STANDING ORDER 1/2006

SUB: GRIEVANCES REDRESSAL MECHANISM: TO REDRESS GRIEVANCES OF WOMEN/SEXUAL HARASSMENT AT WORK PLACE.

The Constitution of India has given to women, the Fundamental Right to equality and the Right not to be discriminated against on grounds of religion, caste and sex. The constitution includes a special provision in Article 15 (3), permitting the State to make special provisions in favour of women by enacting Laws/provisions so as to advance their social economic and political condition and to accord them parity.

2. Sexual harassment of women at the workplace violates their sense of dignity and right to earn a living with dignity and is against their fundamental rights and their basic human rights. The International Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) adopted in 1979 at Beijing also recognized the right of women to equality at the workplace and it states that women shall not be subjected to sexual harassment at workplaces; as such harassment vitiates the working environment.

3. The Hon’ble Supreme Court in the matter of Vishaka and others Vs State of Rajasthan and others (AIR 1997 SC 3011) while recognizing the International Convention and norms has interpreted gender of women, in relation to work and held that sexual harassment of women at the workplace, which is against their dignity is a clear violation of the fundamental rights of “Gender Equality” and the “Right to Life and Liberty” enshrined in Article –14, 15 and 21 of the Constitution of India. Other logical consequences of such an incident is also the violation of the victim’s fundamental right under Article –19 (1) (g) ‘to practice any profession or to carry out any occupation; trade or business’. Gender equality includes protection from sexual harassment and right to work with dignity.

4. In absence of enacted law to provide for the effective enforcement of the basic human right of gender equality and guarantee against sexual harassment and abuse more particularly against harassment at work place, the Hon’ble Supreme Court has laid down the guidelines and norms for compliance at all workplaces and institutions. Under Article 141 of the Constitution, these guidelines and norms of the Hon’ble Supreme Court are required to be treated as THE LAW OF THE LAND.
The National Commission for Women, a statutory and autonomous body constituted by the Government of India is working for justice for women, safeguarding their rights, and promoting women's empowerment. The NCW consequently formulated a code of conduct for workplace putting down the Supreme Court guidelines in a simple manner which has been widely circulated.

Arrangements at various levels have been made to ensure that the women employed in Departments work with utmost dignity and are free from all types of sexual harassment. Accordingly, following scheme of arrangements has been devised for SSB:

6. **DEFINITION**

Sexual harassment will include such unwelcome sexually determined behaviour by any person either individually or in association with other persons or by any person in authority whether directly or by implication such as:-

i) Physical contact and advances.
ii) A demand or request for sexual favours.
iii) Sexually coloured remarks.
iv) Eve-teasing.
v) Unsavoury remarks.
vi) Jokes causing or likely to cause awkwardness or embarrassment.
vii) Innuendos and taunts.
viii) Gender based insults or sexiest remarks.
ix) Unwelcome sexual overtones in any manner such as over telephone (obnoxious telephone calls) and the like.
x) Touching or brushing against any part of the body and the like.
x) Displaying pornographic or other offensive or derogatory pictures cartoons, pamphlets or sayings.

xii) Forcible physical touch or molestation.

xiii) Physical confinement against one's will and other act likely to violate one's privacy.

xiv) Any other unwelcome physical verbal or non-verbal conduct of sexual nature.

And includes any act or conduct by a person in authority and belonging to one sex which denies or would deny equal opportunity in pursuit of career development or otherwise making the environment at the workplace hostile or intimidating to a person belonging to the other sex, only on the ground of sex.

