

“हर काम देश के नाम”

कार्यालय, रक्षा लेखा महानियंत्रक

उलान बटार रोड, पालम, दिल्ली छावनी-110010

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To

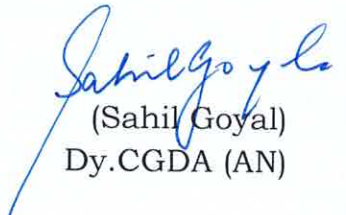
All the Principal Controllers / Controllers
(Through CGDA Website)

Subject: Guidelines regarding suspension/sexual harassment cases/grievance-reg.

Please find attached a copy of each of the following documents for information, guidance and compliance:-

- (i) GSR 156 dated 19.10.2022 containing the amendments to Rule 10 of the CCS(CCA) Rules, 1965
- (ii) A compilation of provisions related to “Suspension”, issued by the DOPT on 04.11.2022
- (iii) A compilation of provisions related to “Prevention of Sexual Harassment of Women at Workplace”, issued by the DOPT on 04.11.2022
- (iv) A compilation of provision related to “Redressal of Grievances filed by Govt. Servants on Service Matters”, issued by the DOPT on 23.09.2022

{provision for initiation of disciplinary action against those who violated these instructions}


(Sahil Goyal)
Dy.CGDA (AN)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 19 अक्टूबर, 2022

सा.का.नि. 156.—राष्ट्रपति संविधान के अनुच्छेद 309 के परंतुक और अनुच्छेद 148 के खंड (5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, तथा भारतीय लेखा परीक्षा और लेखा विभाग में सेवारत व्यक्तियों के संबंध में भारत के नियंत्रक और महालेखापरीक्षक के परामर्श के पश्चात्, केंद्रीय सिविल सेवा (वर्गीकरण, नियंत्रण और अपील) नियम, 1965 का और संशोधन करने के लिए निम्नलिखित नियम बनाते हैं, अर्थात्: -

1. संक्षिप्त नाम और प्रारंभ:—(1) इन नियमों का संक्षिप्त नाम केंद्रीय सिविल सेवा (वर्गीकरण, नियंत्रण और अपील) संशोधन नियम, 2022 है।

(2) ये राजपत्र में इनके प्रकाशन की तारीख को प्रभावी होंगे।

2. केंद्रीय सिविल सेवा (वर्गीकरण, नियंत्रण और अपील) नियम, 1965 में, नियम 10 में, उप-नियम (7) में, परंतुक के स्थान पर, निम्नलिखित परंतुक रखा जाएगा, अर्थात् -

"परंतु उप-नियम (2) के अधीन मानित निलंबन की दशा में निलंबन का ऐसा कोई पुनर्विलोकन आवश्यक नहीं होगा, यदि सरकारी सेवक का निरुद्ध रहना जारी रहता है और ऐसी दशा में नब्बे दिनों की अवधि की संगणना उस तारीख

से की जाएगी जिसको अभिरक्षा में निरुद्ध सरकारी सेवक को निरोध से निर्मुक्त कर दिया जाता है या जिस तारीख को निरोध से उसकी निर्मुक्ति के तथ्य की सूचना उसके नियुक्ति प्राधिकारी को दी जाती है, जो भी पश्चातवर्ती हो:

परंतु यह और कि ऐसे मामले में जहाँ इन नियमों के अधीन कोई आरोप-पत्र जारी नहीं किया गया है, यथास्थिति निलंबन या मानित निलंबन, जिसके अंतर्गत उपनियम (6) के निबंधनों के अनुसार कोई विस्तारित अवधि भी है, के अधीन कुल अवधि निम्न से अधिक नहीं होगी -

- (क) यदि सरकारी सेवक को उपनियम (1) के खंड (क) के निबंधनों के अनुसार निलंबित रखा गया है, तो निलंबन आदेश की तारीख से दो सौ सत्तर दिन; या
- (ख) यदि सरकारी सेवक को उपनियम (1) के यथास्थिति खंड (कक) या खंड (ख), के निबंधनों के अनुसार निलंबित रखा गया है तो निलंबन आदेश की तारीख से दो वर्ष; या
- (ग) उप-नियम (2) के अधीन मानित निलंबन की दशा में उस तारीख से जिसको अभिरक्षा में निरुद्ध सरकारी सेवक निर्मुक्त होता है या उस तारीख से जिसको निरोध से उसकी निर्मुक्ति के तथ्य की सूचना उसके नियुक्ति प्राधिकारी को दी जाती है, जो भी पश्चातवर्ती हो, दो वर्ष।"

[फा. सं. 11012/04/2016-स्था.क-III]

मनोज कुमार द्विवेदी, संयुक्त सचिव

टिप्पण: मूल नियम भारत के राजपत्र में अधिसूचना का.आ.सं. 3703, तारीख 20 नवम्बर, 1965 द्वारा प्रकाशित किए गए थे और भारत के राजपत्र में प्रकाशित अधिसूचना सा.का.नि. संख्या 125 (अ), तारीख 18 फरवरी, 2021 द्वारा अंतिम बार संशोधित किए गए।

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 19th October, 2022

G.S.R. 156.—In exercise of the powers conferred by proviso to article 309 and clause (5) of article 148 of the Constitution, and after consultation with the Comptroller and Auditor General of India in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Civil Services (Classification, Control and Appeal) Rules, 1965, namely: -

1. **Short title and commencement:** - (1) These rules may be called the Central Civil Services (Classification, Control and Appeal) Amendment Rules, 2022.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Central Civil Services (Classification, Control and Appeal) Rules, 1965, in rule 10, in sub-rule (7), for the proviso, the following provisos shall be substituted, namely: -

"Provided that no such review of suspension shall be necessary in the case of deemed suspension under sub-rule (2), if the Government servant continues to be under detention and in such case the ninety days' period shall be computed from the date the Government servant detained in custody is released from detention or the date on which the fact of his release from detention is intimated to his appointing authority, whichever is later:

Provided further that in a case where no charge sheet is issued under these rules, the total period under suspension or deemed suspension, as the case may be, including any extended period in terms of sub-rule (6) shall not exceed,-

- (a) two hundred seventy days from the date of order of suspension, if the Government servant is placed under suspension in terms of clause (a) of sub-rule (1); or
- (b) two years from the date of order of suspension, if the Government servant is placed under suspension in terms of clause (aa) or clause (b) of sub-rule (1) as the case may be; or
- (c) two years from the date the Government servant detained in custody is released or the date on which the fact of his release from detention is intimated to his appointing authority, whichever is later, in the case of deemed suspension under sub-rule (2)."

[F. No. 11012/04/2016-Estt.A-III]

MANOJ KUMAR DWIVEDI, Jt. Secy.

Note: The principal rules were published in the Gazette of India vide notification number S.O. 3703, dated the 20th November, 1965 and last amended vide notification number G.S.R. 125 (E) dated the 18th February, 2021 published in the Gazette of India.

Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel & Training
(Establishment Division)

SUSPENSION

The provisions relating to suspension are scattered across several rules such as Central Civil Services (Classification, Control and Appeal) Rules, 1965, Fundamental Rules etc. In addition, a number of executive instructions, in the form of various modes of communications such as OMs etc., covering different aspects of suspension have been issued from time to time. Now, with a view to facilitate the Ministries/Departments and other stake holders in proper implementation of these provisions, a need has been felt to consolidate these provisions and place the same in the public domain for easy access as and when required. Accordingly, the said Rules/executive instructions have been compiled as under:

- (A) **SUSPENSION**- Suspension, though not a penalty, is to be resorted to sparingly. Whenever a Government servant is placed under suspension not only does the Government lose his services but also pays him for doing no work. It also has a stigma attached to it. Therefore, the decision to place a Government servant under suspension must be a carefully considered decision and each case would need to be considered on merits.

[Para 3 of OM No 11012/17/2013-Estt.(A) dated 02.01.2014]

- (B) **CIRCUMSTANCES UNDER WHICH A GOVERNMENT SERVANT MAY BE PLACED UNDER SUSPENSION**

- (a) where, a disciplinary proceeding against him is contemplated or is pending;
or
(b) where, in the opinion of the competent authority, he has engaged himself in activities prejudicial to the interest of the security of the State;
or
(c) where, a case against him in respect of any criminal offence is under investigation, inquiry or trial.

[Rule 10(1) of the CCS (CCA) Rules, 1965]

- (C) **CIRCUMSTANCES UNDER WHICH A GOVERNMENT SERVANT SHALL BE DEEMED TO HAVE BEEN PLACED UNDER SUSPENSION [Deemed Suspension]**

- (a) If the Government servant is detained in custody, whether on a criminal charge or otherwise, for a period exceeding 48 hours;
- (b) If, in the event of a conviction for an offence, Government servant is sentenced to a term of imprisonment exceeding 48 hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.

EXPLANATION - The period of 48 hours referred to in clause (b) above shall be computed from the commencement of the imprisonment after the conviction and for this purpose, intermittent periods of imprisonment, if any, shall be taken into account.

[Rule 10(2) of the CCS (CCA) Rules, 1965]

It shall be the duty of a Government servant who may be arrested for any reason to intimate the fact of his arrest and the circumstances connected therewith to his official superior promptly even though he might have subsequently been released on bail. On receipt of the information from the person concerned or from any other source the departmental authorities should decide whether the facts and circumstances leading to the arrest of the person call for his suspension. Failure on the part of the any Government servant to so inform his official superior will be regarded as suppression of material information and will render him liable to disciplinary action on this ground alone, apart from the action that may be called for on the outcome of the police case against him.

[OM No. 39/59/54-Ests.(A) dated 25.02.1955]

- (c) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government servant under suspension is set aside in appeal or on review and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.

[Rule 10(3) of the CCS (CCA) Rules, 1965]

- (d) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government servant is set aside or declared or rendered void in consequence of or by a decision of a Court of Law and the disciplinary authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of

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dismissal, removal or compulsory retirement was originally imposed, the Government servant shall be deemed to have been placed under suspension by the Appointing Authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.

Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the Court has passed an order purely on technical grounds without going into the merits of the case.

[Rule 10(4) of the CCS (CCA) Rules, 1965]

- (e) Further inquiry contemplated in rule 10(4) of the CCS (CCA) Rules, 1965 should not be ordered except in a case when the penalty of dismissal, removal or compulsory retirement has been set aside by a Court of Law on technical grounds without going into the merits of the case or when fresh material has come to light which was not before the Court. A further inquiry into the charges which have not been examined by the Court can, however, be ordered by the departmental authorities under Rule 10(4) ibid depending on the facts and circumstances of the each case.

