

No.F.24(2)/99-Judl.  
Government of India  
Ministry of Law, Justice and Company Affairs  
Department of Legal Affairs  
Judicial Section

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New Delhi, the 24<sup>th</sup> September, 1999

**OFFICE MEMORANDUM**

Subject: Revision of fees payable to Senior Counsel/Central Government Standing Counsel and Central Government Pleaders in the Delhi High Court w.e.f. 1<sup>st</sup> October, 1999.

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Enclosed herewith please find a copy of the Revised Schemes containing terms and conditions for the engagement of (i) Senior Counsel and (ii) Central Government Standing Counsel and Central Government Pleaders in respect of civil litigation and such criminal cases as may be entrusted to them in Delhi High Court effective from 1<sup>st</sup> 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 Delhi High Court, in Courts other than the High Court, Commission of Inquiry, Tribunals etc.: -

- (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 Delhi High Court, Commission of Inquiry, Tribunals, other courts etc. located in Delhi, the Counsel will be engaged by the Officer-Incharge of Litigation (HC) Section or any other authorized officer of the Litigation (HC) Section of this Department at Delhi High Court depending on the importance of the case, legal issues and financial stakes involved. However, in respect of their engagement in Courts, Commission of Inquiry, Tribunals etc., outside Delhi/New Delhi, prior approval of the Department of Legal Affairs, Ministry of Law, Justice & Company Affairs, New Delhi will be required.
- (c) As in the past, Ministry of Law, Justice and Co. Affairs, Department of Legal Affairs, will only be making the payment of monthly retainer to the CGSC and installation and annual rental charges of telephones provided to them.

- (d) For appearance in the Delhi High Court, in connection with the fee payable to them is to be paid by the Department of Legal Affairs, Ministry of Law, Justice and Company Affairs, Litigation (HC) Section, Delhi High Court, New Delhi. The fee bills are to be processed by the Litigation (HC) Section 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 case in the concerned Court. Such expenses will be paid in advance to the Litigation (HC) Section in accordance with the instructions issued by the Litigation (HC) Section. However, the expenditure relating to TA/DA payable to the Counsel for their appearance in Courts, Tribunals, Commission of Inquiry etc. outside Delhi/New Delhi 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 01.10.1999 and at the revised rates in respect of the work done by them on/after 1<sup>st</sup> October, 1999. However, in cases where the Standing Counsel/Central Government Pleader has put in some appearance before –1.10.99 and some on/after 01.10.1999, the Counsel will be paid fee in respect of appearance at the revised rates for the entire case. The fee in respect of drafting work etc. will be paid in accordance with the rates which were 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.
- (g) The Scheme contained in this O.M. will also apply to counsel of CAT, Delhi. However, the fee payable to them will be borne by the Ministries/Departments themselves.

3. All the Ministries/Departments which propose to engage the Counsel to appear in the Delhi High Court are requested to contact the Officer In-charge of Litigation (HC) Section of this Department located in Delhi High Court Annexe Building, New Delhi. However, for the engagement of the counsel outside Delhi/New Delhi (including other courts located in Delhi) they may obtain the approval of the Department of Legal Affairs, Ministry of Law, Justice and Co. Affairs, New Delhi after settling the terms and conditions of their engagement. 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 minimized and they are not put to inconvenience.

4. All the Ministries/Departments are, however, requested to ensure that the bills in respect of other expenditure, if incurred by the Counsel in connection with the

TA/DA etc. for their appearance in various High Courts etc. outside Delhi/New Delhi 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.

(Krishna Kumar)  
Joint Secretary & Legal Adviser to the Govt. of India

Copy forwarded to: -

1. All the Ministries/Departments to the Government of India.
2. All Senior Counsel/Central Government Standing Counsel/ Central Government Pleaders in Delhi High Court through Litigation (HC) Section, Delhi High Court, New Delhi.
3. Department of Expenditure, Ministry of Finance, New Delhi w.r.t. their U.O. No. 9(11)/99-E.II(B) dated 6.9.1999.
4. Legal Adviser, Railway Board, New Delhi (with 5 spare copies).
5. Department of Personnel and Training (AT Section), New Delhi (with 5 s/copies)
6. Joint Secretary (Legal), Department of Revenue, Ministry of Finance, New Delhi (5 s/copies).
7. CBDT, Department of Revenue, Ministry of Finance, New Delhi (with 5 s/copies).
8. Branch Secretariats Mumbai/Calcutta/Bangalore/Chennai.
9. Central Agency Section, Litigation (HC/LC) Sections/Cash/Admn.II.(LA)/ B&A/Advice A/B/C Section ( with 5 s/copies)
10. Pay & Accounts Officer, Department of Legal Affairs, New Delhi.
11. Guard File/Judicial Section (40 s/copies).
12. O.L. Section for Hindi translation.

