F.No.25(3)/99_Judl.
Government of India
Ministry of Law, Justice and Co. Affairs
Department of Legal Affairs
Judicial Section

New Delhi, the 24th September, 1999

OFFICE MEMORANDUM

Subject: Revision of fee payable to Senior Counsel and Senior Central Government Standing Counsel/Additional Central Government Standing Counsel in Madras High Court w.e.f. 1.10.1999

Enclosed herewith please find a copy of the Revised Schemes containing terms and conditions for the engagement of (i) Senior Counsel (ii) Senior Central Government Standing Counsel/Additional Central Government Standing Counsel in respect of civil litigations and such criminal cases as may be entrusted to them in Madras High Court effective from 1st October, 1999.

2. For the guidance of various Ministries/Departments, the following clarifications are given for settling the fee bills, TA/DA etc. payable to them for their engagement in the Madras High Court, in courts other than the High Court, Commissions of Inquiry, Tribunals etc. in the country:

(a) The Counsel will be engaged only in accordance with the revised terms and conditions applicable to them w.e.f. 1.10.1999 and no case for payment of fee at the higher rates than the rates prescribed in the Revised Scheme will be entertained by this Department.

(b) In respect of the cases listed for hearing in the Madras High Court, Commissions of Inquiry, Tribunals, other Courts etc., located in Chennai, the Counsel will be engaged by the Officer-in-Charge of the Branch Secretariat, or any other authorised officer of the Branch Secretariat of this Department at Chennai depending on the importance of the case, legal issues and financial stakes involved. However, in respect of their engagement in Courts, Commissions of Inquiry, Tribunals etc. outside Chennai, prior approval of the Department of Legal Affairs, Ministry of Law, Justice and Company Affairs, New Delhi, will be required.

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(c) As in the past, Ministry of Law, Justice and Company Affairs, Department of Legal Affairs, will only be making the payment of monthly retainer to the Senior Central Government Standing Counsel and installation and annual rental charges of telephones provided to them.

(d) For appearance in the Madras High Court, the expenditure in connection with the fee payable to them is to be borne by the Department of Legal Affairs, Ministry of Law, Justice and Company Affairs (Branch Secretariat, Chennai). The fee bills are to be processed by the Branch Secretariat, Chennai and the payment is to be made directly by it to the Counsel concerned. Other miscellaneous and out of pocket expenses will be borne by the Ministry/Department on whose behalf the Counsel conducts the cases in the concerned court. Such expenses will be paid in advance to the Branch Secretariat, Chennai in accordance with the instructions issued by the Branch Secretariat. However, the expenditure relating to TA/DA payable to the Counsel for their appearance in Courts, Tribunals, Commissions of Inquiry outside Chennai and in foreign countries, is to be borne by the Ministry/Department on whose request the counsel is engaged to conduct the case.

(e) The Counsel will be paid fee at the old rates in respect of their appearance in the High Court etc., and other work done by them prior to 1.10.19 and at the revised rates in respect of the work done by them on/after 1.10.1999. However, in cases where the Standing Counsel has put in some appearance before 1.10.1999, and some on/after 1.10.1999, the Counsel will be paid fee in respect of appearances at the revised rates for the entire cases. The fee in respect of drafting work etc. will be paid in accordance with the rates which will be applicable to him at the time he completed the drafting work etc.

(f) The present procedure, which may be amended from time to time, regarding the 'high fee' cases or engagement of Special Panel Counsel will continue to be followed.

3. The Schemes contained in this Office Memorandum will also be applicable to the counsel of Central Administrative Tribunal. However, expenditure in connection with their appearance will be borne by the Ministry/Departments themselves.
All the Ministries/Departments which propose to engage the Counsel to appear in the Madras High Court are requested to contact the Officer-in-charge, Branch Secretariat of this Department at Shastri Bhavan Annex, 26 Maddows Road, Chennai 600006. However, for the engagement of the Counsel outside Chennai, they may obtain the approval of the Department of Legal Affairs, Ministry of Law, Justice and Company Affairs, New Delhi, after settling the terms and conditions of their engagement through the Branch Secretariat, Chennai. They are further requested to make arrangements for their travel in consultation with the Counsel concerned. The Department are also requested to ensure that the bills in this respect are made in their names and settled by them directly so that the necessity of reimbursement of expenses incurred by the Counsel later is minimised and they are not put to inconvenience.

