

F. No. 21(4)/99-Judl.
Government of India
Ministry of Law, Justice and Co. Affairs
Department of Legal Affairs

New Delhi, the 24th September, 1999

OFFICE MEMORANDUM

Subject: Revision of terms and conditions for engagement of Panel 'A', 'B', 'C' and 'D' Counsel in Supreme Court.

The question of revision of terms and conditions of engagement of Panel Counsel of Supreme Court was under consideration of the Government of India and it has now been decided to revise the terms and conditions of engagement of Panel 'A' Counsel as per scheme given in Annexure-I and those of Panel 'B', 'C' and 'D' Counsel as per scheme given in Annexure-II.

2. The revised terms will be effective from 1st October, 1999.
3. The Counsel will be paid fee at the old rates in respect of their appearance in the Supreme Court etc. and other work done by them prior to 1st October, 1999 and at the revised rates in respect of the work done by them on/after 1st October, 1999.

(Krishna Kumar)
Joint Secretary & Legal Adviser

To: -

1. All Ministries/Departments to the Government of India.
2. All Panel A, B, C & D Counsel of Supreme Court through Central Agency Section, Department of Legal Affairs, New Delhi.
3. Ministry of Finance, Department of Expenditure, New Delhi w.r.t. their U.O. No. 9(11)/99-E.II(B) dated 6.9.1999.
4. All Government Advocates/Officers of Central Agency Section.
5. Legal Adviser, Railway Board, New Delhi (with 5 s/copies).
6. Joint Secretary (Legal), Department of Revenue, Ministry of Finance, New Delhi (with 5 s/copies).
7. CBDT, Department of Revenue, Ministry of Finance, New Delhi (with 5 s/copies).
8. Central Agency Section (with 10 spare copies)/Fee Bill Unit.

9. Litigation (HC) Section, Cash/Admn.I(LA)/Admn.II.(LA)/Admn.III(LA) / Admn.IV(LA)/B&A/Advice A/B/C Section/Litigation (LC) Section (with 5 s/copies)
10. Pay and Accounts Officer, D/Legal Affairs, New Delhi.
11. Hindi Section for Hindi translation.
12. Guard File/Judicial Section (with 500 copies).

(S.K. Kalra)
Section Officer

ANNEXURE-I

MINISTRY OF LAW, JUSTICE AND CO. AFFAIRS
DEPARTMENT OF LEGAL AFFAIRS
(JUDICIAL SECTION)

**REVISED TERMS AND CONDITIONS FOR THE ENGAGEMENT OF
PANEL 'A' COUNSEL ON BEHALF OF THE GOVERNMENT OF INDIA
AND THE PARTICIPATING UTS IN THE CENTRAL AGENCY
SECTION IN RESPECT OF ALL CASES BEING HANDLED BY THE
CENTRAL AGENCY SECTION IN THE SUPREME COURT OF INDIA
EFFECTIVE FROM 01.10.1999.**

I. SCOPE OF TERMS AND CONDITIONS

The terms will be operative in respect of all the cases on behalf of the Government of India and the participating UTs. In the Central Agency Scheme entrusted to the Counsel in the Supreme Court of India.

II. DEFINITIONS

For the purpose of this Scheme, the expressions:

- (a) 'Counsel' will mean and includes the Panel 'A' 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 of India and Additional Solicitors-General of India.

III. TERM OF ENGAGEMENT

1. Engagement: - The term of engagement of the Counsel would be for a period of three years from the date of engagement or until further orders whichever is earlier. The term may be extended at the discretion of the Government of India.

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

V. HEADQUARTERS OF THE COUNSEL

Headquarters at New Delhi/Delhi: - The Counsel shall locate his Headquarters during the period of his engagement at New Delhi/Delhi.

V. DUTIES

The Counsel shall:

- (i) appear in the Supreme Court of India in the cases marked to him;
- (ii) if so required, appear in the High Courts, Tribunals, Commissions of Inquiry, before the Arbitrators/Umpires, Judicial or quasi-judicial authorities, etc. at/ outside the Headquarters;
- (iii) render all assistance to the Law Officers, Advocate General of the State Government, Special Counsel, if required to do so, who may be engaged in a particular case before the Supreme Court, High Court, Tribunal, Commission of Inquiry, before the Arbitrator/Umpires, etc.;
- (iv) keep the Incharge of the Central Agency Section informed of the important developments in the case from time to time, particularly with regard to settling of drafts, filing of papers, dates of hearing of the case, supplying copies of judgements etc.;
- (v) 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.

VI. **FEE PAYABLE TO THE COUNSEL**

1. The fees for appearance and other work payable to the Counsel in the Supreme Court of India would be as follows: -

- | | | |
|-------|---|----------------------------|
| (i) | All regular appeals and defended writ petitions(for final hearing) | Rs.4500/- per case per day |
| (ii) | All defended admission matters (SLP/TP and writ petitions and other miscellaneous matters for admission). | Rs.3000 per day per case |
| (iii) | Settling of pleadings. | Rs.1800/- per case |
| (iv) | Appearance in miscellaneous applications | Rs.1500/- per case |
| (v) | Conference | Rs. 300/- per conference |

Subject to the following: -

- (i) that for settling pleading one conference will be permissible;
- (ii) that in respect of hearing of writ matters, suits, appeals and SLPs, etc., maximum of three such conferences will be permissible.