For any further interpretation, elaboration or explanation in the, matter or any of its ingredient thereto, the judgement of Hon'ble Supreme Court or the guidelines of National Commission for Women may be referred to which are being annexed.
7. **DUTY OF THE HEAD OF THE UNIT/OTHER RESPONSIBLE PERSONS IN WORK PLACES**

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<th>Description</th>
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<td>1.</td>
<td>He shall take all necessary steps at work place to prevent or deter the commission of acts of sexual harassment or the acts outraging/insulting the modesty of a women employee.</td>
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<td>2.</td>
<td>He shall ensure that women employee is not be treated as sex object.</td>
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<td>3.</td>
<td>He shall provide for the proper grievance redressal &amp; remedial mechanism in the unit for the purpose.</td>
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<td>4.</td>
<td>He would enforce express prohibition of sexual harassment as defined above at the work place and get it notified, published and circulated in appropriate ways.</td>
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<td>5.</td>
<td>He would augment appropriate work conditions in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at work places and no women employee should have reasonable grounds to believe that she is disadvantaged in connection with employment.</td>
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<td>6.</td>
<td>He will ensure suitable arrangements for prevention of sexual harassment as a result of an act or omission by any third party or outsider and would provide necessary and reasonable assistance to the affected person in terms of support and preventive actions.</td>
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8. **CRIMINAL PROCEEDINGS**

Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the head of unit/competent authority shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

In particular, it should ensure that victims or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

9. **COMPLAINT COMMITTEES**

Complaint Committees at two levels will exist in SSB i.e. Central Complaint Committee at the Directorate and Frontier Complaint Committee at the Frontier level.
(a) The Central Complaint Committee will consist of the following:

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<tr>
<td>i</td>
<td>Chairperson</td>
<td>One lady officer of the rank of DIG/Commandant rank to be</td>
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<td>appointed by IG (Pers).</td>
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<tr>
<td>ii</td>
<td>Member-I</td>
<td>One lady Gazetted Officer to be appointed by IG (Pers).</td>
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<tr>
<td>iii</td>
<td>Member-II</td>
<td>Nomination from an NGO recognized by NCW or One Counselor from</td>
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<td>NGO (nomination from an NGO recognized by NCW) to be solicited</td>
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<td>by the Chairperson of the Committee.</td>
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<td>iv</td>
<td>Member-III</td>
<td>AD (Legal) Force Headquarters or the senior most Law Officer.</td>
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(b) Frontier level Complaint Committee will be constituted as follows:

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<tr>
<td>i</td>
<td>Chairperson</td>
<td>One Gazetted rank lady officer to be appointed by the Frontier</td>
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<td>IG.</td>
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<tr>
<td>ii</td>
<td>Member-I</td>
<td>One counselor from an NGO (Nomination from an NGO recognized</td>
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<td>by NCW to be solicited by the Chairperson of the Committee)</td>
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<tr>
<td>iii</td>
<td>Member-II</td>
<td>Legal Officer of Frontier (Ex-officio member).</td>
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1. Chairman of committee should be senior to the officer / official against whom the complaint is made.

2. Wherever Frontier IG does not have a higher rank woman officer to be appointed in the Frontier level committee (i.e. there is no SSB, officer of commensurate rank available, in case where complaints are against senior officers) IG shall immediately get in touch with IG (Pers) and seek placement of an officer from any Central Govt. organization.

3. Where the required number of senior officers are not available within the organization, member should be co-opted from other Central Government Departments.

4. In case complaint is against the Frontier IG himself, the matter will be viewed / looked into at the level of Central Complaint Committee.

5. Proper safety and security of the complainant and witness shall be ensured by the concerned unit / office.
(c) The charter of the Central Complaint Committee and the Frontier Complaint Committee would, interalia, include:

