether Big or Small or Shop or Office or Manufacturing or Start-up or even only has MALE Employees – the Act is still applicable

Duties of an employer

- HR-V The employer has the obligation to put in place, a well-drafted anti-sexual harassment policy
- HR-V Exhibit the penal consequences of sexual harassment in workplace
- HR-V Employer has to impart periodical trainings to
 - Employees – Awareness programs
 - New Joinees - Orientation programs
 - IC members - Capacity building programs
- HR-V Certified Standing Order to include Sexual Harassment as a “misconduct”.
- HR-V Clause in CSO to include “appropriate action” under POSH Act, in case of Workplace Sexual Harassment findings
- HR-V Have a strong & efficient Internal Committee for aggrieved woman to make a complaint with Internal Committee
- HR-V It is mandatory to have Internal Committee at Head office and every Branch location, if available
- HR-V Exhibit Name, Contact details of Members of Internal Committee, in conspicuous place
- HR-V To Assist Complainant to make a complaint with the police,
 - Where the Aggrieved Woman wants to make a simultaneous complaint or
 - Where the Harasser is an outsider
- HR-V If the establishment does not have IC due to non-applicability, then the employer has to assist the woman employee to make complaint before Local Committee (LC)
- HR-V Provide necessary facilities to the Internal Committee for dealing with the complaint and conducting an inquiry
- HR-V Assist in securing the attendance of respondent and witnesses
- HR-V Ensure Confidentiality of Complaint, Complainant, Respondent, Witnesses and Findings
- HR-V Monitor the timely submission of reports by the Internal Committee.
- HR-V Monitor IC to Prepare Annual Report
 - Submit one copy to Management
 - Submit one copy to Appropriate Authority
 - Submit details to Ministry of Corporate Affairs
 - Submit details to SEBI (those public listed companies)
- HR-V Ensure smooth workplace environment for all employees to perform their duties