[OM No. 11012/24/77-Estt.(A) dated 18.03.1978]

- (f) A question whether the order of suspension in a case covered under Rule 10 (2) of the CCS (CCA) Rules, 1965 has limited operation for the period of detention and not beyond it, was considered by the Supreme Court in the case of Union of India V/s Rajiv Kumar (2003 (5) SCALE 297). Allowing the appeals of the Union of India in this case the Supreme Court has held that the order in terms of Rule 10 (2) is not restricted in its point of duration or efficacy to actual period of detention only. It continues to be operative unless modified or revoked under Sub-Rule 5(c) as provided in Sub-Rule 5(a) of the Rule 10 of the CCS (CCA) Rules, 1965.

[OM No. 11012/8/2003-Estt.(A) dated 23.10.2003]

(D) CIRCUMSTANCES UNDER WHICH THE COMPETENT AUTHORITY MAY CONSIDER TO PLACE A GOVERNMENT SERVANT UNDER SUSPENSION [FOR GUIDANCE AND SHOULD NOT BE TAKEN AS MANDATORY].

- (i) Cases where continuance in office of the Government servant will prejudice the investigation, trial or any inquiry (e.g. apprehended tampering with witnesses or documents);

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- (ii) Where the continuance in office of the Government servant is likely to seriously subvert discipline in the office in which the public servant is working;
- (iii) Where the continuance in office of the Government servant will be against the wider public interest [other than those covered by (i) and (ii)] such as there is public scandal and it is necessary to place the Government servant under suspension to demonstrate the policy of the Government to deal strictly with officers involved in such scandals, particularly corruption;
- (iv) Where allegations have been made against the Government servant and preliminary inquiry has revealed that a prima facie case is made out which would justify his prosecution or is being proceeded against in departmental proceedings, and where the proceedings are likely to end in his conviction and/or dismissal, removal or compulsory retirement from service.

NOTE: In the first three circumstances the disciplinary authority may exercise his discretion to place a Government servant under suspension even when the case is under investigation and before a prima facie case has been established.

- (v) Suspension may be desirable in the circumstances indicated below:-
 - a) any offence or conduct involving moral turpitude;
 - b) corruption, embezzlement or misappropriation of Government money, possession of disproportionate assets, misuse of official powers for personal gain;
 - c) serious negligence and dereliction of duty resulting in considerable loss to Government;
 - d) desertion of duty;
 - e) refusal or deliberate failure to carry out written orders of superior officers.

Note: In respect of the types of misdemeanor specified in sub clauses (c) and (e) discretion has to be exercised with care.

[Para 4 of the OM No. 11012/17/2013-Estt.(A) dated 02.01.2014]

(E) SUSPENSION OF GOVERNMENT SERVANTS INVOLVED IN CASES OF DOWRY DEATHS.

If a case has been registered by the Police against a Government servant under Section 304-B of the IPC [**Dowry death**], he shall be placed under suspension in

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the following circumstances by the competent authority by invoking the provisions of Sub-rule (1) of the Rule 10 of the CCS (CCA) Rules, 1965-

- (i) If the Government servant is arrested in connection with the registration of the police case, he shall be placed under suspension immediately irrespective of the period of his detention.
- (ii) If he is not arrested, he shall be placed under suspension immediately on submission of the police report under sub-section (2) of section 173 of the Code of Criminal Procedure, 1973, to the Magistrate, if the report prime-facie indicates that the offence has been committed by the Government servant.

[OM No. 11012/8/87-Ests.(A) dated 22.06.1987]

(F) COMPETENT AUTHORITY

➤ AUTHORITY COMPETENT TO PLACE A GOVERNMENT SERVANT UNDER SUSPENSION

- (i) Appointing Authority, or
- (ii) Any authority to which Appointing Authority is subordinate, or
- (iii) Disciplinary Authority, or
- (iv) Any other authority empowered in that behalf by the President, by general or special order.

Provided that, except in case of an order of suspension made by the Comptroller and Auditor – General in regard to a member of the Indian Audit and Accounts Service and in regard to an Assistant Accountant General or equivalent (other than a regular member of the Indian Audit and Accounts Service), where the order of suspension is made by an authority lower than the appointing authority, such authority shall forthwith report to the appointing authority the circumstances in which the order was made.

[Rule 10(1) of CCS (CCA) Rules, 1965]

- Supervisory Officers in field offices located outside the Headquarters may, wherever necessary, be empowered to place officers subordinate to them under suspension, subject to the conditions mentioned below, by issuing special order in the name of President in pursuance of Rule 10 of the CCS (CCA) Rules, 1965:

Only Supervisory officers in offices located away from headquarters need be specially empowered to suspend a subordinate officer in case involving gross dereliction of duties. In order to prevent abuse of this power the suspending authority should be required to report the facts of each case immediately to the next higher authority,

and all such orders of suspension should become ab initio void unless confirmed by the reviewing authority within a period of one month from the date of orders.

[OM No. 7/4/74-Ests.(A) dated 9.08.1974]

➤ **AUTHORITY COMPETENT TO ISSUE ORDER REGARDING DEEMED SUSPENSION-**

Appointing Authority

[Rule 10(2) of CCS (CCA) Rules, 1965]

(G) TIME LINE FOR COMMUNICATING THE REASONS FOR SUSPENSION-

Reasons for Suspension, if not indicated in the suspension order itself, should be communicated within three months.

[Para 5 of OM No. 11012/17/2013-Estt.A dated 02.01.2014]

(H) REVIEW OF SUSPENSION

- (i) An order of suspension made or deemed to have been made may at any time be modified or revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate.

[Rule 10(5) (c) of CCS(CCA) Rules, 1965]

- (ii) An order of suspension made or deemed to have been made shall be reviewed by the authority competent to modify or revoke the suspension, before expiry of 90 days from the effective date of suspension, on the recommendation of the Review Committee constituted for the purpose and pass orders either extending or revoking the suspension. Subsequent reviews shall be made before expiry of the extended period of suspension. Extension of suspension shall not be for a period exceeding 180 days at a time.
- (iii) An order of suspension made or deemed to have been made shall not be valid after a period of 90 days unless it is extended after review, for a further period before the expiry of 90 days.

Provided that no such review of suspension shall be necessary in the case of deemed suspension, if the Government servant continues to be under detention and in such case the ninety days' period shall be computed from

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the date the Government servant detained in custody is released from detention or the date on which the fact of his release from detention is intimated to his appointing authority, whichever is later:

Provided further that in a case where no charge sheet is issued under these rules, the total period under suspension or deemed suspension, as the case may be, including any extended period in terms of sub-rule (6) shall not exceed,—

- (a) two hundred seventy days from the date of order of suspension, if the Government servant is placed under suspension in terms of clause (a) of sub-rule (1); or
- (b) two years from the date of order of suspension, if the Government servant is placed under suspension in terms of clause (aa) or clause (b) of sub-rule (1) as the case may be; or
- (c) two years from the date the Government servant detained in custody is released or the date on which the fact of his release from detention is intimated to his appointing authority, whichever is later, in the case of deemed suspension under sub-rule (2).

[Rule 10(6) & (7) of CCS(CCA) Rules, 1965]

[Notification No. GSR 156 dated 19.10.2022]

- (iv) In cases of prolonged suspension period, the courts have pointed out that the suspension cannot be continued for long and that inspite of the instructions of DOP&T, the Disciplinary Authorities are not finalizing the disciplinary proceedings within the stipulated time. Also, in such cases the Government is unnecessarily paying subsistence allowance without extracting any work and if, on the culmination of the disciplinary proceedings, the charged officer is exonerated from the charges, the Government has to unnecessarily pay the full salary and treat the period of suspension as on duty etc. It is, therefore, desirable that timely review of suspension is conducted in a just and proper manner and that the disciplinary proceedings are finalized expeditiously.

[OM No. 11012/17/2013-Estt.A-III dated 18.11.2014]

(I) REVIEW COMMITTEE

- (i) An order of suspension made or deemed to have been made under this Rule shall be reviewed by the competent authority on recommendation of the Review Committee constituted for the purpose.

(ii) **Composition of Review Committee:**

- (a) The disciplinary authority, the appellate authority and another officer of the level of disciplinary/appellate authority from the same office or from another Central Government office (in case another officer of same level is not available in the same office), in a case where the President is not the disciplinary authority or the appellate authority.
- (b) The disciplinary authority and two officers of the level of Secretary/Addl. Secretary/Joint Secretary who are equivalent or higher in rank than the disciplinary authority from the same office or from another Central Government office (in case another officer of same level is not available in the same office), in a case where the appellate authority is the President.
- (c) Three officers of the level of Secretary/Addl. Secretary/Joint Secretary who are higher in rank than the suspended official from the same Department/Office or from another Central Government Department/Office (in case another officer of same level is not available in the same office), in a case where the disciplinary authority is the President.

The administrative ministry/department/office concerned may constitute the review committees as indicated above on a permanent basis or ad-hoc basis.

- (iii) The Review Committee(s) may take a view regarding revocation/continuation of the suspension keeping in view the facts and circumstances of the case and also taking into account that unduly long suspension, while putting the employee concerned to undue hardship, involve payment of subsistence allowance without the employee performing any useful service to the Government. Without prejudice to the foregoing, if the officer has been under suspension for one year without any charges being filed in a court of law or no charge-memo has been issued in a departmental enquiry, he shall ordinarily be reinstated in service without prejudice to the case against him. However, in case the officer is in police/judicial custody or is accused of a serious crime or a matter involving national security, the Review Committee may recommend the continuation of the suspension of the official concerned.

[OM No. 11012/4/2003-Estt.(A) dated 07.01.2004]

(J) PAY AND ALLOWANCES DURING THE SUSPENSION PERIOD

❖ SUBSISTENCE ALLOWANCE

A Government servant under suspension is not paid any pay but is allowed a Subsistence Allowance at an amount equivalent to the leave salary which the Government servant would have drawn if he had been on leave on half average pay or half pay and in addition dearness allowance, if admissible on the basis of such leave salary.

Where the period of suspension exceeds 3 months, the authority which made or is deemed to have made the order of suspension shall be competent to vary the amount of subsistence allowance for any period subsequent to the period of the first three months as follows:

- (i) the amount of subsistence allowance may be increased by a suitable amount, not exceeding 50% of the subsistence allowance admissible during the period of the first 3 months, if in the opinion of the said authority, the period of suspension has been prolonged for reasons to be recorded in writing, not directly attributable to the Government servant;
- (ii) the amount of subsistence allowance, may be reduced by a suitable amount, not exceeding 50% of the subsistence allowance admissible during the period of first 3 months, if, in the opinion of the said authority, the period of suspension has been prolonged due to reasons, to be recorded in writing, directly attributable to the Government servant;
- (iii) the rate of dearness allowance will be based on the increased or, as the case may be, the decreased amount of subsistence allowance admissible under sub-clauses (i) and (ii) above.

