

THE IMPORTANCE OF KEEPING A HARMONIOUS WORK ENVIRONMENT

We have just written, in the current quarter (i.e. Quarter 4), an article on 'Bullying in the Workplace', whereas in previous quarters (Quarters 2 and 3), our articles were on Gender Based Violence and Harassment in the Workplace, respectively. All our articles, including the current and future articles, are intended to address issues that are prohibited by the Constitution of the Republic of South Africa (RSA), as well as our labour legislation (the Public Service Act and the Public Service Regulations; Employment Equity Act; and the Basic Conditions of Employment Act), therefore, such incidents should not be perpetrated in the workplace regardless of the perpetrator's designation or rank. These articles are therefore related to one another.

The Constitution of RSA, at section 23, guarantees the right to fair labour practices, and the Labour Relations Act; inclusive of other labour legislation; are all intended to give effect to 'the right to fair labour practices'. As recently as 18 March 2022, the Code of Good Practice on the Prevention and Elimination of Harassment in the Workplace was gazetted as an additional means to ensure and enhance the existence of fair labour practices in workplaces. It is a workplace piece of legislation for ensuring that harassment in the workplace is not only prevented, but is eliminated altogether.

The importance of keeping a harmonious work environment can help improve job satisfaction, increase productivity, motivate employees (individually or collectively), give an employee/employees a sense of belonging in/at the workplace, and assists a great deal in promoting mutual respect among all at work (employees, supervisors and management alike). Like we have always indicated in our previous articles, the employer (i.e. supervisors and management) must always ensure that employees are treated in a way that gives them that sense of belonging in the workplace. Employers have a responsibility to look after their respective employees very well. It is very important to make employees feel that they are valuable assets to the Department rather than liabilities. Keeping a harmonious work environment is, in itself, another way of preventing and eliminating harassment, bullying and discrimination in the workplace.

There have been numerous articles written on harassment, bullying, discrimination, and the importance of keeping a harmonious work environment. This begs a question why the said incidents are still being complained of in workplaces. Subjecting an employee to harassment or bullying or unfair discrimination can result in anxiety and depression. It can also affect their physical health, which includes trouble sleeping, recurring cold and flu-like symptoms, the appearance of a lump in their armpit and pains in their fingers, hands and shoulders caused by the pressure to work overlong hours without adequate breaks (Christian Jarret: 2020). Jarret goes on to say that research has shown that victims of go on to develop cardiac-related illnesses such as incidence of heart disease or stroke.

The psychological effects on the victims can be extreme. Victims can even get panic attacks when they recall previous bullying experience upon seeing a bully, and post-traumatic stress disorders especially if bullying/harassment becomes a long-term experience for the victim. This leads to a low rate of productivity caused by self-doubt and frequent self-isolation resulting in the job untouched or undone (Open Sourced Workplace). For instance, an official/employee consequently lands in hospital, the supervisor asks them when will they return to work rather than wishing them recovery and worry about work thereafter.

We offered a lot of examples of incidents amounting to workplace harassment and/or bullying in our previous articles, we even said that the list is not exhaustive. If the harassment/bullying of an employee involves insulting them and uttering threats of physically assaulting on them,

using foul/derogatory language, belittling them which includes doing so in the presence of others, and verbally abusing them, such is deplorable irrespective of the perpetrator's rank/designation and constitutes a very serious case of misconduct. That is why it is imperative that the victims of such incidents must have them reported to higher authority. If the perpetrator is your supervisor, report them to their supervisor etc. in writing, clearly stating the name of the perpetrator, explaining the incident in clear and precise terms including the date and time of the said incident. If nothing gets done by the management of the relevant Directorate/Chief Directorate, the affected official/employee can then report the said incident to Human Resources (HR) or Employee Relations (ER).

Appropriate action will be instituted in the best interest of the employee/official and the Department. If the Department does nothing about the reported incident/s the victim can press for civil or legal proceedings against the Department. The Department can end up being held vicariously liable for non-action, i.e. if it can be proven that the Department did not do anything about the reported incident, instead, they let the employee continue to suffer rather than applying consequence management against the perpetrator so as to act decisively against these hostile, degrading, dehumanising, humiliating acts/incidents in the workplace. For instance, in *Leslie v Graham* [2002] FCA, as quoted in <https://humanrights.gov.au/our-work/employer/vicarious-liability>, the employer was found vicariously liable for sexual harassment in respect of the harassment that had occurred between two employees in the early hours of the morning in a serviced apartment they were sharing, while attending a work related conference. Further, in *Gama v Qantas Airways Ltd No 2* [2006] FMCA, as also quoted in <https://humanrights.gov.au/our-work/employers/vicarious-liability>, the employer was found vicariously liable for racial discrimination where racial discriminatory remarks in the workplace were made by, or in the presence of, a supervisor and were therefore considered to have been condoned by the employer.

It is therefore imperative to always remember that the well-being of every employee/official is of paramount importance in the workplace and must always be ensured. This can be done/achieved by ensuring that incidents of workplace harassment and/or bullying, including workplace discrimination, are avoided by all means; and decisively dealt with as and when they occur. Such incidents are clearly prohibited by the Code of Good Practice. It was very touching to hear our Honourable MEC Ms. N.P. Nkonyeni saying at the Department's Awards Ceremony on 10/02/2023 during her key-note address, that "a well-looked after employee is a productive employee". Let us therefore join hands, prevent such incidents from happening; and decisively deal with them when they occur or when they are reported or brought to the attention of management. It must be rooted out in all its manifestations.

*(An opinion from the labour desk
Q1 employee relations article for 2023/24 financial year)
MH Ngcobo*