Explanation: - 1. For settling pleadings in the cases in the High Courts or Tribunals/Commissions of Inquiry/Arbitrators/Umpires or

judicial or Quasi-Judicial Authorities, the Counsel shall be entitled to the same fee as mentioned above.

2. When the Counsel does not argue the case himself but only assists the Law Officer is jointly briefed with a Law Officer, Advocate General of the State Government or other Special or other Panel 'A' Counsel, he will be entitled to the same fees as is payable to him deeming that he has appeared and argued the case himself.

VII. OUT OF HEADQUARTERS

1. If the Counsel is required to go out of the Headquarters in connection with litigation, on behalf of the Government of India e.g. for conference with the Law Officer/ Special Panel Counsel, for appearance in a Court outside the headquarters, he will be entitled to a daily fee of Rs.4500/- for the days of his absence from the Headquarters, including the day of departure, intervening holidays and arrival back at the Headquarters, but no fees will be payable 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 fees, 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 Class I Officers of the Central Government. He will also be paid a lump sum amount of Rs.600/- as conveyance charges for performing local journey while outside the Headquarters. He will also be entitled to actual expenses for stay in Hotel, subject to a maximum of Rs.600/- per day.

VIII. CLERKAGE

The Counsel will not be entitled to any clerkage on the amount of fee payable to him.

IX. 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 or the Public Sector Undertaking 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 or the Public Sector Undertakings.

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 the Supreme Court of India or any case arising out of those cases, e.g. appeals and revisions.

X. GENERAL

1. The aforesaid terms of this Scheme will have the following meaning: -
 - (a) Effective Hearing: Effective Hearing means a hearing in which either one or both the parties involved in a case are heard by the court on the facts or Law of the case. If the case is mentioned by the other side and adjourned or when only directions are given or only judgement is delivered by the court, the same would not constitute an effective hearing and no fee will be payable to the Senior Counsel.
 - (b) Uncontested Cases: All suits and appeals are deemed to be 'uncontested', if these are withdrawn by the petitioner/appellant or dismissed in limine at the admission stage or otherwise decided by the Court ex-parte before the final hearing. No Writ Petition/Review Petition (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 Counsel or is withdrawn by the Government at the time of its admission.
 - (c) Identical Cases: Identical cases means 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. and/or where common or identical judgements are delivered irrespective of the fact that all the cases are heard together or not.
2. In all cases, effective appearance/hearing is necessary for the Counsel to claim fee.
3. No fee will be payable to the Counsel if the case is not called out or if called out is adjourned by the Court without hearing or adjourned at the request of either of the parties.
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. SLP/petitions of appeal arising from one common judgement or order will be together considered as one case, if they are heard together.

7. Two or more Special Leave Petitions/petitions of appeal/writ Petitions of substantially identical questions of Law or facts are involved in or arise out of a common judgement or order, any one of such cases will be treated as main case and the others as connected cases.

8. The fee to the Counsel will be paid by the Central Agency Section on presentation of duly signed pre-receipted stamped bill in triplicate and on submission of a copy of pleading settled, if it is a settling of pleading, and submission of minutes or gist of proceedings on the docket or on the body of brief, if it is brief for hearing. The Counsel shall submit his fee bill within three months from the date on which the fee has accrued.

XI. 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 and Company Affairs, shall be final and binding. He may, by an order in writing, relax any of the aforesaid terms and conditions.

(Krishna Kumar)
Joint Secretary & Legal Adviser to the Government of India
F. No. 21(4)/99-Judl.

ANNEXURE-II

F.No.21(4)/99-Judl.
Government of India
Ministry of Law, Justice and Company Affairs
Department of Legal Affairs
Judicial Section

**REVISED TERMS AND CONDITIONS FOR THE ENGAGEMENT OF
PANEL 'B', 'C' AND 'D' DRAFTING COUNSELS ON BEHALF OF THE
GOVERNMENT OF INDIA AND THE PARTICIPATING Uts IN THE
CENTRAL AGENCY SCHEME IN ALL CASES BEING HANDLED BY
THE CENTRAL AGENCY SECTION OM THE SUPREME COURT OF
INDIA EFFECTIVE FROM 01.10.1999.**

I. SCOPE OF TERMS AND CONDITIONS

The terms will be operative in respect of all the cases on behalf of the Government of India and the participating UTs in the Central Agency Scheme as may be entrusted to the Counsel in the Supreme Court of India.

II. DEFINITIONS

For the purpose of this Scheme, the expressions;

- (a) 'Counsel' will mean and include the B, C and D Panel 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 of India and Additional Solicitors-General of India.

III. TERM OF ENGAGEMENT

- 1. Engagement: The term of engagement of the Counsel would be for a period of three years from the date of engagement or until further orders whichever is earlier. The term may be extended at the discretion of the Government of India.
- 2. Termination: The engagement of the Counsel would be terminable at any time without assigning any reason.

