

No.F.23(1)/87-Judl.
Government of India
Ministry of Law and Justice
Department of Legal Affairs

New Delhi, the 24th April, 1987

OFFICE MEMORANDUM

Subject : Revision of fee payable to Special Panel Counsel, Senior Panel Group I, Senior Panel Group II and Junior Counsel in the Bombay High Court w.e.f. 1st April, 1987.

Enclosed herewith please find a copy of the Revised Scheme containing terms and conditions for the engagement of Special Panel Counsel, Senior Counsel Group I, Senior Counsel Group II and Junior Counsel in respect of civil litigation and such criminal cases as may be entrusted to them in the Bombay High Court effective from 1st April, 1987.

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 Bombay High Court, in Courts other than the Bombay 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. 1.4.87 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 Bombay High Court, Commissions of Inquiry, Tribunals, other courts etc. located in Bombay, the Counsel will be engaged by the Joint Secretary and Legal Adviser incharge or any other authorised officer of the Branch Secretariat of this Department at Bombay, 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 Bombay, prior approval of the Department of Legal Affairs will be required.

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- (c) For appearance in the Bombay 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 and Justice (Branch Secretariat, Bombay). The fee bills are to be processed by the Branch Secretariat, Bombay, and the payment is to be made directly by the Branch Secretariat to the Counsel concerned. However, the expenditure relating to TA/DA payable to the Counsel for their appearances in Courts, Tribunals, Commission of Inquiry outside Bombay and in foreign countries, is to be borne by the Ministry/Department on whose request the counsel is engaged to conduct the case.
- (d) 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 1st April, 1987 and at the revised rates in respect of the work done by them on/after 1st April, 1987.
- (e) 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.

2. All the Ministries/Departments which propose to engage the Counsel to appear in the Bombay High Court are requested to contact the Joint Secretary and Legal Adviser, Branch Secretariat of this Ministry at Aayekar Bhawan, Annexe, New Marine Lines, Bombay. However, for the engagement of the Counsel outside Bombay, they may obtain the approval of the Department of Legal Affairs, after settling the terms and conditions of their engagement through the Branch Secretariat, Bombay. They are further requested to make arrangements for their travel in consultation with the counsel concerned. The Departments 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.

4. All the Ministries/Departments are further requested to ensure that the bills in respect of other expenditure incurred by the counsel in connection with TA/DA etc. for their appearance in various Courts etc. outside Bombay 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.

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

Sd/-
(R.N. Poddar)
Solicitor

ANNEXURE I

Annexure I indicating the revised rates of fee payable to the Special Panel Counsel, Senior Counsel Group I, Senior Counsel Group II and Junior Counsel in the Bombay High Court under the Revised Scheme w.e.f. 1st April, 1987.

Gm = Rs. 15/-

S.No.	Nomenclature	Spcl. Panel Counsel	Sr. Panel Counsel Group I	Senior Panel Counsel Gr. II	Junior Counsel
1.	2.	3.	4.	5.	6.
1.	<u>Fees:-</u>				
(i)	Suits, Appeals, Writ/Revision Petitions including Special Civil Applications in the High Court.	68-140 Gms. (Rs. 1020-2100)	45-60 Gms. (Rs. 675-900)	28-38 Gms. (Rs. 420-570)	15-25 Gms. (Rs. 225-375)
		per day of 5 hours.			
	Conference/ Consultation	8 Gms. (Rs. 120)	7 Gms. (Rs. 105)	5 Gms. (Rs. 75)	3 Gms. (Rs. 45)
		per hour			
(ii)	Applications including Interim Motions, Notices of Motions, Appeals, Leave Applications, Arbitration, Company matters & other Misc. petitions and Land Acquisition References.	40 Gms. (Rs. 600)	22 Gms. (Rs. 330)	16 Gms. (Rs. 240)	10 Gms. (Rs. 150)
		per day			
	Conference/Consultation.	8 Gms. (Rs. 120)	7 Gms. (Rs. 105)	5 Gms. (Rs. 75)	3 Gms. (Rs. 45)
		per hour			

Ministry of Law and Justice
Department of Legal Affairs
(Judicial Section)

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Revised Scheme containing terms and conditions for the engagement of Special Panel Counsel, Senior Counsel Group I, Senior Counsel Group II and Junior Counsel in respect of Civil Litigation and such Criminal cases as may be entrusted to them in the Bombay High Court effective from 1st April, 1987.

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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 Bombay High Court.
2. Incharge of Litigation Cases : The officer Incharge of the Branch Secretariat of the Department of Legal Affairs, Bombay, will be incharge of the entire litigation work on behalf of the Government of India before the Bombay 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 of the Department of Legal Affairs at Bombay.

II. DEFINITIONS :

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

- (a) 'Counsel' will mean and include the Special Panel Counsel, Senior Counsel Group I, Senior Counsel Group II and Junior 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 includes the Attorney General for India, the Solicitor General for India, and Additional Solicitors-General for India.

There will be Panels of Counsel consisting of Special Panel Counsel, Senior Counsel Group I, Senior Counsel Group II and Junior Counsel to conduct the litigation cases on behalf of the Government of India before the Bombay High Court at Bombay. The strength of the Counsel empanelled may be determined by the Government of India from time to time.

1. Initial/further appointment/empanelment: The term of appointment/empanelment of the Counsel would be for a period of one year in the first instance, which may be extended for a further term not exceeding three years, at the discretion of the Government of India.

2. Termination of appointment/empanelment: The appointment/empanelment of the counsel would be terminable on one month's notice in writing on either side.

1. Headquarters at Bombay : The counsel may locate his headquarters during the period of his appointment/empanelment as such, at Bombay/New Bombay.

1. The counsel shall:

- (i) appear in Bombay High Court in the cases marked to him by the concerned officer (Incharge) of the Branch Secretariat, Department of Legal Affairs, Bombay or any other officer authorised by the Incharge;
- (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;

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- (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 and the concerned Officer of the Branch Secretariat, Bombay, 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, Bombay and the Department of Legal Affairs periodical statements and reports/returns, which may be called for by the Ministry of Law and Justice, Department of Legal Affairs, from time to time;
- (vii) render detailed account of the advance in the form of out of pocket expenses to the officer Incharge of the Branch Secretariat, Bombay; 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 and Justice, from time to time...

VII. RETAINER AND OTHER PERQUISITIES:

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 Bombay High Court would be at the rates as indicated in Annexure I.
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.

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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 lumpsum amount of Rs. 100/- 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. 200/- 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 should be obtained by the Counsel in advance from the Branch Secretariat, Bombay. An account of the expenses incurred should be rendered to the Branch Secretariat 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 I

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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 Govt. of India of the Public Sector Undertaking in Bombay 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, and others as non-effective hearing.

(b) Identical Cases: Two or more cases 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 pending 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 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.

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9. No fee will be payable to the Counsel if an adjournment 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, application 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.50/- in each of the connected cases.
- (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 Rs.25/- 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 fees in the main case and Rs.50/- in each of the connected cases.
- (f) 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 Rs.25/- in each of the connected cases.

11. The fee to the counsel will be paid by the Department of Legal Affairs, Ministry of Law and Justice, 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.

ANNEX

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12. As regards admissibility and quantum of fee in such cases, the decision of the Officer-in-Charge of the Branch Secretariat of the Department of Legal Affairs Bombay 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 and Justice, shall be final and binding. He may, by an order in writing, relax any of the provisions contained in the Scheme.

(F.No.23(1)/87-Judl.)