

F.No. 29(13)/2014-Judl.
Government of India
Ministry of Law and Justice
Department of Legal Affairs
Judicial Section

New Delhi, the 24th October, 2014

OFFICE MEMORANDUM

Sub:- Appearance of Law Officers in Private Cases-regarding.

This Department has been receiving number of requests from Law Officers seeking permission of the Government to permit them to appear in private cases.

Attention is invited to Rule 8(1) of the Law Officers (Conditions of Services) Rules, 1987 which, inter-alia, provides that a Law Officer shall not hold briefs in any court for any party except the Government of India and other institutions enumerated therein. It has been reiterated from time to time that permission to Law Officers to appear in private cases in relaxation of this Rule shall be accorded only in exceptional circumstances. Attention in this regard is also invited to the Office Memorandum dated 26th August, 2011 and 5th December, 2012 (copies enclosed).

In spite of above instructions, requests from Law Officers seeking permission to appear in private cases are being received in routine manner. Sometimes, the number of requests is so large that it tends to take away sizeable amount of time of the Law Officer in private matters and in the process, their prime attention in Government cases suffers.

The instructions issued earlier in this regard are reiterated. The Law Officers are requested that they should restrain from seeking permission to appear in private cases. Any such request in future should be made only for compelling reasons and in exceptional circumstances. Prior approval of the Ministry in all such cases may please be obtained.

This issues with the approval of Hon'ble Minister of Law and Justice.

Encl. As above.

(P.K. Malhotra)

Secretary to the Govt. of India

To

All Law Officers as per the list.

Contd....2/-

Copy to:-

1. Incharge, Central Agency Section, Supreme Court Compound, New Delhi.
2. Incharge, Litigation (HC) Section, New Delhi.
3. Incharge, Branch Sectts., Mumbai, Kolkata, Chennai & Bangalore.
4. Judicial Section with 5 s/copies.

Zoya Hadke.
(Zoya Hadke)

Joint Secretary & Legal Adviser to the Govt. of India

Confidential

No.F.34(1)/2011-Judl.
Government of India
Ministry of Law and Justice
Department of Legal Affairs
Judicial Section

New Delhi, Dated: 26th August, 2011

Office Memorandum

Sub: Request of Law Officers for exemption for their appearance in private cases.

The undersigned is directed to refer to this Department's OM dated 30.11.2009 and dated 11.06.2011 on the subject cited above and to state that in spite of the specific instructions contained in the aforesaid OMs, it has been observed by the Department that the requests from Law Officers seeking exemption for their appearance in private matters has been receiving in a routine manner. Sometimes the number of such requests are quite large which tends to take away sizable amount of time of Law Officers in private matters and in the process their prime attention in defending Government cases suffers.

2. In view of the above, it has been decided that **permission to Law Officers for their appearance in private cases will henceforth be granted in the rarest of the rare occasion.**

3. This issues with the approval of Hon'ble MLJ.



(M.A. Khan Yusufi)

Joint Secretary & Legal Adviser to the Government of India

To

All Law Officers as per the list.

Copy to:-

1. Incharge, Central Agency Section, Supreme Court Compound, New Delhi.
2. Incharge, Litigation (HC) Section.
3. Incharge, Branch Secretariats, Mumbai, Kolkata, Chennai & Bangalore.
4. Judicial Section with 5 s/copies.



(M.A. Khan Yusufi)

Joint Secretary & Legal Adviser to the Government of India

Confidential

No.F.34(01)/2011-Judl.
Government of India
Ministry of Law and Justice
Department of Legal Affairs
Judicial Section

New Delhi, dated 5th December, 2012

Office Memorandum

Sub: Appearance of Law Officers in private cases- regarding.

This Department has been receiving requests from Law Officers for their appearance in private cases in routine manner. Attention is invited to the provisions of Rule 8(1) of the Law Officers (Conditions of Service) Rules, 1987 which reads as under:-

"8. *Restrictions-*

(1) *A Law Officer shall not -*

- (a) *hold briefs in any court for any party except the Government of India or the Government of a State or any University, Government School or College, local authority, Public Service Commission, Port Trust, Port Commissioners, Government aided or Government managed hospitals, a Government company as defined in Section 617 of the Companies Act, 1956 (1 of 1956), any Corporation owned or controlled by the State, any body or institution in which the Government has a preponderating interest;*
- (b) *advise any party against the Government of India or a Public Sector Undertaking, or in cases in which he is likely to be called upon to advise, or appear for, the Government of India or a Public Sector Undertaking;*
- (c) *defend an accused person in a criminal prosecution, without the permission of the Government of India; or*
- (d) *accept appointment to any office in any company or corporation without the permission of the Government of India;*
- (e) *advise any Ministry or Department of Government of India or any statutory organization or any Public Sector Undertaking unless the proposal or a reference in this regard is received through the Ministry of Law and Justice, Department of Legal Affairs."*

Contd...