All the Ministries/Departments are requested to ensure that the bills in respect of other expenditure, if incurred by the Counsel in connection with TA/DA etc. for their appearance in various courts etc. outside Chennai are sanctioned and money paid to them immediately and in any case not later than a month from the date of receipt of the bills.

If any difference or doubt arises in respect of fees or other bills claimed by the Counsel, the matter may be referred to the Law Secretary whose decision shall be final.

Joint Secretary & Legal Adviser to the Govt. of India

Copy forwarded to:

1. All Ministries/Departments to the Government of India.
2. All Senior Counsel, Senior Central Government Standing Counsel/Addl. GSC in Madras High Court through Branch Secretariat, Chennai.
3. Department of Expenditure, Ministry of Finance, New Delhi, w.r.t. their U.O.No.9(11)/99-E.II(D) dated 6.9.99.
4. Legal Adviser, Railway Board, New Delhi (5 s/copies).
5. Joint Secretary(Legal), Department of Revenue, Ministry of Finance, New Delhi (5 s/copies).
6. CBDT, Department of Revenue, Ministry of Finance, New Delhi (5 s/copies).
8. Central Agency Section/Lit(HC/LC)Section/Cash(LA)/Admnl.II(I)/B&A/Advice A/B/C Sections.
9. Pay & Accounts Officer, Department of Legal Affairs, N.D.
10. Guard File/Judicial Section with (200, s/copies).
11. Translation Section for Hindi translation of the order.

(S.K. Kaira)
Section Officer
Ministry of Law, Justice and Co. Affairs
Department of Legal Affairs
Judicial Section

Revised Scheme containing terms and conditions for the engagement of Senior Central Government Standing Counsel and Additional Central Government Standing Counsel on behalf of the Government of India in respect of Civil Litigation and such criminal cases as may be entrusted to them in Madras High Court effective from 1.10.1999.

I. SCOPE OF THE SCHEME

1. The Scheme will be operative in respect of all the Civil litigation cases and such criminal cases on behalf of the Government of India (except the Railways and Income-tax Departments) as may be entrusted to the Counsel in Madras High Court. However, the Counsel will not put in their appearance as a matter of course, in cases relating to Central Sales Tax unless they have been specifically instructed otherwise, in regard to any particular case.

2. Incharge of Litigation Cases: The Officer-in-charge of the Branch Secretariat, Department of Legal Affairs, Chennai, will be incharge of the entire litigation work on behalf of the Government of India before the Madras High Court, except such of the work for which separate arrangements have been made viz. in respect of Railways and Income-tax Departments.

3. Allocation of cases to the Counsel: Allocation of cases to the Counsel will be made by the Officer-in-charge of the Branch Secretariat, Department of Legal Affairs, Chennai or any other officer authorised by him.

II. DEFINITIONS

1. For the purpose of this Scheme, the expressions:

(a) 'Counsel' will mean and include the Senior/ Central Government Standing Counsel and Additional Central Government Standing Counsel.

(b) 'Government of India' means and includes the Government of India and Government of Union Territory also.
(c) "Law Officer" means and includes the Attorney General for India, the Solicitor-General of India and Additional Solicitors-General of India.

III. STANDING COUNSEL AND PANEL OF COUNSEL

1. Senior Central Government Standing Counsel and a Panel of Additional Central Government Standing Counsel

There will be one Senior Central Government Standing Counsel and a panel of Counsel consisting of Additional Central Government Standing Counsel to conduct the litigation cases on behalf of the Government of India before the Madras High Court. The strength of the Counsel panel may be determined by the Government of India from time to time.

IV. TERM OF ENGAGEMENT

1. Initial/further engagement: The term of engagement of the counsel would be for a period of three years or until further orders whichever is earlier. The term may be extended for a further period at the discretion of the Government of India.

2. Termination of engagement: The engagement of the counsel would be terminable at any time without assigning any reason.

V. HEADQUARTERS OF THE COUNSEL

1. Headquarters at Chennai: The counsel will locate his headquarters during the period of his engagement/engagement as such at Chennai.

