

## **CHAPTER 4**

### **CASE STUDIES**

According to the 2011 Census, the literacy rate was reported to be 82 percent among the Indian men and 65 percent among the Indian women. Women constituted 30 percent of the workforce in rural areas and 15 percent in the urban areas. The average daily wage rate reported for the previous year for the Public Sector was Rs. 619 for men and Rs. 328 for women per day. In the Private Sector, men were reported to be earning Rs. 255 while the women earned Rs. 139, per day. While the above figures reflect the educational and financial inequalities between men and women in the workforce, the other disadvantage the women workers face pertains to the danger of their being subjected to sexual harassment at the workplace.

The Sexual Harassment at Workplace Act, which was enacted in the year 2013, provides protection to women, against sexual harassment in the workplace, both public and private, through the Internal Complaints Committees constituted for the redressal of complaints. An attempt was therefore made to speak to a few employees who had been confronted with the problem of sexual harassment at workplace. Based on these interactions / interviews, seven case studies were prepared to understand the problem of sexual harassment at workplace and how, if

at all, the enactment of the Sexual Harassment of women at Workplace (Prevention, Prohibition and Redressal) Act had made a difference to the situation. Out of these seven cases, being put forth, we found two cases where the provisions of the Act had been misused by lady officers to harass the male employees for the advantage of the former. In another case, The Internal Complaints Committee did not prove to be effective and the relief came through the copy of the complaint sent to the police. Women mostly appeared to be averse to filing written/formal complaints due to the fear of social stigma and retaliatory actions.

### **Case study 1 — the case of Ms. B**

A Lady Officer, Ms. B, was posted in Delhi. She noticed that when she went to the bus stop in the evening while leaving the office for home or when she arrived at the bus stop in the morning while coming to office, one person used to follow her. Initially she tried to brush aside this feeling. Soon she realised that the matter was serious as that person started following her up to her office building and even inside, to her section. Naturally, she got scared. Fortunately for her the Section Officer was a lady, with whom she decided to share her problem. By this time she also realised that the person following her was himself a government officer who worked in a government office adjacent to the one in which her office was located. Her officer was alarmed and decided that something had to be done. However the Lady Officer, who was being stalked, was not willing to give a

written complaint to the Internal Complaints Committee of her office. In any case her supervisory officer was prompt enough to take immediate action to help her and to ensure her safety and security. The Security Officer of the building was informed and the matter was also taken up with the Security Officer of the adjacent building. The accused was caught red handed the next evening and was given a warning that action will be taken against him if he continued to follow Ms. B. He was threatened with serious action under the rules pertaining to the prevention of sexual harassment of women at workplace. The matter was resolved as the offender stopped following the Lady Officer Ms. B.

Here we find that the Lady Officer facing the problem was not agreeable to giving a written complaint against the person who followed her. However she did make an oral complaint to her supervisor, who fortunately took action to end the menace.

### **Case study 2 — the case of Mr. A**

The office of an Under Secretary level officer, in Government of India, suffered from lack of staff. As such a few contractual data entry operators, both male and female, were appointed. One of them, a female, was posted with Mr. A. She was not very sincere as far as her work or following the office timings were concerned. One evening when Mr. A had some important work to finish, this lady decided to leave early for home. When Mr. A objected to this she started crying

and ran out of his room. She was supposed to type some notes on the computer. She then gave a written complaint against Mr. A, in which she said that he had tried to sexually harass her just because she was a female working under him.

The matter was placed before the Internal Complaints Committee of the department and even before any concrete hearing in the meetings of the Internal Complaints Committee, could be held, Mr. A was transferred to another department of the same ministry, on the basis of this complaint. The complainant never appeared before the Internal Complaints Committee, nor did she pursue her complaint. Mr. A had a different version to give. According to him the lady was not a sincere worker and had been admonished by him on several occasions, but she refused to improve. Just when she feared that she might be removed from her job, she filed a complaint against Mr. A. He said he was put in a very embarrassing situation, both personally and professionally. His surrender/ transfer to the other office had also damaged his reputation. All he had done was try to enforce discipline.

The fact that the complainant did not pursue the complaint nor did she appear before the Internal Complaints Committee, where as Mr. A was always under obligation to do so, confirms the fear of the misuse of the law for the protection of women against sexual harassment at workplace.