[FR 53 (1)(ii)(a)]

❖ ANY OTHER COMPENSATORY ALLOWANCES

A Government servant under suspension is also entitled for:

Any other compensatory allowances admissible from time to time on the basis of pay of which the Government servant was in receipt on the date of suspension subject to the fulfillment of other conditions laid down for the drawal of such allowances.

[FR 53 (1)(ii)(b)]

- ❖ No payment shall be made unless the Government servant furnishes a certificate that he is not engaged in any other employment, business, profession or vocation.

❖ **Recoveries from subsistence allowance-**

Compulsory Deductions to be enforced	Deductions at the option of the suspended officer	Deduction NOT to be made
(i) Income Tax (ii) House Rent (Licence Fee) and allied charges (iii) Repayment of loans and advances taken from Government – rate of recovery to be determined by Head of Department (iv) CGHS contribution (v) CGEGIS subscription	(i) PLI premia (ii) Amounts due to Co-op stores/Societies (iii) Refund of GPF advance	(i) GPF subscription (ii) Amounts due to court attachments (iii) Recovery of loss to Government

[Para 14 of the OM No. 11012/17/2013-Estt.(A) dated 2.01.2014]

(K) PROMOTION DURING THE SUSPENSION

Officer under suspension shall be considered by the DPC along with others. However, the recommendations in respect of those under suspension shall be placed in a sealed cover. The sealed cover shall be opened/ not opened (i.e. recommendation contained in the sealed cover shall not be acted upon) depending on the outcome of the disciplinary/ criminal proceedings.

If an officer is suspended subsequent to the meeting of the DPC but before he is actually promoted, then the recommendations would be deemed to have been placed in the sealed cover.

[OM No. 22011/4/91-Estt(A) dated 14.09.1992] & [Para 11 of the OM No. OM No. 11012/17/2013-Estt.(A) dated 02.01.2014]

(L) WRITING OF ACR/APAR BY OFFICERS UNDER SUSPENSION

If the reporting/ reviewing officer is under suspension when the Confidential Report has become due to be written/ reviewed, it may be got written/ reviewed by the officer concerned within two months from the date of his having been placed under suspension or within one month from the date on which the report was due, whichever is later. An officer under suspension shall not be asked to write/ review Confidential Reports after the time limit specified above.

[OM No. 21011/2/78-Estt.(A) dated 01.08.1978]

No officer under suspension should be allowed to write/ review the ACRs of his subordinates if during major part of writing/ reviewing he is under suspension as he might not have full opportunity to supervise the work of his subordinate.

[OM No. 21011/8/2000-Estt.(A) dated 25.10.2000]

(M) LTC DURING THE SUSPENSION

A Government servant under suspension cannot avail of LTC as he cannot get any leave including casual leave during the period of suspension. As he continues to be in service during the period of suspension, members of his family are entitled to LTC.

[Para 12 of the OM No. OM No. 11012/17/2013-Estt.(A) dated 02.01.2014]

(N) LEAVE DURING THE SUSPENSION

Leave may not be granted to a Government servant under suspension.

[FR-55]

(O) HEADQUARTERS DURING THE SUSPENSION

An officer under suspension is regarded as subject to all other conditions of service applicable generally to Government servants and cannot leave the station without prior permission. As such, the headquarters of a Government servant should normally be assumed to be his last place of duty. The order placing an officer under suspension should clearly indicate what his headquarters would be.

However, where an individual under suspension requests for a change of headquarters, there is no objection to a competent authority changing the headquarters if it is satisfied that such a course will not put Government to any extra expenditure like grant of T.A. etc. or other complications.

[Para 10 of the OM No. OM No. 11012/17/2013-Estt.(A) dated 02.01.2014]

(P) WITHHOLDING OF VIGILANCE CLEARANCE DURING THE SUSPENSION

Purpose	Instructions/ Guidelines
Promotion	OM No. 22034/4/2012-Estt(D) dated <u>02.11.2012</u>
(i) Empanelment (ii) Any deputation for which clearance is necessary	OM No. 11012/11/2007-Estt.(A) dated <u>14.12.2007</u> , as amended from time to time.

(iii) Appointment to sensitive posts	
(iv) Assignments to training programme (except mandatory training)	
Obtaining Passport	<u>OM No. 11012/7/2017-Estt.A-III dated 18.02.2020</u>
Private Visit to abroad	<u>OM No. 11013/8/2015-Estt.A-III dated 27.07.2015</u>

(Q) FORWARDING OF APPLICATIONS DURING THE SUSPENSION

Application of a Government servant for appointment, whether by Direct Recruitment, transfer on deputation or transfer, to any other post should not be considered/ forwarded if he is under suspension.

[Para 15 of the OM No. 11012/17/2013-Estt.(A) dated 02.01.2014]

(R) ACCEPTANCE OF RESIGNATION OF A SUSPENDED OFFICER

Where a Government servant who is under suspension submits his resignation, the competent authority should examine, with reference to the merit of the disciplinary case pending against the Government servant, whether it would be in the public interest to accept the resignation. Normally, as officers are placed under suspension only in cases of grave delinquency, it would not be correct to accept the resignation from an officer under suspension. Exceptions to this rule would be where the alleged offence does not involve moral turpitude or where the evidence against the officer is not strong enough to justify the assumption that departmental proceedings, if continued would result in removal from service/dismissal, or where the departmental proceedings are like to be so protracted that it would be cheaper for the exchequer to accept the resignation.

*[OM No. 28034/4/94-Estt.(A) daed 31.05.1994] or
[Para No. 16(c) of the OM No. 11012/17/2013-Estt.(A) dated 02.01.2014]*

(S) RETIREMENT DURING THE SUSPENSION

- ❖ A Government servant who retires while under suspension is entitled to provisional pension equal to the maximum pension on the basis of qualifying service upto the date immediately preceding the date on which he was placed under suspension.

[Rule 8(4)(a) of the CCS (Pension) Rules, 2021]

(T) COUNTING OF PERIODS OF SUSPENSION AS QUALIFYING SERVICE FOR THE PURPOSE OF PENSION:

"Counting of periods of Suspension-

- (1) Time passed by a Government servant under suspension pending inquiry into conduct shall be counted as qualifying service where, on conclusion of such inquiry, he has been fully exonerated or only a minor penalty is imposed and the suspension is held to be wholly unjustified.*
- (2) In cases not covered under sub-rule (1), the period of suspension shall not count unless the authority competent to pass orders under the rule governing such cases expressly declares at the time that it shall count to such extent as the Competent Authority may declare.*
- (3) In all cases of suspension, the competent authority shall pass an order specifying the extent to which, if any, the period of suspension shall count as qualifying service and a definite entry shall be made in the service book of the Government servant in this regard."*

[Rule 23 of the CCS (Pension) Rules, 2021]

(U) ACCEPTANCE OF VRS (VOLUNTARY RETIREMENT SCHEME) APPLICATION OF A SUSPENDED OFFICER.

It shall be open to the Appropriate Authority to withhold permission to a Government Servant under suspension who seeks to retire under FR 56(k) or FR-56(m) or Rule 43 (3) of CCS (Pension) Rule 2021.

[FR-56(k) and FR-56(m)]

[Rule 43(3) of the CCS (Pension) Rules, 2021]

(V) PAY AND ALLOWANCE AFTER REVOCATION/ REINSTATEMENT FROM SUSPENSION

When a Government servant who has been suspended is reinstated or would have been so reinstated but for his retirement (including premature retirement) while under suspension, the authority competent to order reinstatement shall consider and make a specific order—

- (a) regarding the pay and allowances to be paid to the Government servant for the period of suspension ending with reinstatement or the date of his retirement (including premature retirement), as the case may be; and*
- (b) whether or not the said period shall be treated as a period spent on duty"*

(W) ON CONCLUSION OF PROCEEDINGS

❖ **If Exonerated**

a) where the Competent Authority is of the opinion that the suspension was wholly unjustified, the Government servant may be paid full pay and allowances.

b) Where the Competent Authority is of the opinion that the proceedings were delayed for reasons directly attributable to the Government servant, it may after notice to the Government servant and considering the representation-if any, order a reduced amount to be paid.

c) The period of suspension will be treated as period spent on duty for all purposes.

[FR 54-B (3) & (4)]

❖ **Minor Penalty is imposed**

Where the proceedings result only in minor penalty being imposed, then the suspension is treated as wholly unjustified and the employee concerned may be paid full pay and allowances for the period of suspension by passing a suitable order under FR 54-B.

[O.M. No.11012/15/85-Estt.(A) dt. 03.12.1985]

❖ **Other than exoneration/ minor penalty**

(a) The competent authority shall determine the amount to be paid, after notice to Government servant and considering his representation, if any.

[FR 54-B(5)]

(b) The period of suspension shall not be treated as duty unless the competent authority specifically directs that it shall be so treated for any specified purpose.

(c) If the Government servant so desires, the period of suspension may be converted into leave of the kind due and admissible. (Note: Such leave can be in excess of 3 months in case of temporary Government servants or 5 years in case of permanent Government servants)

NOTE: As per FR 54-B(9) wherever the amount allowed is less than full pay and allowances it shall not be less than the Subsistence Allowance already paid.

(X) DEATH WHILE UNDER SUSPENSION

Where a Govt servant under suspension dies before the disciplinary proceedings or the court proceedings against him are concluded, the period between the date of suspension and the date of death shall be treated as duty for all purposes and his family shall be paid the full pay and allowances to which he would have been entitled had he not been suspended, for that period subject to adjustment of subsistence allowance already paid.

[FR 54-B(2)]

(Y) SERVING OF CHARGE SHEET ETC.

- a) Suspension order should normally indicate the grounds for suspension.
- b) Where the suspension is on grounds of contemplated proceedings, charge sheet should be served upon the Government servant within 3 months
- c) Where charge sheet is not served within 3 months, the reasons for suspension should be communicated to the Government servant immediately on expiry of 3 months from the date of suspension.

[DoPT O.M. No.35014/1/81-Estt.(A) dated 9th November, 1982]

(Z) APPEAL

Order of Suspension is appealable under Rule 23 (i) of CCS (CCA) Rules, 1965.

Note: List of the OMs mentioned in this document is annexed. In case any reference to the relevant OM is required, the same may be accessed by clicking on the hyperlink or from the DOPT's website.