VI. DUTIES

1. The Counsel shall

(i) Appear in Madras High Court in the cases marked to him by the Officer-in-charge of the Branch Secretariat, Department of Legal Affairs, Chennai or any other officer authorised by him;

(ii) if so required, appear in the District and Subordinate Courts, Tribunals, Commissions of Inquiry, before the Arbitrators/Umpires etc. at the Headquarters. He may also be required to appear in Courts, Tribunals, Commissions of Inquiry, before the Arbitrators/Umpires outside the Headquarters.
(iii) when any case attended to by him is decided against the Government of India and/or its officers, give his opinion regarding the advisability of filing an appeal from such a decision;

(iv) render all assistance to the Law Officers, Advocate General of the State Government, Special or Senior Counsel, if required to do so, who may be engaged in a particular case before the High Court, Tribunals, Commissions of Inquiry, before the Arbitrators/Umpires etc.

(v) keep the Department concerned informed of the important developments in the case from time to time, particularly with regard to drafting, filing of papers, dates of hearing of the case, supplying copies of judgements etc.;

(vi) furnish to the Branch Secretariat and the Department of Legal Affairs periodical statements and reports/returns, which may be called for from time to time.

(vii) render detailed account of advance in the form of out of pocket expenses to the Ministry/Department/office concerned from which such an advance has been obtained, and

(viii) perform such other duties of a legal nature which may be assigned to him by the Department of Legal Affairs, Ministry of Law, Justice and Company Affairs from time to time.

VII. RETAINER AND OTHER PERQUISITES

1. Retainer payable to Senior Central Government Standing Counsel

The Senior Central Government Standing Counsel will be paid a monthly retainer of Rs. 3000/- (Rupees Three-thousand-only) which will include charges for staff, office, rent, postage and all other establishment charges. The Additional Central Government Standing Counsel will not be entitled to any retainer and other perquisites mentioned herein.

2. The retainer will be paid by the Ministry of Law, Justice and Company Affairs, Department of Legal Affairs, New Delhi.
3. **Perquisites**: The Senior Central Government Standing Counsel will be allowed the facilities of telephone and furniture in the office allotted for the use of the Senior Central Government Standing Counsel in the Madras High Court premises for conducting the cases on behalf of the Government of India. However, such a facility will be available to him subject to the availability of the premises and the requirement of the Department of Legal Affairs.

4. In case the facilities on Government chamber and a telephone, as mentioned above, are not available, then the Senior Central Government Standing Counsel will be provided with a telephone at Government Expense in his chamber, if any. The Government will bear the initial expenses for installation and annual rental charges for the telephone. The charges for the calls in excess of the limits prescribed by the telephone authorities and the trunk calls shall have to be paid by the Counsel himself or recovered from the Department for which the trunk call was booked. The Addl. CGSC will not be entitled to any telephone facility at the Government expenses.

VIII. **FEE PAYABLE TO THE COUNSEL**

1. (i) Civil or Criminal writ Petitions under Article 226 and 227 of the Constitution or special appeals from orders made in such petitions if in a case hearing of a writ petition goes on for more than three days

2. (ii) Petitions under Articles 132 or 133 of the Constitution in civil or criminal cases

3. (iii) Original Suits

4. (iv) Civil Appeals from decrees in original suits and proceedings except under articles 226 and 227 of the Constitution, second appeals, letter patent appeals other than those mentioned in item (i) above and land Aon, appeals to the High Court.
(v) Civil Miscellaneous Applications or petitions under the Indian Succession Act, Contempt of Court proceedings and other proceedings of an original nature not specifically provided otherwise
Rs. 750/- per case

(vi) Civil or Criminal Revision
Rs. 1050/- per petition

(vii) References to the High Court under Sales Tax Act and Banking Company petitions
Rs. 1050/- per case or the amount fixed by the High Court whichever is higher.

(viii) Company Petitions
To be regulated by the rules contained in Appendix III of the Company's (Court) Rules, 1959.

(ix) Civil Miscellaneous petitions for the pauperis, transfer petitions and other civil miscellaneous petitions/applications not otherwise provided for
Rs. 900/- per petition

(x) Examination of title deeds
2½% of the amount involved in the transaction such as sale, mortgage, etc., subject to a minimum of Rs. 120/- and a maximum of Rs. 1200/-

(xi) Written opinion other than referred to in VI(iii)
Rs. 450/- per opinion

(xii) For drafting pleadings i.e. written statements in suits and counter affidavits/returns/answers to the writ petitions, grounds of appeal and applications for leave to appeal to the Supreme Court
Rs. 750/- per pleading
(EXPLANATION: If substantially identical affidavits/ written statements/grounds of appeal/applications are drafted in connected cases, only one drafting fee will be payable in the main case and no separate drafting fee will be payable in connected cases).