### **Case study 3— the case of Ms. S**

Ms. S is a Lady officer belonging to one of the group A civil services. She also experienced sexual harassment in the workplace. In one particular office she had to face harassment in the form of sexually coloured remarks from a male colleague. She could not understand why this particular colleague always tried to indulge in such actions like passing comments on her clothes and appearance. Apart from this he would also refuse to acknowledge the indifferent or rather unwelcoming reaction from Ms. S. Things would have continued to remain so but the two of them were put together to work on a project for which Ms.S was expected to stay back in office even after the normal office hours, and was also required to come to office on non-working days. Ms. S was apprehensive about this and she tried her best to convince her boss. However the boss being a good friend of the offender, did not pay heed to her request of not putting her on the same project as the other officer. In fact Ms. S was ridiculed for not behaving like a directly recruited officer. She tried to put in a formal written complaint, as she was aware of the provisions of the Act pertaining to the prevention, prohibition and redressal of the sexual harassment of women at workplace, which had been enacted and notified in 2013. To her utter surprise, she was told that no Internal Complaints Committee had been constituted in that office, as was compulsory under the Act. She made repeated requests to the administration for the formation of this

committee. After a number of requests the Internal Complaints Committee was formed. She complained to the committee, against the offender. A few meetings were held by the enquiry committee, but Ms. S found that the members of the committee were not very keen to pin down the offender. In fact the meetings were held away from the main office and Ms. S had to make arrangements to go to those places as well. After some months she lost interest and energy to follow her complaint and stopped attending the meetings of the enquiry committee. She does not know if any action that was taken against the offender even till date.

#### **Case study 4— the case of Mr. D**

Mr. D was a Section Officer in the Government of India. He had completed nearly forty years of service and his retirement was due in another month. He was given the charge of the Receipt and Issue section, wherein he had to supervise staff consisting of two ladies and three men. One of the ladies, posted recently to the section, did not follow discipline and was not punctual, either in reporting for work or clearing the pendency of receipts on her table. It was also rumoured that she used to try to earn some extra money from the people who used to come to the counter with enquiries or to deposit dak. The Section Officer was a bit suspicious of her and used to keep a strict watch, due to which she always felt offended. One day Mr. D noticed that she was trying to negotiate with someone who had arrived with a letter. On enquiry Mr. D found a five hundred rupee note lying on the table.

On being asked about this, the lady as well as the guest said it did not belong to them. This annoyed the Section Officer, as he had noticed them talking in whispers (which were not audible to him). The lady started arguing with Mr. D. and charged him with harassment and torture. Mr. D reported the matter to his superior officers who in turn asked him to serve a memo to the lady as to why she was not attending to the job at her table, and clearing the pendency of about a hundred receipts, rather than talking to others and wasting time. Mr. D followed the orders and served the lady with a memo. She immediately went out of the section and did not return to the section that day. The next morning she came to office and immediately went out on the pretext that she was not feeling well. Actually she had gone to the police to lodge a complaint against the Section Officer. There she gave a written complaint alleging various types of sexual-harassment being meted out to her by the Section Officer and for which she wanted action to be taken against him. When Mr. D came to know of the complaint, he immediately went to his seniors and informed them. His submission was that he had only done his official duty and the allegation made against him was false. He was being framed for trying to discipline the lady and prevent dishonesty. Besides, there was an Internal Complaints Committee in the department and if the lady had any such complaint she should have first approached the members of the committee. Instead of that, she lodged a complaint with the police. The matter was sorted out through

reconciliation between the two by the senior officers and the head of the Administration in the department. The lady was transferred from that section.

Maybe the awareness about the Act was not there - as according to the lady she was not aware about the existence of the Internal Complaints Committee in the department, or the department had not properly informed its employees, or maybe she found the path chosen by her to be more effective. However, Mr. D felt that the law was misused by the lady.

#### **Case study 5— the case of Shrimati P**

Shrimati P was posted to an office where she happened to be the only Lady officer at the middle management level. She was very young, being a direct recruit, compared to the other officers and colleagues of her level. Her problem started when a new officer joined as the head of the office. Although she never gave any reason to the head of the office to complain about her work, it seems there were other expectations which she, being of an introvert nature, refused to fulfill. She never went to or remained a while longer, in the room of the boss, unless required. Probably her male colleagues felt that she needed to be taught a lesson. Apart from making fun of her behind her back, which she often got to know about, they started passing snide comments about her even in her presence. The matter became very disturbing when one of these male colleagues started making sexually coloured