List of Rules, Notifications and OMs mentioned in this Document

S. No.	Rules	
1.	<u>Fundamental Rule 53, 54, 54-A, 54-B, 55</u>	
2.	<u>CCS (CCA) Rules, 1965</u>	
3.	<u>CCS (Pension) Rules, 2021</u>	
S.NO.	OM/ Notification	Subject
1.	<u>39/59/54-Ests.(A) dated 25.02.1955</u>	Government servants arrested on criminal charge- Recruitment regarding information to departmental superiors.
2.	<u>39/5/56-Ests.(A) dated 8.09.1956</u>	Headquarters of a Government servant under suspension – Clarification of.
3.	<u>7/4/74-Ests.(A) dated 9.08.1974</u>	ARC's recommendation No. 53(2) – Empowering Supervisory Officers located in offices away from headquarters to place subordinate officers under suspension – Instructions regarding.
4.	<u>11012/24/77-Estt.(A) dated 18.03.1978</u>	CSS(CCA) Rules, 1965 – Scope of Rule – 10(4) thereof.
5.	<u>21011/2/78-Estt.(A) dated 01.08.1978</u>	Confidential Reports – Writing of by officers under suspension.
6.	<u>35014/1/81-Ests.(A) Dated 9.11.1982</u>	CCS(CCA) Rules, 1965 – Opportunity to the suspended Government servant to appeal against suspension.
7.	<u>11012/15/85-Estt.(A) dated 3.12.1985</u>	Period of suspension to be treated as duty if only a minor penalty is imposed after conclusion of the disciplinary proceedings – Recommendations of the Committee of the National Council (JCM)
8.	<u>11012/8/87-Ests.(A) dated 22.06.1987</u>	CCS(CCA) Rules – Suspension of Government servants involved in cases of dowry deaths.
9.	<u>28034/25/87-Estt.(A) dated 11.02.1988</u>	Resignation from Service – Procedure in respect of.
10.	<u>22011/4/91-Estt.(A) dated 14.09.1992</u>	Promotion of Government servants against whom disciplinary/ court proceedings are pending or whose Conduct is under investigation – Procedure and guidelines to be followed.
11.	<u>28034/4/94-Estt.(A) dated 31.05.1994</u>	Acceptance of resignation – procedure in respect of
12.	<u>21011/8/2000-Estt.(A)</u>	Writing of ACRs by officers under suspension – Review

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	<u>dated 25.10.2000</u>	Of instructions regarding.
13.	<u>11012/8/2003-Estt.(A)</u> <u>dated 23.10.2003</u>	Deemed Suspension under Rule 10 (2) of the CCS (CCA) Rules, 1965 – Supreme Court decision in the case of Union of India Vs. Rajiv Kumar.
14.	<u>11012/4/2003-Estt.(A)</u> <u>dated 07.01.2004</u>	Suspension of Government servants Review of – Instructions reg.
15.	<u>11012/4/2003-Estt.(A)</u> <u>dated 19.03.2004</u>	Suspension of Government servants Review of – Instructions reg.
16.	<u>OM No. 11012/11/2007-Estt.(A)</u> dated <u>14.12.2007</u>	Guidelines regarding grant of vigilance clearance to members of the Central Civil Services/ Central Civil Posts
17.	<u>No. 22034/4/2012-Estt.(D)</u> dated <u>02.11.2012</u>	Comprehensive review of instructions pertaining to vigilance clearance for promotion-regarding.
18.	<u>11012/17/2013-Estt.(A)</u> <u>dated 02.01.2014</u>	Consolidated instructions on suspension
19.	Notification No. <u>25013/3/2010-Estt.(A-IV)</u> dated 17.01.2014	Amendment in FR-56(k) and FR-56(m)
20.	<u>11012/17/2013-Estt.(A)</u> <u>dated 18.11.2014</u>	Central Civil Services (Classification Control and Appeal) Rules, 1965 – Instruction regarding timely review of suspension.
21.	<u>11012/17/2013-Estt.(A)</u> <u>dated 03.07.2015</u>	CCS(CCA) Rules, 1965 – instructions regarding time issue of Charge-sheet – reg.
22.	<u>11013/8/2015-Estt.A-III</u> <u>dated 27.07.2015</u>	Requirement of taking prior permission for leaving station/ headquarters for going abroad whole on leave.
23.	<u>11012/04/2016-Estt.(A)</u> <u>dated 23.08.2016</u>	CCS(CCA) Rules, 1965 – instructions regarding timely issue of Charge-sheet – reg.
24.	<u>11012/7/2017-Estt.A-III</u> dated 18.02.2020	Grant of vigilance clearance for obtaining passport.
25.	Notification No. <u>11012/04/2016-Estt.A-III</u> dated 19.10.2022 <u>published in Gazette of India vide GSR No. 156</u> <u>dated 22.10.2022</u>	Amendment in Rule 10(7) of the CCS (CCA) Rules, 1965

Government of India
Ministry of Personnel, Public Grievances and Pension
Department of Personnel & Training
Establishment Division

PREVENTION OF SEXUAL HARASSMENT OF WOMEN AT THE WORKPLACE

In the case of Vishaka and Ors Vs State of Rajasthan and Ors (JT 1997 (7) SC 384), the Hon'ble Supreme Court had laid down the guidelines and norms to be observed to prevent sexual harassment of working women. In pursuance to the pronouncement of this judgement, Department of Personnel and Training took the following steps:

- (i) Guidelines/ Norms of the Hon'ble Supreme Court were circulated by Department of Personnel & Training vide OM No. 11013/10/97-Estt.(A) dated 13.02.1998 for strict compliance by the Ministries/ Departments.
- (ii) Amendments in Central Civil Services (Conduct) Rules, 1964 were also carried out by inserting the Rule 3-C declaring Sexual Harassment of Working Women as a misconduct, vide Notification No. 11013/10/97-Estt.(A) dated 13.02.1998 published in Gazette of India as G.S.R. 49 dated 07.03.1998
- (iii) Subsequently, Central Civil Services (Classification, Control & Appeal) Rules, 1965 were also amended by inserting a provision below sub-rule 2 of Rule 14 in connection with treatment of the Complaint Committee as Inquiring Authority and to follow the procedure as laid down in these Rules to hold inquiry into the complaints of Sexual Harassment. This was notified vide Notification No. 11012/5/2001-Estt.A dated 01.07.2004 published in Gazette of India vide G.S.R. No. 225 dated 10.07.2004

2. Later on, the 'Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013' {SHWW (PPR) Act} was promulgated on 22.04.2013. The 'Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013' were notified on 09.12.2013. The Act and the Rules framed thereunder provide a redressal mechanism for handling cases of sexual harassment of women at workplace.

3. Thus, the provisions relating to handling cases of sexual harassment of women at workplace are scattered across SHWW (PPR) Act, Central Civil Services (Conduct) Rules, 1964, Central Civil Services (Classification, Control and Appeal) Rules, 1965, etc. In addition, a number of executive instructions covering different aspects of this issue have been issued from time to time. Now, with a view to facilitate the Ministries/Departments and other stake holders in proper implementation of these provisions, a need has been felt to consolidate these provisions and place the same in the public domain for easy access as and when required. Accordingly, the relevant provisions of the Act/Rules/executive instructions have been compiled as under:

(A) DEFINITION OF "SEXUAL HARASSMENT" AND "WORKPLACE"

Section 2(n) and 2(o) of the SHWW (PPR) Act defines "Sexual Harassment" and "Workplace" respectively. The same have been incorporated through an amendment in the CCS (Conduct) Rules, 1964 as under:

"Rule 3C - Prohibition of sexual harassment of working women

- (1) No Government servant shall indulge in any act of sexual harassment of any woman at any work place.*
- (2) Every Government servant who is incharge of a work place shall take appropriate steps to prevent sexual harassment to any woman at such work place.*

Explanation- 1 For the purpose of this rule,

(a) "sexual harassment" includes any one or more of the following acts or behaviour, (whether directly or by implication), namely:—

- (i) physical contact and advances; or*
- (ii) demand or request for sexual favours; or*
- (iii) sexually coloured remarks; or*
- (iv) showing any pornography; or*
- (v) any other unwelcome physical, verbal, non-verbal conduct of a sexual nature.*

(b) The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment: -

- (i) implied or explicit promise of preferential treatment in employment; or*
- (ii) implied or explicit threat of detrimental treatment in employment; or*
- (iii) implied or explicit threat about her present or future employment status; or*
- (iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or*
- (v) humiliating treatment likely to affect her health or safety.*

(c) "workplace" includes, -

- (i) any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the Central Government;*
- (ii) hospitals or nursing homes;*
- (iii) any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereto;*

- (iv) any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey;
- (v) a dwelling place or a house."

(Rule 3-C of the CCS (Conduct) Rules, 1964)

(B) COMPLAINTS COMMITTEE:

- ❖ Complaints Committees have been set up in all Ministries/Department and organizations under them in pursuance to the judgement of the Hon'ble Supreme Court in the *Vishakha* case. As per Section 4(1) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ("the Act"), the Internal Complaints Committee (referred to as "Complaints Committee" hereafter) is to be set up at every workplace. As per Section 4(2), this will be headed by a woman and at least half of its members should be women. In case a woman officer of sufficiently senior level is not available in a particular office, an officer from another office may be so appointed. To prevent the possibility of any undue pressure or influence from senior levels, such Complaints Committees should involve a third party, either an NGO or some other body which is familiar with the issue of sexual harassment.

[Para 1 of OM No. 11013/2/2014-Estt.(A-III) dated 16.07.2015]

❖ Section 4 of the SHWW (PPR) Act-

"4. Constitution of Internal Complaints Committee.— (1) Every employer of a workplace shall, by an order in writing, constitute a Committee to be known as the "Internal Complaints Committee":

Provided that where the offices or administrative units of the workplace are located at different places or divisional or sub-divisional level, the Internal Committee shall be constituted at all administrative units or offices.

(2) The Internal Committees shall consist of the following members to be nominated by the employer, namely: —

(a) a Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees:

Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section(1):

Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organisation;

- (b) *not less than two Members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge;*
- (c) *one member from amongst non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment:*
- (3) *The Presiding Officer and every Member of the Internal Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the employer.*
- (4) *The Member appointed from amongst the non-governmental organisations or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the employer, as may be prescribed.*
- (5) *Where the Presiding Officer or any Member of the Internal Committee, —*
- (a) contravenes the provisions of section 16; or*
 - (b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or*
 - (c) he has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or*
 - (d) has so abused his position as to render his continuance in office prejudicial to the public interest,*

such Presiding Officer or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section."

[Section 4 of the SHWW (PPR) Act]

❖ **Seniority of the Chairperson of the Complaint Committee-**

There is no bar either in the CCS (CCA) Rules or under the *Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013* to the Chairperson of the Complaints Committee being junior to the suspect officer or the charged officer. Hon'ble Allahabad High Court has in *Smt. Shobha Goswami vs State of U.P. and 2 Ors*, in WRIT – A No. – 31659 of 2015 observed as follows:

"In my opinion, there is nothing in the Scheme of the section which requires the lady member to be senior in rank to the officer against whom the allegation of sexual harassment are brought. The language of Section 4 of the Act only requires the lady member to the Senior Level".