(xiii) For conducting the Arbitration cases on behalf of the Central Government before the Arbitrator/Umpire at their Headquarters

Rs. 240/- for the first hour and Rs. 120/- or half hour of hearing there after.

(EXPLANATION: No fee will be payable where a case is adjourned for reasons personal to him or after advance notice to him).

2. When the Counsel does not argue the case himself but only assists the Law Officer, Advocate General of the State Government or other Special/Senior Counsel, he will be entitled to the same fees as are payable to him deeming that he has appeared and argued the case himself.

3. Fees for appearance in the cases in the Subordinate Courts at the Headquarters will be Rs. 750/- for the first day and Rs. 450/- for each subsequent day.

IX. OUT OF HEADQUARTERS:

1. If the Counsel is required to go out of headquarters in connection with Central Government litigation e.g. for conference with a Senior Counsel, appearance in a court outside the Headquarters, he will be entitled to a daily fee of Rs. 1200/- per day for the days of his absence from the headquarters including the days of departure from intervening holidays and arrival back at the headquarters, but no fee will be paid for the day of departure if he leaves the headquarters after Court hours or for the day of arrival if he arrives at the headquarters before the Court hours.

2. TRAVEL/INN/EXPENSES: In addition to the daily fee the Counsel will also be entitled to travel expenses for travel by air (economy class) or first class by train, road mileage for the journey from his headquarters to the airport/railway station and vice-versa and from the airport/railway station to the place of his stay out of headquarters and vice-versa at the rates admissible to Grade I/Class I Officers of the Central Government. He will also be paid a lumpsum amount of Rs. 300/- as conveyance charges for performing local journey while outside the headquarters. He will also be entitled to a reasonable actual expenses for stay in hotel, subject to a maximum of Rs. 600/- per day.

X. CLERKAGE

1. In addition to fees mentioned above, the Counsel will be entitled to 10% of fees subject to a maximum of Rs. 1800/- in a case or batch of cases by way of clerkage.

XI. The amount required for court fees at the
time of filing a case and other miscellaneous expenses not exceeding Rs.300/- per case should be obtained by the Counsel in advance from the concerned Department/Ministry/Office to meet other out-of-pocket expenses. An account of the expenses incurred should be rendered to the concerned Department/Ministry/Office while presenting the final fee bill.

XII. RIGHT TO PRIVATE PRACTICE AND RESTRICTIONS:

A Counsel will have the right to private practice which should not, however, interfere with the efficient discharge of his duties as a Counsel for the Government of India.

2. A Counsel shall not advise any party in or accept any case against the Government of India in which he has appeared or is likely to be called upon to appear for or advise or which is likely to affect or lead to litigation against the Government of India.

3. If the Counsel happens to be a partner of a firm of lawyers or Solicitors it will be incumbent on the firm not to take up any case against the Government of India in Madras High Court or any case arising in other Courts out of these cases e.g. appeals and revisions in the High Court or the Supreme Court.

XIII. GENERAL:

The various terms used in this Scheme will have the following meaning:

(a) **Effective Hearing**: A hearing in which either one or both the parties involved in a case are heard by the Court. If the case is mentioned and adjourned or only directions are given or only judgment is delivered by the Court, it would not constitute an effective hearing, but will be termed as non-effective hearing.

(b) **Uncontested Cases**: All suits and appeals are deemed to be uncontested, if these are withdrawn by the plaintiff/appellant or are dismissed in limine or are otherwise decided by the Court ex-parte before the final hearing. No writ petition/revision petition/second appeal (including any interlocutory application connected therewith) will be considered as 'uncontested' if it is decided by the Court on preliminary legal objections or is withdrawn by the petitioner/appellant at or during any stage of the final hearing in the presence of the Government or if is withdrawn by the Government at the time of its admission.

(c) **Substantial Work**: When the case has been admitted by the Court after hearing of preliminary objections or filing of the affidavits/counter-affidavits etc. by the counsel, 'substantial work' will be deemed to have been done.