remarks about Shrimati P and the previous Boss, insinuating that due to reasons not known to the office, and maybe with some ulterior motives, the previous Boss had given an outstanding rating to this lady, which he thought that Srimati P did not deserve. This he openly mentioned in one meeting, in front of the present boss and twelve to thirteen other colleagues. Shrimati P walked out of the meeting, feeling very hurt and humiliated. She decided to complain against that particular officer so that her predicament would come to an end. She was fed up with his regular remarks and comments against her. She sent a written complaint to the current Boss, and marked a copy to the local office of the National Commission for Women. For the next three months, she kept waiting for the boss/ administration to take cognizance of her complaint and take action, but nothing happened. No Internal Complaints Committee had been constituted in that office so far. In the meanwhile, the National Commission for Women forwarded the complaint to the local police which visited the office to record the statements of all the people mentioned in the complaint. Now the office administration woke up but only to blame Shrimati P of bringing a bad name to the office by complaining over a minor affair. All this led to further psychological harassment and mental torture for her. Somehow the Internal Complaints Committee was formed. But the members chosen were all in some ways, biased against the complainant, as if not the act of harassment but the making of its complaint was unfortunate. Shrimati P also got

the shock of her life when the lady chairing the Internal Complaints Committee, started pressurizing her to withdraw the complaint or agree for reconciliation, which of course she did not agree to. After the passage of a few months, Shrimati P happened to meet the Chairperson of the organization and apprised him of the matter. Only then was the offender transferred out of that office, as a token of action against him in the harassment case. But within a month, just as that Chairperson retired, he (the accused officer) was back to his previous office and held the charge till his retirement one year later. Although not much came out of the complaint to the department, the coming in of the police fortunately resulted in some action and a change in the overall behavior of the accused officer with other officers and officials, specially the ladies with whom his behavior used to be very rude and ill-mannered.

The Internal Complaints Committee ,which was formed after much delay and many requests, did not prove to be of much use, nor could it provide any relief to the harassed lady officer in this case.

### **Case study 6 — the case of Ms. R**

Ms. R is a lady officer who was handling vigilance matters in her office which happened to be a Directorate of the Government of India. A complaint was received against one senior officer and as the nature of the complaint was serious,

she started processing and analyzing it for submission to the superiors for decision regarding action to be taken against the officer as per rules. It is not understood as to how, but the officer got to know that such and such complaint received against him was being processed by this lady. Initially he tried to persuade her not to process the matter and if at all to be processed, it may be done at a very – very slow speed so that it may take months or years before any decision could be arrived at in the matter. Being a responsible officer, Ms. R politely refused to do so. Also, his behavior showed that there was in fact some truth in the complaint. On being refused, that officer felt offended and threatened to teach Ms. R a good lesson but she refused to be intimidated by all this. When that offender could find no other way to harm or manipulate Ms. R, he sought refuge in what has been the easiest offensive against women- character assassination. He started planting stories about Ms.R and her male colleagues. Sometimes anonymous letters would be found on the table of colleagues in her office, which would be full of dirty, concocted stories about her. All this was very disturbing for Ms. R. Even her husband felt very agitated. She decided to discuss this with her boss. Her husband encouraged her to file a complaint against the offender but the problem was that there was no proof or witness in all this matter. So Ms. R felt this might not be of any help in her case. However, the boss was very supportive and understood her predicament. On the basis of her oral complaint, he decided to counsel the offender

with the hope that he may stop disturbing the lady. As was expected, the accused denied having indulged in any such act. But in view of the sensitive matter being handled by the lady, and to allow her peace of mind, some adjustments were done by posting her in another building, in the same town, which was also not inconvenient to her. The vigilance case was also dealt with expeditiously and after an enquiry, a decision was taken to charge-sheet the offender.

Ms. R did not put in a formal complaint for sexual harassment as she did not want to be involved in any confrontation with that particular officer. Like many other female employees, although she was aware that she could take recourse to the Internal Complaints Committee formed under the aegis of the Sexual Harassment of Women at workplace (Prevention Prohibition and Redressal) Act, which was already in place, she chose not to file a formal complaint.

### **Case study 7 — the case of Shri H**

This incident took place in the zonal headquarters of a Directorate of the Government of India. There happened to be some problem between the senior officers and the Staff Association, the members of which were very aggressive. They would repeatedly come to the officers' rooms and barge in with their demands and allegations. They would even gherao and lock the rooms used by the administration, at times. The episode being discussed, took place in the room of the

head of office. One day all the staff members, including a lot of women employees, came to the room of the head of the office (Shri H) and surrounded him raising demands that their names may be excluded from the list of officers deputed for election duty. Actually, he had no role in the formulation of the list, nor could he bring about any changes in the same. The women staff members, one of whom was the wife of the President of the Staff Union who was the main culprit behind the agitating employees, happened to be right in the front. In order to avoid the gherao - kind of a situation, the head of the office just got up and pushed his way through the people who were there in his room. The people who were there did not stop him. He went out of the room, even the staff members went away. But later he was accused of molesting the wife of the leader of the Staff Union. Simply because she was in the front, it was alleged that while he was making his way out of the employees' gathering, he may have unintentionally touched her. Shri. H was very clear nothing of the kind had even remotely happened. However, a written complaint of sexual harassment was given against him to the office. Unfortunately there was no Internal Complaints Committee existing in the office as per the requirements. It was constituted in a very hurried manner, wherein two retired lady judges of the district courts, were members along with one retired male district judge. It was headed by a senior lady officer. An enquiry was conducted by this committee. The staff members of the office along with the members of the union