2. It may further be recalled that this Department vide OM dated 26th August, 2011 reiterated that permission to Law Officers to appear in private cases in relaxation under Rule 10 of the Law Officers (Conditions of Service) Rules, 1987 shall only be accorded in the rarest of rare occasions.
3. In spite of the above, the requests from Law Officers for exemption to appear in private cases are being made in routine manner. Sometimes, the number of such requests are so large that it tends to take away sizeable amount of time of the Law Officers in private matters and in the process their prime attention in defending Government cases suffers.
4. In view of the above, it has been decided that permission to Law Officers for appearance in private cases will henceforth be granted only for compelling reasons and in very circumstances, with prior approval of the Ministry.
5. This issues with the approval of Hon'ble Minister for Law and Justice.

(Suresh Chandra)

Joint Secretary and Legal Adviser to the Government of India

To

All Law Officers as per the list.

Copy to:-

1. Incharge, Central Agency Section, Supreme Court Compound, New Delhi;
2. Incharge, Litigation (HC) Section;
3. Incharge, Branch Secretariats, Mumbai, Kolkata, Chennai & Bangalore; and
4. Incharge, NIC Cell, Department of Legal Affairs for uploading this OM in the website.
5. Judicial Section with 5 spare copies.

(Dr. R.S. Shrinet)

Assistant Legal Adviser

F.No. 29(14)/2014-Judl.
Government of India
Ministry of Law and Justice
Department of Legal Affairs
Judicial Section

New Delhi, the 24th October, 2014

OFFICE MEMORANDUM

The undersigned is directed to state that some of the Ministries/Departments are approaching Law Officers directly for seeking their opinion/advice. The kind attention of all concerned is invited to the Law Officers (Conditions of Service) Rules, 1972 which has been uploaded in the website of this Ministry, i.e. www.lawmin.nic.in/legal.htm.

2. Rule 8 of the Law Officers (Conditions of Service) Rules, 1972 is reproduced below for kind attention of all concerned:-

"8. Restrictions- (1) A Law Officer shall not:-

- (a) Hold briefs in any court of any party except the Government of India or the Government of a State or any University, Government School or College Local Authority, Public Service Commission, Port Trust, Port Commissioners, Government aided or Government managed hospitals, a Government Company as defined in Section 617 of the Companies Act, 1956 (1 of 1965), any Corporation owned or controlled by the State, anybody or institution in which the Government has a preponderating interest;
- (b) Advise any party against the Government of India or a Public Sector Undertaking, or in cases in which he is likely to be called upon to advise, or appear for, the Government of India or a Public Sector Undertaking;
- (c) Defend an accused person in a criminal prosecution, without the permission of the Government of India; or
- (d) Accept appointment to any office in any company or corporation without the permission of the Government of India.
- (e) Advise any Ministry or Department of Government of India or any statutory organization or any Public Sector Undertaking unless the proposal or a reference in this regard is received through the Ministry of Law and Justice, Department of Legal Affairs.

2. All the Ministries/Departments are requested not to seek legal opinion/advice directly from the Law Officers and necessary instructions in this regard may also be issued to all the PSUs/Autonomous Bodies under their control.

3. The Law Officers are requested not to tender opinion/advice to Central Government Ministries/Departments/PSUs/Autonomous Bodies or any other Central Government instrumentalities without getting reference from this Ministry.

4. It has also been noticed that some of Law Officers are leaving Headquarter without prior permission of the Government. They are, therefore, requested to comply with Rule 4 of the Law Officers (Conditions of Service) Rules, 1972, which stipulates that they require permission of the Government of India before leaving their Headquarters.

5. This is issued with the approval of Hon'ble Minister for Law and Justice.

Zoya Hadke.
(ZOYA HADKE)

JOINT SECRETARY & LEGAL ADVISER TO THE GOVT.OF INDIA

To

1. All Ministries/Department of Government of India.
2. All Law Officers viz. Attorney General of India, Solicitor General of India and Additional Solicitors General of India as per list.
3. Incharge, Litigation, Branch Sectts., Mumbai, Kolkata, Chennai & Bangalore. The above instructions may please be circulated to all Offices of the Government of India functioning from the respective regions for strict compliance.
4. Incharge, Central Agency Section, Supreme Court of India, Incharge, Litigation (HC) Section, Delhi High Court, New Delhi.
5. All Ministries/Department of Government of India.
6. PS to MLJ/PS to Law Secretary/PS to Legislative Secretary.
7. NIC Cell with the requests to upload this OM in the website under the head 'Circulars pertaining to litigation.'
8. Judicial Section with 5 s/copies.