(d) **Identical Cases**: Two or more cases in which substantially identical questions of law or facts are involved and where the main difference is in the names, addresses of the parties concerned, amount
of money involved etc., where the common or identical judgments are
delivered irrespective of the fact whether all the cases are heard
together or not.
2. In all cases, effective appearance is necessary for the
Counsel to claim fee.

3. No fee will be payable in cases where no legal work is
required to be done e.g. cases in which the interests of the Govern-
ment of India are to be watched pending instructions, cases regard-
ing transmission of record to the Supreme Court, inspection of the
Court record for ascertaining the position of the case or other
information needed.

4. No fee will be admissible for preparation but the Govern-
ment may consider payment of a separate fee for preparation in
special cases involving arduous work.

5. If the Counsel appears at the instance of the Union of
India for parties other than the Union of India whose case is not
inconsistent with that of the Union of India, he will be entitled to
only one set of fee.

6. Appeals, revision or petitions arising from one common
judgment or order will be together considered as one case, if they
are heard together.

7. When cases argued before a Single Judge are referred to a
Division Bench or to a Full Bench separate fee at the prescribed
rates will be paid for appearance before each Bench.

8. In 'uncontested cases' the fee shall be one-third of the
fees otherwise payable but if such a case is later on restored and
decided in contest, the remaining two-thirds of the fee will be
payable. A case shall be regarded as contested when a decision is
given after hearing arguments on both sides.

9. No fee will be payable to the Counsel if an advance notice
about the adjournment has been issued or the adjournment of the case
has been made at his request due to reasons personal to him.

10. Where two or more cases (but not more than 10 cases)
involving substantially identical questions of law or facts, any one
of such cases will be treated as a main case and the others as
connected cases and the fees in such cases will be regulated as under:
irrespective of the fact whether all the cases are heard together or
not:

(a) when the Counsel files separate and materially
different affidavits, applications or grounds of appeal
etc., in more than one case but the argument is heard
in the main case and the other cases are decided
accordingly, the Counsel shall be paid the full fee in
the main case and Rs.150/- only in each of the
connected cases

9/-
(b) when the main case has been contested as in (a) above, but in the connected cases either affidavit or grounds of an appeal or petition similar to the one in the main case or nothing at all has been drafted by the counsel, he shall be paid the full fee in the main case and ₹.75/- only in each of the connected cases.

(c) when substantially different affidavits are drafted in each connected case but all the cases are disposed of without contest, the Counsel shall get 1/3rd fee in the main case and ₹.150/- in each of the connected cases.

(d) when the counsel has drafted the affidavit, petition or grounds of appeal in the main case and has not drafted them in the connected cases or the drafts in the connected cases are substantially similar to the one in the main case and the cases are disposed of without contest, the Counsel shall get 1/3rd fee in the main case and ₹.75/- in each of the connected cases.

11. The fee to the Counsel will be paid by the Department of Legal Affairs, Ministry of Law, Justice & Co. Affairs on presentation of a stamped receipt, and on submission of a copy of the document drafted, if it is a drafting fee, and submission of minutes or gist of proceedings, or a copy of order/judgment where it is necessary in case the claim is for appearance fee. The Counsel shall submit his fee bills within three months from the date on which the fee has accrued.

12. The fee will be payable in two stages, firstly, 1/3rd fee after substantial action has been taken i.e. first stage and secondly the remaining 2/3rd fee after the case has been decided i.e. second stage.

Provided, however, where during the pendency of a proceeding a Counsel is changed for some reason or the other, a fee commensurate to the work done by the outgoing Counsel, not exceeding 1/3rd of the total fee admissible for the case may be paid. In such an event the balance of fee payable in the case will be paid to new Counsel after completion of the case.

As regards admissibility and quantum of fee in such cases, the decision of the Officer-in-Charge of the Branch Secretariat, Chennai, Department of Legal Affairs shall be final.

13. In the event of any doubt or difference regarding the fees, the fees determined by the Secretary, Department of Legal Affairs, Ministry of Law, Justice & Co. Affairs, shall be final and binding. He may, by an order in writing, relax any of the provisions contained in the Scheme.