<table>
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<tr>
<th>CENTRAL COMPLAINT COMMITTEE</th>
<th>FRONTIER COMPLAINT COMMITTEE</th>
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<tr>
<td>1. Enquiry into any matter of sexual abuse in the organization - Suo motto or on complaint with the option to enquire at its own level or assign the task to Frontier Committee.</td>
<td>1. Enquiry into any matter of sexual abuse under the Frontier.</td>
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<td>2. Monitoring all such cases including reports received from Frontiers.</td>
<td>2. Keeping Central Complaint Committee informed of all such matters coming to light and work in close liaison with the Central Complaint Committee seeking proper guidance as required.</td>
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<tr>
<td>3. Ensuring follow up action to its logical end.</td>
<td>3. Submitting enquiry report to the Frontier IG and to solicit further required action.</td>
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<td>4. Submitting annual report to MHA, other bodies as required.</td>
<td>4. Submission of periodical reports to central complaint committee as may be prescribed by the Central Committee from time to time.</td>
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<tr>
<td>5. Any other duties assigned by DG.</td>
<td>5. Any other duties assigned by the Frontier I’s G.</td>
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<tr>
<td>6. Secretarial and logistical assistance to the Central Complaint Committee will be provided by Pers Branch of Directorate General. Central Complaint Committee shall route its reports through IG (Pers) who would keep ADG and DG, SSB apprised and ensure proper action.</td>
<td>6. The secretarial and logistical assistance to FTR Committees would be provided by Frontier I’s G from its local resources. Frontier IG shall ensure that all complaints are properly disposed of to their logical end. He would exercise all powers of the head of the department in this respect under his jurisdiction unless a particular matter falls within the jurisdiction of the Central Committee or it would otherwise be appropriate for the Central Committee to take up the matter or it requires further action at the level of IG (Pers/FHQ) / DG, SSB.</td>
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10. **COMPLAINT MECHANISM**

This procedure/mechanism has been devised in pursuance of Hon'ble Supreme Court Judgment dated 26.04.2004 in the matter of Medha Kotwal Lele & Ors Versus UOI & Ors. WP (Crl) No.173-177-1999 and Govt. of India, Ministry of Personnel, Public Grievances & Pensions, DOP&T Notification dated 01.07.2004 signed by Smt. Pratibha Mohan, Director from file No.11012/5/2001/Estt.(A), para 6 (Complaint Mechanism) is as under:-

i) Any person aggrieved shall prefer a complaint before the Complaints Committee at the earliest point of time.

ii) The Complaint shall contain all the material and details concerning the alleged sexual harassment including the names of the contravener and the complaint shall be addressed to the Complaints Committee.

iii) If the Complainant feels that she cannot disclose her identity for any particular reason, the complainant shall address the complaint to the Frontier IG/IG (Pers, FHQ) and handover the same in person or in a sealed cover. Upon receipt of such complaint, Frontier IG/IG (Pers, FHQ) shall retain the original complaint with himself and send to the Complaints Committee, a gist of the complaint containing all material and relevant details other than the name of the complainant and other details, which might disclose the identity of the Complainant.

iv) As soon as an enquiry into any complaint of women regarding sexual harassment is entrusted to the Complaints Committee, the Chairperson shall open a daily order sheet to proceed with the case as envisaged in Rule 14 of CCS (CCA) Rules 1965 and maintain the same during the course of entire enquiry.

v) The entries in the daily order sheet are to be signed by the Chairperson of Complaints Committee, alleged Officer/official and witnesses as the case may be.

vi) In the preliminary hearing the Chairperson should serve gist of complaint to the alleged officer/official (in the form of articles of charge) and he should formally be asked whether he pleads guilty or not based on the complaint.

vii) If the charges are denied, the complainant should be asked to produce her witnesses if any before the Complaints Committee for recording their statements.

viii) Cross examination of the witnesses should be allowed by the complainant and alleged officer. However, cross examination of complainant by the alleged officer is permissible as per Indian Evidence Act 1872 subject to the directions as laid down by Hon'ble Supreme Court of India in AIR 2004 SC 3566-Sakshi Vs UOI & Others i.e. to say “Questions put in cross examination on behalf of
accused (charged officer in our case), which relate directly to incident, should be given in writing to the Chairperson of the Complaints Committee who may put them to victim or witnesses in a language which is clear and NOT EMBARRASSING.” The questions shall thus be vetted by the Chairperson of such Complaints Committee.

ix) The cross examination of witnesses should be with strict regard to decency and should not be against the dignity of the women.

x) During the course of enquiry by the Complaints Committee, the question of relevancy is to be decided by the Chairperson and aggrieved provided with opportunity of being heard.

xi) There may not be any Presenting Officer but a Defence Assistant shall, be provided during the course of enquiry and rest of the enquiry shall be completed as per the provisions provided in CCS (CCA) Rules 1965 or as per the provisions of any other Rules.

xii) The statement of witnesses to be authenticated by the signature of witnesses, the alleged officer/official and the Complaints Committee Chairperson.