This also does not in any way cause any prejudice to the charged officer.

[Para 2 of OM No. 11013/2/2014-Estt.A-III dated 09.09.2016]

❖ **Complaints Committee to be Inquiring Authority**

As per Proviso to Rule 14(2) of CCS (CCA) Rules, 1965, in case of complaints of sexual harassment, the Complaints Committee set up in each Ministry or Department etc. for inquiring into such complaints shall be deemed to be the Inquiring Authority appointed by the Disciplinary Authority for the purpose of these rules. Complaints Committee, unless a separate procedure has been prescribed, shall hold the inquiry as far as practicable in accordance with the procedure laid down in the Rule 14.

[Para 6 of OM No. 11013/2/2014-Estt.(A-III) dated 16.07.2015]

❖ **Proviso to Rule 14(2) of the CCS (CCA) Rules, 1965-**

"Provided that where there is a complaint of sexual harassment within the meaning of rule 3 C of the Central Civil Services (Conduct) Rules, 1964, the Complaints Committee established in each Ministry or Department or Office for inquiring into such complaints, shall be deemed to be the inquiring authority appointed by the disciplinary authority for the purpose of these rules and the Complaints Committee shall hold, if separate procedure has not been prescribed for the Complaints Committee for holding the inquiry into the complaints of sexual harassment, the inquiry as far as practicable in accordance with the procedure laid down in these rules."

[Proviso to Rule 14(2) of the CCS (CCA) Rules, 1965]

(C) INQUIRY INTO COMPLAINT [FIRST STAGE]

- The Complaints Committees may act on complaints of sexual harassment when they receive them directly or through administrative authorities etc, or when they take cognizance of the same suo-moto. As per **Section 9 (1) of the Act**, the aggrieved woman or complainant is required to make a complaint within three months of the incident and in case there has been a series of incidents, three months of the last incident. The Complaints Committee may however extend the time limit for reasons to be recorded in writing, if it is satisfied that the circumstances were such which prevented the complainant from filing a complaint within the stipulated period.
- As mentioned above, the complaints of sexual harassment are required to be handled by Complaints Committee. On receipt of a complaint, facts of the allegation are required to be verified. This is called preliminary enquiry/fact finding enquiry or investigation. The Complaints Committee conducts the investigation. They may then try to ascertain the truth of the allegations by collecting the documentary evidence as well as recording statements of any possible witnesses including the complainant. If it becomes necessary to issue a Charge Sheet, disciplinary authority relies on the investigation for drafting the imputations, as well as for evidence

by which the charges are to be proved. Therefore this is a very important part of the investigation.

[Para 7 and 8 of OM No. 11013/2/2014-Estt.(A-III) dated 16.07.2015]

➤ **Section 9 of the the SHWW (PPR) Act**

"9. Complaint of sexual harassment.— (1) Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee if so constituted, or the Local Committee, in case it is not so constituted, within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident:

Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Committee or the Chairperson or any Member of the Local Committee, as the case may be, shall render all reasonable assistance to the woman for making the complaint in writing:

Provided further that the Internal Committee or, as the case may be, the Local Committee may, for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period.

(2) Where the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or otherwise, her legal heir or such other person as may be prescribed may make a complaint under this section."

[Section 9 of the SHWW (PPR) Act]

➤ **Rule 6 of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013**

"6. *Complainant of Sexual Harassment.- For the purpose of sub-Section (2) of Section 9,-*

(i) *Where the aggrieved women is unable to make a complaint on account of her physical incapacity, a complaint may be filed by –*

(a) *her relative or friend; or*

(b) *her co-worker; or*

(c) *an officer of the National Commission for Women or State Women's Commission; or*

(d) *any person who has knowledge of the incident, with the written consent of the aggrieved women;*

(ii) *where the aggrieved women is unable to make a complaint on account of her mental incapacity, a complaint may be filed by-*

(a) *her relative or friend; or*

- (b) a special educator; or
 - (c) a qualified psychiatrist or psychologist; or
 - (d) the guardian or authority under whose care she is receiving treatment or care; or
 - (e) any person who has knowledge of the incident jointly with her relative or friend or a special educator or qualified psychiatrist or psychologist, or guardian or authority under whose care she is receiving treatment or care;
- (iii) where the aggrieved woman for any other reason is unable to make a complaint, a complaint may be filed by any person who has knowledge of the incident, with her written consent;
- (iv) where the aggrieved woman is dead, a complaint may be filed by any person who has knowledge of the incident, with the written consent of her legal heir."

➤ **Section 11 of the the SHWW (PPR) Act**

"11. Inquiry into complaint.— (1) Subject to the provisions of section 10, the Internal Committee or the Local Committee, as the case may be, shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed or in case of a domestic worker, the Local Committee shall, if prima facie case exist, forward the complaint to the police, within a period of seven days for registering the case under section 509 of the Indian Penal Code (45 of 1860), and any other relevant provisions of the said Code where applicable:

Provided that where the aggrieved woman informs the Internal Committee or the Local Committee, as the case may be, that any term or condition of the settlement arrived at under sub-section (2) of section 10 has not been complied with by the respondent, the Internal Committee or the Local Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police:

Provided further that where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.

(2) Notwithstanding anything contained in section 509 of the Indian Penal Code (45 of 1860), the court may, when the respondent is convicted of the offence, order payment of such sums as it may consider appropriate, to the aggrieved woman by the respondent, having regard to the provisions of section 15.

(3) For the purpose of making an inquiry under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall have the same powers as are vested in a civil court the Code of Civil

Procedure, 1908 (5 of 1908) when trying a suit in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;*
- (b) requiring the discovery and production of documents; and*
- (c) any other matter which may be prescribed.*

(4) The inquiry under sub-section (1) shall be completed within a period of ninety days."

➤ **Rule 7 of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013**

"7. Manner of Inquiry into complaint.- (1) Subject to the provisions of section 11, at the time of filing the complaint, the complainant shall submit to the Complaints Committee, six copies of the complaint along with supporting documents and the names and addresses of the witness.

(2) On receipt of the complaint, the Complaints Committee shall send one of the copies received from the aggrieved woman under sub-rule(1) to the respondent within a period of seven working days.

(3) The respondent shall file his reply to the complaint along with his list of documents, and names and addresses of witnesses within a period not exceeding ten working days from the date of receipt of the documents specified under sub-rule(1).

(4) The Complaints Committee shall make inquiry into the complaint accordance with the principles of natural justice.

(5) The Complaints Committee shall have the right to terminate the inquiry proceedings or to give an ex-parte decision on the complaint, if the complainant or respondent fails, without sufficient cause, to present herself or himself for three consecutive hearings convened by the Chairperson or Presiding Officer, as the case may be:

Provided that such termination or ex-parte order may not be passed without giving a notice in writing, fifteen days in advance, to the party concerned.

(6) The parties shall not be allowed to bring in any legal practitioner to represent them in their case at any stage of the proceedings before the Complaints Committee.

(7) In conducting the inquiry, a minimum of three Members of the Complaints Committee including the Presiding Officer or the Chairperson, as the case may be, shall be present."

- On the completion of an inquiry under this Act, the Complaints Committee shall provide a report of its findings to the employer within a period of ten

days from the date of completion of the inquiry and such report be made available to the concerned parties.

[Section 13(1) of the SHWW (PPR) Act]

- Where the Complaints Committee arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer that no action is required to be taken in the matter.

[Section 13(2) of the SHWW (PPR) Act]

- Where the Complaints Committee arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the respondent.

[Section 13(3)(i) of the SHWW (PPR) Act]

(D) INQUIRY UNDER CCS (CCA) RULES, 1965 [SECOND STAGE]

■ **Dual Role**

- In the light of the Proviso to the Rule 14 (2) mentioned above, the Complaints Committee would normally be involved at two stages. The first stage is investigation already discussed in the preceding para. The second stage is when they act as Inquiring Authority. It is necessary that the two roles are clearly understood and the inquiry is conducted as far as practicable as per Rule 14 of CCS (CCA) Rules, 1965. Failure to observe the procedure may result in the inquiry getting vitiated.
- As the Complaints Committees also act as Inquiring Authority in terms of Rule 14(2) mentioned above, care has to be taken that at the investigation stage that impartiality is maintained. Any failure on this account may invite allegations of bias when conducting the inquiry and may result in the inquiry getting vitiated. As per the instructions, when allegations of bias are received against an Inquiring Authority, such Inquiring Authority is required to stay the inquiry till the Disciplinary Authority takes a decision on the allegations of bias. Further, if allegations of bias are established against one member of the Committee on this basis, that Committee may not be allowed to conduct the inquiry.
- In view of the above, the Complaints Committee when investigating the allegations should make recommendations on whether there is a prima facie substance in the allegations which calls for conducting a formal inquiry. They should avoid making any judgmental recommendations or expressing views which may be construed to have prejudiced their views while conducting such inquiry.

[Para 9 to 11 of OM No. 11013/2/2014-Estt.(A-III) dated 16.07.2015]

■ **Decision to issue Charge sheet. and conducting Inquiry**

- On receipt of the Investigation Report, the Disciplinary Authority should examine the report with a view to see as to whether a formal Charge Sheet needs to be issued to the Charged Officer. As per Rule 14(3), Charge Sheet is to be drawn by or on behalf of the Disciplinary Authority. In case the Disciplinary Authority decides on that course, the Charged Officer should be given an opportunity of replying to the Charge sheet. As per Rule 14 (5), a decision on conducting the inquiry has to be taken after consideration of the reply of the charged officer.
- If the Charged Officer admits the charges clearly and unconditionally, there will be no need for a formal inquiry against him and further action may be taken as per Rule 15 of the CCS (CCA) Rules.

[Para 12 and 13 of OM No. 11013/2/2014-Estt.(A-III) dated 16.07.2015]

■ **The Inquiry-stages**

- In case the Charged Officer denies the charges and his reply is not convincing, the Charge sheet along with his reply may be sent to the Complaints Committee for formal inquiry, and documents mentioned in Rule 14 (6) will be forwarded to the Complaints Committee. As per Section 11(3) of the Act, for the purpose of making an inquiry, the Complaints Committee shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely:—
 - (a) summoning and enforcing the attendance of any person and examining him on oath;
 - (b) requiring the discovery and production of documents; and
 - (c) any other matter which may be prescribed.
- The Disciplinary Authority shall also in terms of Rule 14(5)(c) appoint a Government servant as a Presenting Officer to present evidence on behalf of prosecution before the Complaints Committee/ Inquiring Authority. The listed documents are to be sent to the Presenting Officer. The Complaints Committee would, thereafter, summon the Presenting Officer and the Charged Officer. As a first step, the charged officer would be formally asked as to whether he admits the charges. As mentioned above, in case of any clear and unconditional admission of any Article of Charge, no inquiry would be held in respect of that Article and the admission of the Charged Officer would be taken on record. The inquiry would be held, thereafter, in respect of those charges which have not been admitted by the Charged Officer. The Charged Officer is also entitled to engage a Defence Assistant. The provisions relating to Defence Assistant are given in Rule 14(8).