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(KRISHNA KUMAR)

Joint Secretary & Legal Adviser to the Government of India

(P.No. 25(3)/99-Judl.)
Senior Counsel
Madras High Court, Chennai

Ministry of Law, Justice & Co. Affairs
Department of Legal Affairs
Judicial Section

Revised Scheme containing terms and conditions for the engagement of Senior Counsel in respect of Civil Litigation and such Criminal cases as may be entrusted to them in the Madras High Court, effective from 1st October, 1999.

I. SCOPE OF THE SCHEME:
1. The Scheme will be operative in respect of all the civil litigation cases and such criminal cases on behalf of the Government of India as may be entrusted to the Counsel in the Madras High Court.
2. Incharge of Litigation cases: The Officer Incharge of Branch Secretariat, Department of Legal Affairs, Chennai, will be incharge of the entire litigation work on behalf of the Government of India before the Madras High Court, except such of the work for which separate arrangements have been made.
3. Allocation of cases to the Counsel: Allocation of cases to the Counsel will be made by the Officer Incharge of the Branch Secretariat, Department of Legal Affairs, Chennai, or any other officer authorised by him.

II. DEFINITIONS:
1. For the purpose of this Scheme, the expressions:
   (a) 'Counsel' will mean and include the Senior counsel;
   (b) 'Government of India' means and includes the Government of India and also the government of a union territory;
   (c) 'Law Officer' means and include the Attorney General for India, the Solicitor-General for India, and additional solicitors-general for India.

III. PANEL OF COUNSEL:
Panel of Senior Counsel: There will be a Panel consisting of Senior Counsel to conduct the litigation cases on behalf of the Government of India before the Madras High Court, Chennai. The strength of the Counsel empanelled may be determined by the Government of India from time to time.

IV. TERM OF ENGAGEMENT/EMPANELMENT:
1. Initial/further engagement/empalement: The term of engagement/empalement of the counsel would be for a period of...
three years or until further order, whichever is earlier. The term may be extended for a further period at the discretion of the Government of India.

2. **Termination of engagement/empalacement:** The engagement/empalacement of the Counsel would be terminable at any time without assigning any reason.

V. **HEADQUARTERS OF THE COUNSEL:**

1. Headquarters at Chennai: The Counsel may locate his headquarters during the period of his engagement/empalacement as such, at Chennai.

VI. **DUTIES:**

1. The Counsel shall:

   (i) appear in Madras High Court in the cases marked to him by the Officer Incharge of the Branch Secretariat, Department of Legal Affairs, Chennai or any other Officer authorised by him;

   (ii) if so required, appear in the District and Subordinate Courts, Tribunals, Commissions of Inquiry, before the Arbitrators/Umpires etc. at the headquarters/outside the headquarters;

   (iii) when any case attended to by him is decided against the Government of India and/or its officers, give his opinion regarding the advisability of filing an appeal from such a decision;

   (iv) render all assistance to the Law Officers, Advocate General of the State Government, Special or Senior Counsel, if required to do so, who may be engaged in a particular case before the High Court, Tribunals, Commissions of Inquiry, before the Arbitrators/Umpires etc.;

   (v) keep the Officer Incharge of the Branch Secretariat, Department of Legal Affairs, Chennai informed of the important developments in the case from time to time, particularly with regard to drafting, filing of papers, dates of hearing of the case, supplying copies of judgments etc.;

   (vi) furnish to the Branch Secretariat, Chennai and the Department of Legal Affairs, New Delhi, periodical statements and reports/returns, which may be called for by the Ministry of Law, Justice & Company Affairs Department of Legal Affairs, from time to time;

Contd..3..
(vii) render detailed account of the advance in the form of out of pocket expenses to the officer in charge of Branch secretariat, Department of Legal Affairs, Chennai, and

(viii) perform such other duties of a legal nature which may be assigned to him by the Department of Legal Affairs, Ministry of Law, Justice & Company Affairs from time to time.

VII. RETAINER AND OTHER PERQUISITES

1. The Counsel will not be entitled to the payment of a monthly retainer or to any other perquisites.

VIII. FEE PAYABLE TO THE COUNSEL:

1. The fees payable to the Counsel in the Madras High Court would be as follows:

(i) Suits, writ petitions and appeals including applications for leave to appeal to Supreme Court in Writ Petitions.