Sd/-  
(S.K. Kalra)  
Section Officer  
Tel.3384945

**CGSC/Central Government Pleaders,  
Delhi High Court**

Government of India  
Ministry of Law, Justice and Company Affairs  
Department of Legal Affairs  
Judicial Section

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Revises Scheme containing terms and conditions for the engagement of Central Government Standing Counsel and Central Government Pleaders on behalf of the Government of India in respect of Civil Litigation and such Criminal cases as may be entrusted to them in Delhi High Court effective from 1<sup>st</sup> October, 1999.

**I. SCOPE OF THE SCHEME**

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 Delhi 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 Litigation (HC) Section, the Department of Legal Affairs, New Delhi will be in-charge of the entire litigation work on behalf of the Government of India before the Delhi 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 Litigation (HC) Section, the Department of Legal Affairs, New Delhi, or any other officer authorized by him.

**II. DEFINITIONS**

1. For the purpose of this Scheme, the expressions
  - (a) 'Counsel' will mean and include the Central Government Standing Counsel and Central Government Pleader;
  - (b) 'Government of India' means and includes the Government of India and the Government of a Union Territory also; and
  - (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 CENTRAL GOVERNMENT

1. Central Government Standing Counsel and a Panel of Central Government Pleaders: There will be six Central Government Standing Counsel and a panel of counsel consisting of Central Government Pleaders to conduct the litigation cases on behalf of the Government of India before the Delhi High Court. The strength of the Counsel engaged/empanelled 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 not exceeding three years, 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

Headquarters at the place of the usual sitting of High Court or its Bench: The Counsel will locate his Headquarters during the period of his engagement as such at the place of the usual sitting of the High Court concerned or its Bench as the case may be.

### VI. DUTIES

The Counsel shall

- (i) appear in the Delhi High Court in the cases marked to him by the Officer In-charge of the Litigation (HC) Section, Department of Legal Affairs, New Delhi
- (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 judgments etc.;
- (vi) furnish to the Litigation (HC) Section 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 the advance in the form of out of pocket expenses to the Officer Incharge of Litigation (HC) Section; 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 Co. Affairs from time to time.

## **VII. RETAINER AND OTHER PERQUISITES**

1. Retainer payable to Senior Central Government Standing Counsel: The 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 and postage and all other establishment charges. The Central Government Pleaders 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 Co. Affairs, Department of Legal Affairs, New Delhi.
3. Perquisites: The Central Government Standing Counsel will be allowed the facilities of telephone and furniture in the office allotted for the use of the Central Government Standing Counsel in Delhi 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.

## **VIII. FEE PAYABLE TO THE COUNSEL**

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

(i) Civil or Criminal Writ Petitions under Articles 226 and 227 of the Constitution, orders made in such petitions, including appearance on admission stage or in civil	Rs.2250/- per case
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miscellaneous petitions.

If in case hearing on a Writ Petition goes  
On for more than 3 days, an additional fee  
of Rs.450/- per day (not exceeding three  
number) may be paid by way refresher fee.

	(ii) Petition under Article 132 or 133 of the Constitution in civil or criminal cases	Rs.900/- per case per day subject to a Maximum of Rs.1800/- for the case
scales	(iii) Original Suits, civil appeals not otherwise specifically provided under these terms (including drafting of pleadings):	Ad Valoram fee shall be paid on the following
	(a) Value upto Rs. 000/-	7 ½%
	(b) <u>Thereafter</u> - Value upto Rs.20000/-	3%
	(c) <u>Thereafter</u> Value upto Rs.50000/-	1 ½%
	(d) <u>Thereafter</u> Value over Rs.50000/-	¾%
	The Ad valore fee shall be subject to a Maximum of Rs.13500/-.	
which-	(iv) Appeals from decrees from suits and proceedings except including Second Appeals except L.P.A. from Petition under Articles 226 & 227 as  mentioned in item (i) above and appeals From declaratory decrees or such decrees in either there is no valuation or valuation is notional or which are mainly on question of law and such appeals which have been specifically or separately provided herein.	For each case same fee as in item (iii) above or fee fixed by the Court,  ever is higher.
	(v) Civil or Criminal Revision Petitions	Rs.1050/- per case
	(vi) Civil Miscellaneous applications or Petitions under the Indian Succession Act, Contempt of Court Proceedings and other Proceedings of an original nature not	Rs.750/- per case