- The Inquiring Authority is, thereafter, required to ask the Presenting Officer to have the prosecution documents, listed in the Charge Sheet inspected by the Charged Officer. Copies of such documents, if not only given to the Charged Officer, would be handed over to him. The Charged Officer would, therefore, be required to submit a list of documents and witnesses which he wants to produce in support of his defense. The Inquiring Authority would consider allowing such documents or witnesses on the basis of their relevance. Normally, any document or witness which reasonably appears to be relevant and helpful in defense may be allowed. Once the documents have been allowed, the Inquiring Authority would send a requisition for these documents to the custodian of such documents.
- When the regular hearing commences, the Inquiring Authority would ask the Presenting Officer to produce the documentary evidence. Such documents as are disputed by the Charged Officer have to be proved by the witnesses before they are taken on record. The undisputed documents would be taken on record and marked as exhibits.

[Para 14 to 17 of OM No. 11013/2/2014-Estt.(A-III) dated 16.07.2015]

■ **Examination of Witnesses**

- Summons would, thereafter, be sent to the witnesses listed in the Charge sheet. The Presenting Officer may choose to produce them in any order he finds appropriate. These witnesses would be examined in the inquiry in the following manner. The examination in chief would be done by the Presenting Officer where the Presenting Officer may ask questions of the witness to ascertain the facts. The witness would, thereafter, be cross-examined by the Defense. After the cross-examination, the Presenting Officer would be given an opportunity to re-examine the witness. In the examination in chief, leading questions are not allowed. These are however allowed in the cross examination.
- The procedure of Inquiry requires opportunity to the Charged Officer to cross-examine all the witnesses that appear on behalf of the Prosecution. Failure to do so may be construed as a denial of reasonable opportunity to the charged officer, resulting in vitiation of the Inquiry. If the complainant appears as a witness, she would also be examined and cross-examined. The Inquiry Officer may however disallow any questions which are offensive, indecent or annoying to the witnesses, including the complainant.
- If Inquiring Authority wishes to ascertain some facts for clarity, he may pose questions to the witnesses. This should however, be done in such a manner as to not show any bias for or against the Charged Officer. This has to be done in the presence of the Presenting Officer and the Charged Officer/Defence Assistant. No

inquiry should be conducted behind the back of the charged officer. The witnesses will be examined one by one, and the other witness who are either yet to be examined, or have been examined are not allowed to be present during the examination of a witness.

[Para 18 to 20 of OM No. 11013/2/2014-Estt.(A-III) dated 16.07.2015]

■ **Daily Order Sheet**

The Inquiring Authority would also maintain a document called Daily Order Sheet in which all the main events of the inquiry and including requests/representations by the Charged Officer or the Presenting Officer, and decisions thereon would be recorded. For example (i) if the Charged Officer refuses to cross-examine the witnesses, this should be recorded in the Daily Order Sheet (ii) the Daily Order Sheet should record that the Charged Officer had been advised that he has the right to engage a Defense Assistant (iii) it should also be clearly mentioned that the Charged Officer was also informed as to who are eligible to assist him as Defense Assistant. (iv) the Daily Order Sheet should also record in case request of the Charged Officer for engaging a particular person as Defense Assistant is disallowed in the light of the existing instructions. Daily Order Sheet should be signed by the Inquiring Authority, Presenting Officer and the Charged Officer/Defence Assistant.

[Para 21 of OM No. 11013/2/2014-Estt.(A-III) dated 16.07.2015]

■ **Defence Evidence**

After the prosecution evidence is over, the Charged Officer is required to submit his statement of defense. In this statement, the Charged Officer is required to briefly indicate his line of defense. After this, the Defense evidence will be taken. The evidence will be produced in the same order as the prosecution evidence. First, the documents allowed by the Inquiry Authority would be taken on record and then the witnesses called and their examination, cross-examination and re-examination done. The only difference here would be that the Examination in Chief would be done by defense while the cross-examination would be done by the prosecution. The defense would then have the opportunity of re-examining the witness.

[Para 22 of OM No. 11013/2/2014-Estt.(A-III) dated 16.07.2015]

■ **General Examination of the Charged Officer**

After the Defense evidence is over, the Inquiring Authority shall ask Charged Officer as to whether he wishes to appear as his own witness. In case he does so, he will be examined like any other defense witness. In case however, he declines to do so, the Inquiring Authority is required to generally question him. At this stage due care is required to be exercised that as per Rule 14(18)

the purpose of this stage is to apprise Charged Officer of the circumstances which appear to be against him. This is to enable the Charged Officer to explain them to the Inquiring Authority. Presenting Officer and the Defence Assistant do not take any part in the General Examination. Charged Officer may not be compelled to answer questions during examination by the Inquiring Authority.

[Para 23 of OM No. 11013/2/2014-Estt.(A-III) dated 16.07.2015]

■ **Brief**

- After this, the Presenting Officer would be asked to submit his brief. A copy of this brief would be given to the Charged Officer. Both the Presenting Officer and the Charged Officer may be allowed reasonable time for submission of their brief.
- The Inquiring Authority then writes the Inquiry Report in which the evidence in support of the charges and against them will be examined. The Report should be a speaking one clearly bringing out as to the evidence on the basis of which any particular conclusion has been reached. Based on this analysis, the Inquiring Authority will give its findings on the Articles as proved or not proved. In case any Article of charge is proved only partially, then the Inquiring Authority should record the extent to which that Article has been proved.

[Para 24 and 25 of OM No. 11013/2/2014-Estt.(A-III) dated 16.07.2015]

■ **Powers of the Committee to make recommendations**

- Normally, the Inquiry Officer is not allowed to make any recommendations in his report. Here the function of the Complaints Committee acting as the Inquiring Authority differs.

The Complaints Committee will also have the powers to recommend:-

- (a) to transfer the aggrieved woman or the charged officer to any other workplace; or
- (b) to grant leave to the aggrieved woman up to a period of three months. (The leave will not be deducted from her leave account).
- (c) to grant such other relief to the aggrieved woman as may be prescribed; or
- (d) to deduct from the salary or wages of the charged officer such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs. Any amount outstanding at the time of cessation of the services of the charged officer due to retirement, death or otherwise may be recovered from the

terminal benefits payable to the officer or his heirs. Such compensation will not amount to penalty under Rule 11 of CCS (CCA) Rules in terms of the Explanation (ix) to Rule 11.

- (e) to take action against complainant, if the allegation is malicious, or the complainant knows it to be false, or has produced any forged or misleading document.
- (f) to take action against any witness if such witness has given false evidence or produced any forged or misleading document.

[Para 6 and 7 of the OM No. 11013/2/2014-Estt.A-III dated 27.11.2014]

[Para 5 and 26 of OM No. 11013/2/2014-Estt.(A-III) dated 16.07.2015]

- (g) The Complaints Committee at the written request of the aggrieved women may recommend to the employer to-
 - i. restrain the respondent from reporting on the work performance of the aggrieved women or written her confidential report, and assign the same to another officer;
 - ii. restrain the respondent in case of an educational institution from supervising any academic activity of the aggrieved women.

[Rule 8 of the SHWW (PPR) Rules, 2013]

- Rule 48 of CCS (Leave) Rules, 1972 [Special Leave connected with inquiry on sexual harassment]:

"48. Special Leave connected to inquiry of sexual harassment - Leave upto a period of 90 days may be granted to an aggrieved female Government Servant on the recommendation of the Internal Committee or the Local Committee, as the case may be, during the pendency of inquiry under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and the leave granted to the aggrieved female Government Servant under this rule shall not be debited against the leave account".

[Rule 48 of CCS (Leave) Rules, 1972]

- Explanation (ix) to Rule 11 of the CCS (CCA) Rules, 1965

"Explanation.—The following shall not amount to a penalty within the meaning of this rule, namely:—

(ix) Any compensation awarded on the recommendation of the Complaints Committee referred to in the proviso to sub-rule (2) of rule 14 and established in the Department of the Government of India for inquiring into any complaint of

sexual harassment within the meaning of rule 3 C of the Central Civil Services (Conduct) Rules, 1964'

■ **Prohibition of publication or making known contents of complaint and inquiry proceedings.—**

- The Complaints Committee should also remember that as per the Section 16 of the Act, notwithstanding the RTI Act, 2005, information as regards identity and addresses of the aggrieved woman, respondent and witnesses, Inquiry proceedings, Recommendations of the Committee, shall not be published or communicated or made known to public, press or media in any manner. Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under Act without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved woman and witnesses.

[Para 27 of OM No. 11013/2/2014-Estt.(A-III) dated 16.07.2015]

➤ **Section 16 and 17 of the the SHWW (PPR) Act**

"16. Prohibition of publication or making known contents of complaint and inquiry proceedings.—*Notwithstanding anything contained in the Right to Information Act, 2005 (22 of 2005), the contents of the complaint made under section 9, the identity and addresses of the aggrieved woman, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the Internal Committee or the Local Committee, as the case may be, and the action taken by the employer or the District Officer under the provisions of this Act shall not be published, communicated or made known to the public, press and media in any manner:*

Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under this Act without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved woman and witnesses."

- **17. Penalty for publication or making known contents of complaint and inquiry proceedings.—***Where any person entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations or action to be taken under the provisions of this Act, contravenes the provisions of section 16, he shall be liable for penalty in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist, in such manner as may be prescribed.*

- With the above stage, the inquiry would be formally over. The Inquiring Authority should prepare separate folders containing the documents mentioned in Rule 14(23)(ii) of CCS (CCA) Rules, 1965

[Para 28 of OM No. 11013/2/2014-Estt.(A-III) dated 16.07.2015]

■ Suspension of the Charged Officer

A Government servant may also be placed under suspension before or after issue of a Charge Sheet where his continuance in office will prejudice the investigation, for example if there is an apprehension that he may tamper with witnesses or documents. Suspension may also be resorted to where continuance of the Government servant in office will be against wider public interest such as there is a public scandal and it is necessary to place the Government servant under suspension to demonstrate the policy of the Government to deal strictly with officers involved in such scandals. It may be desirable to resort to suspension in case of misdemeanor involving acts of moral turpitude.