xiii) After completion of recording statement of witnesses (say from the prosecution side), the alleged officer/official should be given opportunity to produce defence, if any. It shall be ensured that the Rule of Law & principles of natural Justice are strictly followed.

xiv) The Committee to give the findings / opinion after recording the defence and proceedings of cross examination of Defence Witnesses, documents etc if any.

xv) In the order dated 26.4.2004 in Writ Petition (Crl.) No.173-177/1999 (Medha Kotwal Lele & Others Vs Union of India and Others) the Supreme Court has directed that “the report of the Complaints Committee shall be deemed to be an inquiry report under the CCS (CCA) Rules. Thereafter the disciplinary authority will act on the report in accordance with the rules.” Sub-rule (2) of rule 14 of the CCS (CCA) Rules, 1965 has accordingly been amended to provide that the Complaints Committee shall be deemed to be the inquiring authority appointed by the disciplinary authority for the purpose of these Rules by the Notification No.11012/5/2001-Estt.(A) dated 01.07.2004 (GSR 225 dated 10th July, 2004) and the report of the Complaints Committee should be treated as an enquiry report.

On receipt of the findings from Complaints Committee, copy of the same should be provided to the alleged officer/official for his reply representation by the disciplinary authority (Govt in the case of the Group ‘A’ Officers).
xvii) On receipt of representation if any submitted by the alleged officer/official, the case should be finally decided by the competent authority as per procedure laid in CCS (CCA) Rules or CRPF Act & Rules as the case may be.

11. PERIODICAL REPORT

The Frontier Complaints Committee shall prepare periodical reports giving a full account of its activities during the period and forward a copy thereof to the Central Complaint Committee in the following format:

1. Date of incident.
2. Place of incident.
3. Name of complainant with Rank / Unit / GC/Office.
4. Name against whom complaint is made with rank / unit / GC / office.
5. Allegation in brief.
6. Date of receipt of complaint.
7. Whether any FIR lodged to Police, if so, outcome of Police investigation report.
8. Action taken on the complaint / present status supported with authenticated copy of relevant documents.

The Central Complaint Committee will submit annual report to the Ministry of Home Affairs and other bodies wherever required. The Frontiers will submit report to Directorate half yearly i.e. in June and December.

12. ONUS OF THE SUPERVISORY / INSPECTING OFFICERS

- The senior officers during their visit / inspections of the subordinate formations will reiterate the instruction in their meeting and Sainik Sammelans.
- They will review the complaints received by them in their respective offices.
- They will ensure that proper working environment is provided in their subordinate offices for the women and they are not discriminated on any point.

13. AWARENESS

- Awareness of the right of female employees in this regard should be created in particular by prominently notifying and displaying the guidelines at appropriate places.

- Women employees should be allowed to raise issues of sexual harassment at work places through personal interviews, orderly rooms, welfare meetings, Sainik Sammelans etc.
14. **SAVINGS**

Nothing contained in these standing orders shall prejudice any right available to the employee or prevent any person from seeking any legal remedy under the National Commission for Women Act 1990, Protection of Human Rights Commission Act 1993 or under any other law for the time being in force.

15 **INTERACTION OF COMMITTEE WITH WOMEN**

1. The National Commission for Women has recommended that Proactive steps such as meeting with women officers and members of Complaints Committee with all women in the Force in small groups should be organized. This would help them to informally exchanging views on handling sexual harassment related matters and draw mutual strength. This would build confidence for women to go forward professionally.

2. Keeping in view of this aspect it has been decided that henceforth the members of the Frontier level Complaints Committee will organize the meeting with all women as well as women employees within their operational jurisdiction of the Frontier in small groups and exchange their views on handling sexual harassment related matters as frequently as possible.

3. The Committee will also include a progress report about the number of such meetings organized, number of women present participated points if any, projected and its solution in the half yearly report to be submitted to Central Committee Directorate General as per para 7 of above SOP.

4. The IsG concerned will monitor such visits of the committee members to ensure positive results.

Hindi version will follow.

(TILAK KAK)
DIRECTOR GENERAL (SSB)