were asked to give their versions of the incident. This caused a lot of disturbance to the male officer who was complained against. After some time the lady who had complained, realised that her complaint was not going to hold ground, since it was based on fictitious considerations. She stopped appearing before the committee. As a result the committee came to the conclusion that the complaint was not genuine. Later, disciplinary proceedings were initiated against the lady.

Misuse of the provisions of the law to arm-twist the senior or the administration to accept even illegitimate demands of the employees, including women, is evident in this case.

### **Some other cases in the public domain**

A few cases of sexual harassment at the workplace reported in the public domain are discussed below ---

Senior IAS officer Rupan Deol Bajaj complained in 1988 that former Punjab Director General of Police, KPS Gill, touched her inappropriately, at a party. The trial court convicted KPS Gill in 1996. The Supreme Court upheld the decision in 2005, but the former top police officer did not have to serve any jail sentence.

When the case of involvement of Nobel Laureate, Padma Bhushan and Padma Vibhushan, R K Pachauri, in an incident of sexual harassment unfolded, it was indeed very shocking. The case was filed against him by a young female colleague

working with him at The Energy Resource Institute, (TERI). The complainant also filed an FIR with the police. The case has been lingering on due to the influence wielded by Pachauri, over the institution. When the Enquiry began in TERI, Pachauri proceeded on leave but he returned and resumed the charge of DG there and continued to do so even while the enquiry was going on. The institution failed to provide the complainant with a safe working place. Even her colleagues did not come out openly to depose as witnesses in the case. Pachauri claimed innocence but the Court found sufficient evidences to admit a case against him. Before filing a complaint with the police, the complainant, a former researcher at TERI, had also filed a complaint with TERI's Internal Complaints Committee, a body mandated by law to investigate complaints of sexual harassment in workplaces. Subsequent to the filing of the report by the Internal Complaints Committee, in which he was found guilty, Pachauri took the matter to the Industrial Tribunal, alleging that the ICC had relied on anonymous statements from unknown witnesses and had also rushed the enquiry. The Delhi Police filed a charge sheet against Pachauri, in March, 2017, accusing him of criminal offences including the intent to outrage the modesty of the woman, sexual harassment, stalking, and criminal intimidation under IPC. The matter has still not attained finality.

Another high profile case of sexual harassment happened to be involving the former Supreme Court judge A K Ganguly, then the head of the West Bengal

Human Rights Commission, in 2014. He had to step down from the position after a law intern accused him of having sexually harassed her, in a hotel room. A three-member Supreme Court panel indicted him for 'unwelcome behaviour' after which, he had to resign.

A senior police officer in Chhattisgarh was accused of sexual harassment in the workplace. In April 2015, a woman police sub-inspector accused Additional Inspector General Sanjay Sharma, who was posted in the intelligence department at Raipur at that time, of molesting her in the elevator of the old police headquarters in Raipur. An Internal Complaints Committee found Sharma guilty following which the state Home Department suspended the officer.

In another case from Chhattisgarh, Constable, Ms T had filed a complaint of sexual harassment against Pavan Dev, who was the Inspector General of Bilaspur division at that time. He used to call on her mobile all the time, and even after office hours, or very late in the night. After a month, the state police chief formed the investigation committee to look into her complaint. The report, which should have been completed in 90 days as per the Sexual Harassment of Women at Workplace Act, 2013, was delayed by over three months mainly because of delays in acquiring relevant information. It said that two key elements could not be investigated. Despite repeated requests by the investigating committee, Pawan Dev made excuses to avoid appearing for a voice sample analysis test that could have



been compared to the voice in recordings of phone calls made by the complainant. Similarly, the liquor contractor, in whose name the mobile phone sim used to make some of the phone calls to the woman constable, was registered, also avoided appearing before the committee.