[Para 29 of OM No. 11013/2/2014-Estt.(A-III) dated 16.07.2015]

■ Transfer of Charged Officer:

To ensure fair inquiry, Ministries/ Departments may also consider transferring the suspect officer/ charged officer to another office to obviate any risk of that officer using the authority of his office to influence the proceedings of the Complaints Committee.

[Para 3 of OM No. 11013/2/2014-Estt.(A-III) dated 09.09.2016]

■ Special provisions to deal with threats or intimidation

Disciplinary Authority may also dispense with inquiry under Rule 19(ii), and action may be taken without the inquiry when the Disciplinary Authority concludes that it is not reasonably practicable to hold such an inquiry. The circumstances leading to such a conclusion may exist either before the inquiry is commenced or may develop in the course of the inquiry. Such situation would be deemed to have arisen:

- (i) where the Government servant, through or together with his associates terrorizes, threatens or intimidates witnesses who are likely to give evidence against him with fear of reprisal in order to prevent them from doing so; or
- (ii) where the Government servant himself or with or through others threatens, intimidates and terrorizes the Disciplinary Authority, Members of the Committee, the Presenting Officer or members of their family.

[Para 30 of OM No. 11013/2/2014-Estt.(A-III) dated 16.07.2015]

- Disciplinary Authority is not expected to dispense with the inquiry lightly, arbitrarily or with ulterior motive or merely because the case against the Government servant is weak.

[Last Para of OM No. 11013/2/2014-Estt.(A-III) dated 16.07.2015]

(E) APPEAL UNDER SECTION 18(1) OF THE SHWW (PPR) ACT, 2013 BY THE COMPLAINANT

- Where a Complaint Committee has not recommended any action against the employee against whom the allegation have been made in a case of involving allegations of sexual harassment, the Disciplinary Authority shall supply a copy of the Report of the Complaints Committee to the complainant and shall consider her representation, if any submitted, before coming to a final conclusion. The representation shall be deemed to be an appeal under section 18(1) of the Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

[Para 3 of OM No. 11012/5/2016-Estt.A-III dated 02.08.2016]

➤ **Section 18 of the the SHWW (PPR) Act [Appeal]**

"18 Appeal.—(1) Any person aggrieved from the recommendations made under sub-section (2) of section 13 or under clause (i) or clause (ii) of sub-section (3) of section 13 or sub-section (1) or subsection (2) of section 14 or section 17 or non-implementation of such recommendations may prefer an appeal to the court or tribunal in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist then, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal in such manner as may be prescribed.

(2) The appeal under sub-section (1) shall be preferred within a period of ninety days of the recommendations."

(F) Sexual Harassment electronic-Box (She-Box)

- Ministry of Women & Child Development launched an online complaint management system titled Sexual Harassment electronic-Box (She-Box) on 24th July, 2017 for registering complaints related to sexual harassment at workplace. The She-Box is an initiative to provide a platform to the women working or visiting any office of Central Government (Central Ministries, Departments, Public Sector Undertakings, Autonomous Bodies and Institutions etc.) to file complaints related to sexual harassment at workplace under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
- Once a complaint is submitted to She-Box, it will be directly sent to the Internal Complaint Committee (ICC) of the concerned Ministry/ Department/ PSU/ Autonomous Body etc. having jurisdiction to inquire into the complaint. The She-Box also provides an opportunity to both the complainant and nodal administrative authority to monitor the

progress of inquiry conducted by the ICCs. The She-Box portal can be accessed at the link given below:

<http://www.shebox.nic.in/>

➤ Features of the She-Box are as under:

- (i) She-Box is an online Complaint Management System for lodging complaints related to sexual harassment of women at workplace. The steps required for filing of complaint through She-Box can be downloaded from the link: <http://www.shebox.nic.in/assets/site/downloads/manual.pdf>
- (ii) Any woman working or visiting any office of Central Government (Central Ministries, Departments, Public Sector Undertakings, Autonomous Bodies and Institutions etc.) can file complaint related to sexual harassment at workplace through this She-Box.
- (iii) Once a complaint is submitted to the She-Box, it will directly send the complaint to the Internal Complaints Committee (ICC) of the concerned Ministry/ Department/ PSU/ Autonomous Body etc. having jurisdiction to inquire into the complaint. The Internal Complaints Committee will take action as prescribed under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and update the status of the complaint through '**Administrator Login**'.
- (iv) The status of complaint can be viewed at any time by pressing the tab '**View Status of Your Complaint**' within She-Box.

➤ The complaint registered in the She-Box contains only a brief description of the incident of sexual harassment at workplace. The Internal Complaints Committee (ICC) is required to initiate inquiry as prescribed under Section 11 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 read with Department of Personnel & Training's O.M. No.11013/2/2014-Estt.(A-III) dated 16th July, 2015 by calling upon the complainant to provide detailed complaint along with all the relevant evidences (documentary or otherwise).

(G) Duties of the employer-

➤ **Rule 3C(2) of the CCS (Conduct) Rules, 1964**

Every Government servant who is incharge of a work place shall take appropriate steps to prevent sexual harassment to any woman at the work place.

➤ **Section 19 of the the SHWW (PPR) Act [Duties of employer]**

"19. Duties of employer.— Every employer shall—

- (a) provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace;
- (b) display at any conspicuous place in the workplace, the penal consequences of sexual harassments; and the order constituting, the Internal Committee under sub-section (1) of section 4;
- (c) organise workshops and awareness programmes at regular intervals for sensitising the employees with the provisions of the Act and orientation programmes for the members of the Internal Committee in the manner as may be prescribed;
- (d) provide necessary facilities to the Internal Committee or the Local Committee, as the case may be, for dealing with the complaint and conducting an inquiry;
- (e) assist in securing the attendance of respondent and witnesses before the Internal Committee or the Local Committee, as the case may be;
- (f) make available such information to the Internal Committee or the Local Committee, as the case be, as it may require having regard to the complaint made under sub-section (1) of section 9;
- (g) provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code (45 of 1860) or any other law for the time being in force;
- (h) cause to initiate action, under the Indian Penal Code (45 of 1860) or any other law for the time being in force, against the perpetrator, or if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place;
- (i) treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct;
- (j) monitor the timely submission of reports by the Internal Committee"

[Section 19 of the SHWW (PPR) Act]

- It should be ensured that Complaints Committee shall at all time be in existence and changes in its composition, whenever necessary, should be made promptly and adequately publicized. The composition of the Complaint Committee should also be posted on the website of the concerned Ministries/ Departments/ Office concerned. It would also be desirable for the Committees to meet once a quarter, even if there is no live case, and review preparedness to fulfil all requirements of the Vishakha judgment in the Department/ Ministry/ organization concerned.

[OM No. 11013/2/2014-Estt.A-III dated 02.02.2015]

- It should be ensured that the aggrieved women are not victimized in connection with the complaints filed by them. For a period of five years after a decision in a proven case of sexual harassment, a watch should be kept to

ensure that she is not subjected to vendetta. She should not be posted under the Respondent, or any other person where there may be a reasonable ground to believe that she may be subjected to harassment on this account. In case of any victimization the complainant may submit a representation to the Secretary in the case of Ministries/Departments and Head of the Organization in other cases. These representations should be dealt with sensitivity, in consultation with the Complaints Committee, Ministries/Department and Head of the Organization in other cases. These representations should be dealt with sensitivity, in consultation with the Complaints Committee, and a decision taken within 15 days of the submission of the same.

[Para 3 of the OM No 11013/7/2016-Estt.A-III dated 22.12.2016]

- All Ministries/Department shall furnish a **monthly report** to the Ministry of Women and Child Development giving details of number of complaints received, disposed of and action taken in the case.

[Para 4 of the OM No 11013/7/2016-Estt.A-III dated 22.12.2016]

(H) Provisions regarding preparation of Annual Report by Complaints Committee

➤ **Section 21 of the the SHWW (PPR) Act**

"21. Committee to submit annual report.— (1) The Internal Committee or the Local Committee, as the case may be, shall in each calendar year prepare, in such form and at such time as may be prescribed, an annual report and submit the same to the employer and the District Officer.

(2) The District Officer shall forward a brief report on the annual reports received under sub-section (1) to the State Government."

➤ **Rule 14 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013**

"14. Preparation of annual report.- The annual report which the Complainants Committee shall prepare under Section 21, shall have the following details:-

- (a) number of complaints of sexual harassment received in the year;*
- (b) number of complaints disposed off during the year;*
- (c) number of cases pending for more than ninety days;*
- (d) number of workshops or awareness programme against sexual harassment carried out;*
- (e) nature of action taken by the employer or District Officers."*

(I) Provisions regarding preparation of Annual Report by Employer

- Attention of all Ministries is invited to Section 22 of the Act relating to including information in Annual Report, and to request that information relating to number of cases filed, if any, and their disposal may be included in the Annual Report of the Ministry/ Department.

[Para 6 of the OM No. 11013/2/2014-Estt.A-III dated 02.02.2015]

➤ **Section 22 of the the SHWW (PPR) Act**

"22. Employer to include information in annual report.—The employer shall include in its report the number of cases filed, if any, and their disposal under this Act in the annual report of his organisation or where no such report is required to be prepared, intimate such number of cases, if any, to the District Officer"

(J) Miscellaneous-

- Fees or allowance for Member of the Complaints Committee is mentioned in Sexual Harassment of Women at Workplace (Prevention, Prohibition or Redressal) Rules, 2013

Note: List of the OMs mentioned in this document is **annexed**. In case any reference to the relevant OM is required, the same may be accessed by clicking on the hyperlink or from the DOPT's website.