(ii) Applications for leave to appeal to the Supreme Court other than in Writ Petitions.

(iii) Setting pleading

(iv) Miscellaneous Applications

(v) Conference

(a) for settling pleading

(b) in respect of hearing of Writ matters, suits, appeals and Supreme Court Leave Applications etc.

IX. OUT OF HEADQUARTERS:

1. If the Counsel is required to go out of headquarters in connection with Central Government litigation e.g., for conference with a Law Officer, Advocate General of the State Government or with a Senior Counsel, appearance in a Court outside the headquarters, he will be entitled to a daily fee to be decided by the Department of Legal Affairs on the basis of per day of
appearance for the days of his absence from the headquarters including the days of departure from, intervening holidays and arrival back at the headquarters, but no fee will be paid for the day of departure if he leaves the headquarters after Court hours or for the day of arrival if he arrives at the headquarters before the Court hours.

2. Travel/hotel expenses: In addition to the daily fee, the Counsel will also be entitled to travel expenses for travel by air (economy class) or first class by train, road mileage for the journey from his headquarters to the airport/railway station and vice-versa and from the airport/railway station to the place of his stay out of headquarters and vice-versa at the rates admissible to Grade I/Class I Officers of the Central Government. He will also be paid a lump sum amount of Rs.300/- as conveyance charges for performing local journeys while outside the headquarters. He will also be entitled to a reasonable actual expenses for stay in hotel, subject to a maximum of Rs.600/- per day.

X. CLERKAGE:

1. The Counsel will not be entitled to the payment of clerkage on the fees payable to him.

XI. OUT OF POCKET EXPENSES:

1. The amount required for court fees at the time of filing a case and other miscellaneous expenses not exceeding Rs.300/- per case should be obtained by the Counsel in advance from the concerned Department/Ministry/office to meet other out-of-pocket expenses. An account of the expenses incurred should be rendered to the concerned Department/Ministry/Office while presenting the final fee bill, as mentioned earlier.

XII. RIGHT TO PRIVATE PRACTICE AND RESTRICTIONS:

1. A Counsel will have the right to private practice which should not, however, interfere with the efficient discharge of his duties as a Counsel for the Government of India.

2. A Counsel shall not advise any party in or accept any case against the government of India in which he has appeared or is likely to be called upon to appear for or advise or which is likely to affect or lead to litigation against the Govt. of India.

3. If the Counsel happens to be a partner of a firm of lawyers or Solicitors it will be incumbent on the firm not to take up any case against the Government of India or the Public Sector Undertaking in Madras High Court or any case arising in other Courts out of those cases e.g. appeals and revisions in the High Court or the Supreme Court.
XIII. GENERAL:

1. The various terms used in this Scheme will have the following meaning:

(a) Effective Hearing: A hearing in which either one or both the parties involved in a case are heard by the Court. If the case is mentioned and adjourned or only directions are given or only judgment is delivered by the Court, it would not constitute an effective hearing, but will be termed as Non-effective hearing.

(b) Uncontested Cases: All suits and appeals are deemed to be 'uncontested', if these are withdrawn by the plaintiff/appellant or are dismissed in limine or are otherwise decided by the Court ex-parte before the final hearing. No writ petition/revision petition/second appeal (including any interlocutory application connected therewith) will be considered as 'uncontested' if it is decided by the Court on preliminary legal objections or is withdrawn by the petitioner/appellant at or during any stage of the final hearing in the presence of the Government or is withdrawn by the Government at the time of its admission.

(c) Identical Cases: Two or more cases in which substantially identical questions of law or facts are involved and where the main difference is in the names, addresses of the parties concerned, amount of money involved etc. Where the common or identical judgments are delivered irrespective of the fact whether all the cases are heard together or not.

2. In all cases, effective appearance is necessary for the Counsel to claim fee.

3. No fee will be payable in cases where no legal work is required to be done e.g., cases in which the interests of the Government of India are to be watched passing instructions, cases regarding transmission of record to the Supreme Court, inspection of the Court record for ascertaining the position of the case or other information needed.

4. No fee will be admissible for preparation but the government may consider payment or a separate fee for preparation in special cases involving arduous work.

5. If the Counsel appears at the instance of the Union of India for parties other than the Union of India whose case, is not inconsistent with that of the union of India, he will be entitled to only one set of fee.

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