In the case of Professor Bidyut Chakrabarty of Delhi University, the molestation charge against him was levelled by an employee of the university. After the FIR was lodged by the complainant, the police investigated the case and filed a report with the court saying that no evidence was found to sustain the charge. However, instead of requesting the court to close the case, the police left the matter to it to summon the professor if it deemed fit. Prof. Chakrabarty then moved the High Court seeking quashing of the charge. The Court said that in view of the fact that there was no evidence that the alleged incident had taken place or the petitioner had threatened the complainant or molested her as alleged, rather the sequence of events shows that only scolding had taken place to the employees on their not being present during working hours therefore no proceedings could be initiated against the petitioner keeping in view the charge-sheet filed by the police which was more in the nature of a closure report. Therefore, the High Court allowed his petition. The investigating officer had made enquiries from different staff members working with the professor, as well as from tea vendors and other witnesses available outside the premises to find out the truth. But no one had

supported the charge. Expressing surprise over the move of the investigating agency, Justice Dhingra said: ``Normally whenever after investigation if no evidence comes on record to confirm commission of crime, a closure report is filed. However, in this case instead of filing a closure report, a strange report was filed by the police that though there was no evidence to confirm the incident, however, court may still summon the accused, if it considers appropriate.’’ (As reported in the Hindu, 18<sup>th</sup> April, 2007)

In the case of Ms. Manisha Sharma, an officer with the Railways, it so happened that while she was serving as a Senior Divisional Accounts Officer at a Division Accounts and Finance Department of Northern Railway, Manisha Sharma used to report to Mr. Raj Kumar, who was working then as a Divisional Railway Manger of the Division. In the course of a meeting, the appellant was asked to be seated next to Mr. Raj Kumar on the sofa. While other officers were engrossed in discussions, Mr. Raj Kumar tried to put his arm around Ms Sharma and made physical and sexual gestures. She was taken aback and although she could not react immediately, she just got up from the sofa, in an extremely disturbed state of mind, and made an abrupt exit. She gathered all the courage and reported the matter to the Financial Advisor and Chief Accounts Officer, who was also present at that time, who assured her that he would inform the General Manager immediately about the incident and would also arrange a meeting with the General Manager. On

coming to know that no action was taken on the incident and fearing further sexual harassment at the hands of Mr. Kumar and feeling insecure at her workplace, she was constrained to proceed on leave. Having noticed that no action would be taken, she wrote a letter requesting the senior boss to take immediate action about the incident. After the said letter, she was denied leave and was compelled to join back service which she did. Another horrible incident took place in a month's time when the same person tried to sexually harass her while they were on an inspection visit. Her husband apprised the General Manager about the details regarding various incidents and how she was sexually harassed by the officer who was heading the Division in which she was working. However no action was taken against the offender while she was transferred. She submitted another complaint to the administration and also approached the National Commission for Women. Subsequently a Complaint Committee was formed but its composition was not as per rules. It questioned her and not the accused. The inquiry was closed without any conclusion. Another Committee was formed but it concluded that the charges were not established. She went to the High Court against this enquiry report. The matter dragged on and judgment came in December 2012, wherein the court set aside the Committee's report. The accused had retired a few years back and no purpose was to be served in directing a fresh fact finding inquiry, because even if the accused were to be found guilty, the question of any disciplinary proceeding

against him did not arise. She was anguished that, in spite of being brave enough to raise her voice in this regard, at the cost of being subjected to social stigma and ridicule by all concerned, she at the end, had been falsified. The Court declared that the complaint of sexual harassment by her, remained to be properly looked into and thus it can also not be said that the complaint was false. The only relief she got from the court was in the form of direction to the respondents to count her period of leave during the period of the case, for the purposes of qualifying service for promotion and retirement benefits as well as to pay her the salary for the time she proceeded on leave. A compensation of Rupees five lakhs, was ordered to be paid by the respondent Railways along with rupees fifty thousand as the cost of the legal proceedings. The Railways appealed against this order, in the Supreme Court, but there the matter was dismissed, and the judgment delivered by the High Court was upheld.

Although these case studies have been taken from the government sector, it is clear that sexual harassment can occur in the public sector, in the organised and unorganised sector, as well as in large or small enterprises. It can happen at any level of hierarchy in any organisation. It is all pervasive. In different situations the victims react differently but even today the most common reaction is to try to ignore the incident. Many women do not like to file a written complaint or take up

the matter with the Internal Complaints Committee, even when it exists, as they are afraid of the consequences and many a times do not have faith in the system.

Apart from these cases, there have been many other cases of sexual harassment of women employees, by their seniors, in the government as well as the private sector. Incidences of sexual harassment happen to be there but they are either under-reported or not reported at all, due to the social stigma attached to them, which ironically, gets linked mostly with the victim, rather than with the male accused. It ranges from offensive jokes and sexist comments to provocative mail, messages or sexually related extreme behavior.

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## **CHAPTER- 5**