ANNEXURE**List of Rules, Notifications and OMs mentioned in this Document**

Acts and Rules		
No.		
1.	Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013	
2.	Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013	
3.	Central Civil Services (Classification, Control and Appeal) Rules, 1965	
4.	Central Civil Services (Conduct) Rules, 1964	
5.	Central Civil Services (Leave) Rules, 1972	
S. No.	OM No.	Subject
1.	OM.No.11013/10/97-Estt.A dated 13.02.1998	CCS(Conduct) Rules, 1964 – Supreme Court Judgment in the case of Vishaka Vs. State of Rajasthan regarding sexual harassment of working women.
2.	OM.No.11013/10/97-Estt.A dated 13.07.1999	Prevention of sexual harassment of working women – Supreme Court judgment in the case of Vishaka Vs. State of Rajasthan.
3.	OM.No.11013/11/2001-Estt.A dated 12.12.2002	Report of the Complaints Committee constituted for prevention of sexual harassment of women at work places – follow up action.
4.	OM.No.11013/11/2001-Estt.A dated 04.08.2005	Report of the Complaints Committee constituted for prevention of sexual harassment of women at work places – follow up action.
5.	OM.No.11013/3/2009-Estt.A dated 2.2.2009	CCS(Conduct) Rules, 1964 – constitution of a Complaints Committee to enquire into complaints of sexual harassment made against officers of the level of Secretary and Additional Secretary to the Government of India.
6.	OM.No.11013/3/2009-Estt.A dated 21.7.2009	CCS(Conduct) Rules, 1964 – Guidelines regarding prevention of sexual harassment of working women in the workplace.
7.	OM.No.11013/3/2009-Estt.A dated 3.8.2009	CCS(Conduct) Rules, 1964 – Guidelines regarding prevention of sexual harassment of working women in the workplace.
8.	OM.No.11013/3/2009-Estt.A dated 7.8.2009	CCS(Conduct) Rules, 1964 – Guidelines regarding prevention of sexual harassment of working women in the workplace.
9.	OM.No.11013/3/2009-Estt.A dated 8.10.2009	Complaints Committee mechanism relating to sexual harassment.
10.	OM.No.11013/2/2014-Estt.A-III dated 27.11.2014	Alignment of Service Rules with the Sexual Harassment of women at workplace (prevention, prohibition and redressal) Act 2013.
11.	OM.No.11013/2/2014-Estt.A-III dated 2.2.2015	CCS(Conduct) Rules 1964 – Guidelines regarding prevention of sexual harassment of women at the

		workplace – regarding.
12.	OM.No.11013/2/2014-Estt.A-III dated 5.5.2015	Meeting held on 16.04.2015 to review the progress of implementation of the guidelines on prevention of sexual harassment of women at the workplace – forwarding of Minutes – reg.
13.	OM.No.11013/2/2014-Estt.A-III dated 16.7.2015	Steps for conducting inquiry in case of allegation of Sexual Harassment.
14.	OM.No.11013/2/2014-Estt.A-III dated 30.7.2015	Steps for conducting inquiry in case of allegation of Sexual Harassment.
15.	OM.No.13026/2/2016-Estt.L dated 14.7.2016	Implementation of leave provision under the sexual harassment of women at workplace (prevention, prohibition & redressal) Act, 2013 – reg.
16.	OM.No.11012/5/2016Estt.A-III dated 2.8.2016	CCS(CCA) Rules, 1965 – Guidelines regarding prevention of sexual harassment of women at the workplace – reg.
17.	OM.No.11013/2/2014-Estt.A-III dated 9.9.2016	Prevention of Sexual Harassment of working women at workplace - Seniority of the Chairperson of the Complaint Committee – reg.
18.	OM.No.11013/7/2016-Estt.A-III dated 22.12.2016	CCS(Conduct) Rules 1961 – Guidelines regarding prevention of sexual harassment of women at the workplace – reg.
19.	OM.No.11013/7/2016-Estt.A-III dated 1.11.2017	Online complaint management system titled "Sexual Harassment electronic-Box (She-Box)" – reg.

Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel & Training
Establishment Division

REDRESSAL OF GRIEVANCES FILED BY GOVERNMENT SERVANT ON SERVICE MATTERS

Department of Personnel and Training has issued various instructions from time on redressal of grievances filed by Government servant on service matters. These instructions are broadly categorized as under:

- (A) Representation from Government servant on service matters
(B) Redressal of grievances – Recourse to courts of law by Government servant

2. All these instructions issued till date have been consolidated under easily comprehensible headings for reference and guidance of all the concerned.

Part-A: Representation from Government servant on service matters

- ❖ Whenever, in any matter connected with his service rights or conditions, a Government servant wishes to press a claim or to seek redressal of a grievance, the proper course for him is to address his immediate official superior, or the Head of Office, or such other authority at the appropriate level who is competent to deal with the matter in the organization.

[Para 2 of OM No. 118/52-Ests dated 30.04.1952]

[Para 2 of OM No. 11013/08/2013-Estt.A-III dated 31.08.2015]

- ❖ **Action by the authorities on the representations from Government servants on service matters:-**

Sl. No.	Type of representation/ grievance	Action by the authorities
1.	(i) Representations/complaints regarding non-payment of salary/allowances other dues. (ii) Representations on other service matters.	If the individual has not received a reply thereto within a month of its submission, he could address or ask for an interview with the next higher officer for redress of his grievances. Such superior officer should immediately send for the papers and take such action as may be called for, without delay.
(2)	Representations against the orders of the immediate superior	These types of representations would be made generally only in cases where there is no provision under the

	authority	statutory rules or orders for making appeals or petitions. Such representations also should be dealt with as expeditiously as possible. The provisions of the Sl. No. 1 above would apply to such representations also but not to later representations made by the same Government servant on the same subject after his earlier representation has been disposed off appropriately.
(3)	Appeals and petitions under statutory rules and orders (e.g. Classification, Control and Appeal Rules and the petition instructions)	Although the relevant rules or orders do not prescribe a time limit for disposing of appeals and petitions by the competent authority, it should be ensured that all such appeals and petitions receive prompt attention and are disposed within a reasonable time. If it is anticipated that an appeal or a petition cannot be disposed of within a month of its submission, an acknowledgement or an interim reply should be sent to the individual within a month.

[Para 2 to 5 of OM No. 25/34/68-Estt.(A) dated 20.12.1968]

❖ **Representations directly to the higher authorities by-passing the prescribed channel of communication-**

- (a) It is observed that there is an increasing tendency on the part of officers at different levels to by-pass the prescribed channels of representation and write directly to the high functionaries totally ignoring the prescribed channels. The problem is more acute in large Departments where often very junior employees at clerical level address multiple representations to the Minister, Prime Minister and other functionaries. Apart from individual representations, the service unions have also developed a tendency to write to the Ministers and Prime Minister on individual grievance. Some of these representations are often forwarded through Members of Parliament, in violation of Rule 20 of the CCS (Conduct) Rules, 1964.

[Para 2 of the OM No. 11013/7/99-Estt.(A) dated 01.11.1999]

[Para 2 of the OM No. 11013/08/2013-Estt.A-III dated 06.06.2013]

- (b) DoPT is also receiving a number of representations on service matters addressed to Prime Minister/ Minister/ Secretary (P) and other higher

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authorities/officers directly from the Government servants including the officers/ officials of para military forces and Army personnel.

[Para 1 of the OM No. 11013/08/2013-Estt.A-III dated 6.06.2013]

[Para 1 of the OM No. 11013/08/2013-Estt.A-III dated 31.08.2015]

- (c) In view of adequate instructions being available in the matter of submission of representations by the Government servants and treatment of the representations by the authorities concerned, submission of representations directly to higher authorities by passing the prescribed channel of communication, has to be viewed seriously and appropriate disciplinary action should be taken against those who violate these instructions as it can rightly be treated as an unbecoming conduct attracting the provisions of Rule 3 (1) (iii) of the CCS (Conduct) Rules, 1964. It is clarified that this would include all forms of communications including through e-mails or public grievances portal etc.

[Para 4 of the OM No. 11013/7/1999-Estt.A dated 01.11.1999]

[Para 4 of the OM No. 11013/08/2013-Estt.A-III dated 06.06.2013]

[Para 3 of OM No. 11013/08/2013-Estt.A-III dated 31.08.2015]

❖ **Treatment of Advance copies of representations so received should be governed by the following general principles-**

- (a) If the advance copy does not clearly show that all means of securing attention or redress from lower authorities have been duly tried and exhausted, the representation should be ignored or rejected summarily on that ground, the reasons being communicated briefly to the Government servants. If the Government servant persists in this prematurely addressing the higher authorities, suitable disciplinary action should be taken against him.
- (b) If the advance copy shows clearly that all appropriate lower authorities have been duly addressed and exhausted, it should be examined to ascertain whether on the facts as stated, some grounds for interference or for further consideration, prima facie exist. Where no such grounds appear, the representation may be ignored or summarily rejected, the reasons being communicated briefly to the Government servant.
- (c) Even where some grounds for interference or further consideration appear to exist, the appropriate lower authority should be asked within a reasonable time, to forward the original representation, with its report and comments on the points urged. There is ordinarily no justification for the passing of any orders on any representation without thus ascertaining the comments of the appropriate lower authority.

[Para 3 of OM No. 118/52-Ests dated 30.04.1952]

❖ **Representation from the relatives of Government servant**

Relatives of a Government servant sometimes make representations concerning service matters affecting the Government servant. This is done in some cases

in the hope of reviving a representation which the Government servant had himself made and which had been turned down. In some cases, this procedure is resorted to in order to get round the requirement that the Government servant should submit his representation through his official superiors. The practice is obviously undesirable, and should be strongly discouraged. It has accordingly been decided that no notice should be taken of a representation on service matters submitted by a relative of a Government servant. The only exceptions may be cases in which because of the death or physical disability, etc. of the Government servant, it is impossible for the Government servant himself to submit a representation.

[OM No. 25/21/63-Ests.(A) dated 19.09.1963]

❖ **Disciplinary Action on violation of these instructions**

Appropriate disciplinary action may be taken against those who violate these instructions.

[Para 5 of the OM No. 11013/7/1999-Estt.A dated 01.11.1999]

[Para 5 of the OM No. 11013/08/2013-Estt.A-III dated 6.06.2013]

Part-B: Redressal of grievances – recourse of courts of law by Government

- (a) Government servants seeking redress of their grievances arising out of their employment or conditions of service should, in their own interest and also consistently with official propriety and discipline, first exhaust the normal official channel of redress before they take the issue to a court of Law.
- (b) Where, however, permission to sue Government in a court of Law for the redress of such grievances is asked for by any Government servant either before exhausting the normal official channels of redress or after exhausting them, he may be informed that such permission is not necessary.

[OM No. 25/3/59-Ests.(A) dated 21.04.1959]

[OM No. 25/29/63-Ests.(A) dated 26.11.1963]

Note: List of the OMs mentioned in this document is annexed. In case any reference to the relevant OM is required, the same may be accessed by clicking on the hyperlink or from the Archive Section of DOPT's website.

List of OMs mentioned in this Document

1. OM No. 118/52-Ests dated 30.04.1952
2. OM No. 25/3/59-Ests.(A) dated 21.04.1959
3. OM No. 25/21/63-Ests.(A) dated 19.09.1963
4. OM No. 25/29/63-Ests.(A) dated 26.11.1963
5. OM No. 25/34/68-Estt.(A) dated 20.12.1968
6. OM No. 11013/7/99-Estt.(A) dated 01.11.1999
7. OM No. 11013/08/2013-Estt.A-III dated 06.06.2013
8. OM No. 11013/08/2013-Estt.A-III dated 31.08.2015