IV. Headquarters at New Delhi/Delhi: - The Counsel shall locate his Headquarters during the period of his engagement at New Delhi/Delhi.

V. DUTIES

The Counsel shall:

- (i) appear in the Supreme Court of India in the cases marked to him;
- (ii) if so required, appear in High Courts, Tribunals, Commissions of Inquiry, before the Arbitrators/Umpires, Judicial or quasi-judicial authorities, etc. at/ or outside the Headquarters.
- (iii) 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 Supreme Court, High Court, Tribunals, Commissions of Inquiry, before the Arbitrator/Umpire etc.;
- (vi) keep the Central Agency Section informed of the important developments in the case from time to time, particularly with regard to dates of hearing of the case, furnishing information as to proceedings of the Court, etc.;
- (vii) 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.

VI. FEE PAYABLE TO THE COUNSEL

1. The fees for appearance and other work payable to the Counsel in the Supreme Court of India would be as follows: -

- | | | |
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| (i) | All regular appeals and defended writ petitions(for final hearing). | Rs.3000/- per case per day |
| (ii) | All defended admission matters (SLP/TP and writ petitions) and other miscellaneous matters for admission. | Rs.1500/- per day per case |
| (iii) | Drafting SLP/Counter Affidavit/ Rejoinder, etc. | Rs.1050/- per case |
| (iv) | Drawing written submissions | Rs.1100/- per case |
| (v) | Drafting or appearance in Misc. applications (including mentioning of the case/caveat/clearance/obtaining the number and taking date for hearing) | Rs. 900/- per case |

(“Explanation-I:- If substantially identical SLP/Petitions of Appeal/Counter Affidavits including stay 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”).

(“Explanation-II: For drawing pleadings, including affidavits and statements in the cases in the High Courts or Tribunals/Commissions of Inquiry/Arbitrators/Umpires or Judicial or Quasi-Judicial Authorities, a Junior Counsel shall be entitled to the same fee as mentioned above.

2. When the Counsel does not argue the case himself but only assists the Law Officers, Advocate General of the State Government or other Special or Panel ‘A’ Counsel, he will be entitled to the same fees as is payable to him deeming that he has appeared and argued the case himself”).

VII. OUT OF HEADQUARTERS:

1. If the Counsel is required to go out of the Headquarters in connection with Central Government litigation, e.g. for conference with the Law Officers/ Special Panel ‘A’ Counsel, appearance in a Court outside the headquarters, he will be entitled to a daily fee of Rs.3300/- for the days of his absence from the Headquarters, including the days of departure, intervening holidays and arrival back at the Headquarters, but no fee will be payable for the days 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 Class I Officers of the Central Government. He will also be paid a lump sum amount of Rs.600/- as conveyance charges for performing local journey while outside the Headquarters. He will also be entitled to actual expenses for stay in Hotel, subject to a maximum of Rs.600/- per day.

VIII. CLERKAGE

The Counsel will not be entitled to any clerkage on the amount of fee payable to him.

IX. 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 or the Public Sector Undertaking 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 or the Public Sector Undertakings.

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 the Supreme Court of India or any case arising out of those cases e.g. appeals and revisions.

X. **GENERAL:**

1. The aforesaid terms of this Scheme will have the following meaning: -

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- (b) **Uncontested Cases:** All suits and appeals are deemed to be 'uncontested', if these are withdrawn by the plaintiff/appellant or dismissed *in limine* at the admission stage or otherwise decided by the Court ex-parte before the final hearing. No Writ Petition/Revision Petition (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 Counsel or is withdrawn by the Government at the time of its admission.
- (c) **Identical Cases:** 'Identical Cases' means 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. and/or where the common or identical judgements are delivered irrespective of the fact whether all the cases are heard together or not.

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

3. No fee will be payable to the Counsel if the case is not called out or if called out but adjourned by the Court itself without hearing or adjourned at the request of either of the parties.
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. SLP/petition of appeal arising from one common judgement or order will be together considered as one case, if they are heard together.
7. When Two or more Special Leave Petitions of appeal i.e. Civil Appeal /Writ Petitions of substantially identical questions of Law or facts are involved or arising out of common judgement or order, any one of such cases will be treated as main case and the others as connected cases and the fee for drafting in such cases will be determined by the Central Agency Section, (Department of Legal Affairs) keeping in view the volume of work involved in it.
8. The fee to the Panel B, C and D Counsel will be paid by the Central Agency Section on presentation of duly signed pre-receipted stamped bill in triplicate on submission of a copy of document drafted, if it is a drafting of a document/ pleading, and submission of minutes or gist of proceedings, on the docket or on the body of brief, if it is brief for hearing. The Counsel shall submit his fee bill along with the brief within three months from the date on which the fee has accrued.
9. 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 and Company Affairs, shall be final and binding. He may, by an order in writing, relax any of the provisions of the aforementioned terms and conditions.

(Krishna Kumar)
Joint Secretary & Legal Adviser to the Government of India
F. No. 21(4)/99-Judl.