- specifically provided otherwise.
- (vii) Reference 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) All cases of the nature where no substantial legal work is involved and no substantial legal work is actually done till the disposal of the case and miscellaneous petitions or work not otherwise provided for, like Forma Pauperis, Transfer Petitions, Settlement of list of Supreme Court cases, Execution proceedings Rs.300/- per petition
- (x) Cases under Arbitration Act:
- (a) In case under Section 34 of the Arbitration and Conciliation Act, 1996 registered as Suits, the fee payable per case shall be  $\frac{1}{4}$  of the fee according to the scale mentioned in VIII (iii) if the case is uncontested subject to a minimum of Rs.1050/- and a maximum of Rs.3000/-.
- (b) where the case is contested, the fee payable shall be half of the ad-valorem according to the scale mentioned in item (iii) above.
- (c) Inc cases other than Section 34. Rs.1200/- per case
- (d) In cases where no legal work is involved and the case is disposed of on oral submission conceding the case of other party, the minimum fee shall be Rs.450/- and the maximum shall be Rs.1350/- Decision of the Officer In-charge of Litigation(HC)



Section as to the admissibility and quantum  
of fee payable in this behalf shall be final

(xi) (a) Appeals against awards given under the statues relating to the acquisition or requisition of landed property and appeals in Arbitration cases	Fee shall be calculated on half ad-valorem basis according to the scale mentioned in item(iii), subject to a maximum of Rs.1350/-
(b) Appeals from declaratory decrees or such decree in which either there is no valuation or valuation is notional which are mainly on question of law.	- do -
(xii) Written opinion other than referred to in VI(iii)	Rs.450/-
(xii) For drafting pleadings, written statements in suits and counter affidavits/returns/ answers to the written petitions, grounds of appeal and applications for leave to appeal to the Supreme Court except in cases where fee on ad-valorem basis has been prescribed.	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).

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/Senior Counsel, he will be entitled to the same fee as are payable to him deeming that he has appeared and argued the case himself.

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

**IX. OUT OF HEADQUARTERS:**

1. When 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.1800/- 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 fees will be paid for the

day of departure if he leaves the Headquarters after Court hours and 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 journey while outside the Headquarters. He will also be entitled to 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. OUT OF POCKET EXPENSES:

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 Litigation (HC) Section of the Department of Legal Affairs. An account of the expenses incurred should be rendered to that Section while presenting the final fee bill.

#### 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 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 or the Public Service Undertaking in Delhi 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 of 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 judgement is delivered

by the court, it would not constitute an effective hearing but will be termed as non-effective hearing.

- (b) Uncontested Cases: All the 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) Substantial work: When the case has been admitted by the Court after hearing on 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 etc. 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 records 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 uncontested 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/- in each of the connected cases.
- (b) when the main case has been contested as in (a) above, but in the connected cases either affidavits 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.75/- only in each of the connected cases.
- (c) When substantially different affidavits are drafted in each connected cases but all the cases are disposed of without contest, the Counsel shall get 1/3<sup>rd</sup> fees in the main case and Rs.150/- in each of the connected cases.
- (d) When the Counsel has drafted the affidavit, petition or ground 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 1/3<sup>rd</sup> fees in the main case and Rs.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 and 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/judgement 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, 1/3<sup>rd</sup> fee after substantial action has been taken, i.e. first stage and secondly the remaining 2/3<sup>rd</sup> 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 1/3<sup>rd</sup> 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-Incharge of the Litigation (HC) Section of the 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 and Company Affairs, shall be final and binding. He may, by an order in writing, relax any of the provisions contained in the Scheme.

Sd/  
(Krishna Kumar)  
Joint Secretary & Legal Adviser to the Government of India  
F. No. 24(2)/99-Judl.

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**SENIOR COUNSEL**  
**DELHI HIGH COURT**

Ministry of Law, Justice and Company Affairs  
Department of Legal Affairs  
Judicial Section

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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 Delhi High Court effective from 1<sup>st</sup> October, 1999.

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**I. SCOPE OF THE SCHEME:**

1. The Scheme will be operative in respect of all Civil litigation cases and such criminal cases on behalf of the Government of India as may be entrusted to the Counsel in the Delhi High Court.
2. In-charge of Litigation Cases: The Officer Incharge of Litigation (HC) Section, Department of Legal Affairs, New Delhi, will be Incharge of the entire litigation work on behalf of the Government of India before the Delhi High Court, except such of the work for which separate arrangements have been made.
3. Allocation of the cases to the Counsel: Allocation of cases to the Counsel will be made by the Officer Incharge of the Litigation (HC) Section of the Department of Legal Affairs, New Delhi, or any other officer authorized 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 includes the Attorney General for India, the Solicitor-General of India and Additional Solicitors-General of India.

### III. **PANEL FOR COUNSEL:**

Panel of Senior Counsel: There will be a panel of consisting of Senior Counsel to conduct the litigation cases on behalf of Government of India before the Delhi High Court, New Delhi. 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 Engagement/empanelment: The term of engagement/empanelment 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/empanelment: The empanelment of the Counsel would be terminable at any time without assigning any reason.

### V. **HEADQUARTERS OF THE COUNSEL:**

Headquarters at Delhi/New Delhi: The Counsel may locate his Headquarters during the period of his engagement/empanelment as such, at Delhi/New Delhi.

### VI. **DUTIES:**

The Counsel shall:

- (i) appear in Delhi High Court in the cases marked to him by the Officer Incharge of the Litigation (HC) Section, Department of Legal Affairs, Delhi High Court, New Delhi, or any other officer authorized 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 Litigation (HC) Section, 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 Litigation (HC) Section and the Department of Legal Affairs, New Delhi, periodical statements and reports/returns, which may

- be called for by the Ministry of Law, Justice & Co. Affairs, 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 Litigation (HC) Section;
  - (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:**

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

**VIII. FEE PAYABLE TO THE COUNSEL:**

The fees payable to the Counsel in the Delhi High Court would be as follows:

- |       |   |   |
|-------|---|---|
| (i)   | Suits, writ petitions and appeals, including oral applications for leave to appeal to Supreme Court in Writ Petitions | Rs.3000/- per case per day of effective hearing. In case of non-effective hearing Rs.500/- per day subject to maximum of five hearings. |
| (ii)  | Applications for leave to appeal to the Supreme Court other than in Writ Petitions                                    | Rs.1100/- per case  |
| (iii) | Settling pleadings  | Rs.900/- per case   |
| (iv)  | Miscellaneous applications  | Rs.900/- per case   |
| (v)   | Conference  | Rs.300/- per conference   |

subject to:

- (a) for settling pleadings - one conference
- (b) in respect of hearing of Writ matters, suits Conferences appeals and Supreme Court Leave Applications etc. - three Conferences (maximum)



**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 journey while outside the Headquarters. He will also be entitled to reasonable actual expenses for stay in Hotel, subject to a maximum of Rs.600/- per day.

**X. CLERKAGE:**

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

**XI. OUT OF POCKET EXPENSES:**

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 Litigation (HC) Section. An account of the expenses incurred should be rendered to the Litigation (HC) Section 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 or

the Public Sector Undertaking in Delhi 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 the 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 judgement 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 judgements 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 of petitions arising from one common judgement 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 cases and Rs. 180/- 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 any 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.90/- 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 1/3<sup>rd</sup> fees in the main case and Rs.180/- 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 1/3<sup>rd</sup> fee in the main case and Rs.90/- 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 and Company 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/judgement where it is necessary in case the claim is for appearance fee. The Counsel shall submit his fee bill within three months from the date on which the fee has accrued.

12. As regards admissibility and quantum of fee in such cases, the decision of the Officer-Incharge of the Litigation (HC) Section of the Department of Legal Affairs shall be final.

12. 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 contained in the Scheme.

Sd/-  
(Krishna Kumar)  
Joint Secretary & Legal Adviser to the Government of India  
No. F. 24(2)/99-Judl.

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