

F. No.26(I)/99-Judl.  
Government of India  
Ministry of Law, Justice and Co. Affairs  
Department of Legal Affairs  
Judicial Section

\*\*\*\*

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

**OFFICE MEMORANDUM**

Subject: Revision of fees payable to Senior Central Government Standing Counsel and Additional Central Government Standing Counsel in various High Courts (except High Courts of Delhi, Mumbai, Calcutta, Chennai and Karnataka) and Senior Counsel of various High Courts (except High Courts of Delhi, Mumbai, Calcutta and Chennai).

The question of revision of terms of engagement of the Senior Central Government Standing Counsel and Additional Central Government Standing Counsel in various High Courts in India Courts (except High Courts of Delhi, Mumbai, Calcutta, Chennai and Karnataka) and Senior Counsel of various High Courts (except High Courts of Delhi, Mumbai, Calcutta and Chennai) was under consideration of the Government and it has now been decided to revise their terms of engagement as in the Scheme enclosed w.e.f. 1.10.1999.

2. For the guidance of the various Ministries/Departments, the following clarifications/guidelines are given for settling the fee bills, TA/DA etc., payable to them for their engagement in various High Courts and its Benches, in the District and Subordinate Courts, Tribunals, Commission of enquiry, before the Arbitrators/Umpires 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 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 various High Courts or its Benches, the Counsel will be engaged by the Senior Central Government Standing Counsel, In-charge of the litigation cases depending upon the importance of the case, legal issue and financial stakes involved. However, in respect of their engagement in Courts, Commissions of Inquiries, Tribunals etc. outside the Headquarters of the High Court or its Bench concerned, prior approval of the Department of Legal Affairs will be required.

- (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 Standing Counsel and installation and annual rental charges of telephone provided to them.
- (d) For appearance in the High Court or its Benches on behalf of the Ministries/Departments of the Government of India, the expenditure in connection with the fee payable to them, 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 High Court or its Bench. The expenditure relating to TA/DA payable to the Counsel for their appearance in Courts/Tribunals, Commission of Inquiries etc. outside the Headquarters has 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 1st October, 1999 and at the revised rates in respect of the work done by them on/after 1.10.1999. However, in cases where the Sr. CGSC/Addl. CGSC has put in some appearances before 1st October, 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 will be paid in accordance with the rates which were applicable to him at the time he completed the drafting work.
- (f) The present procedure (as 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 Office Memorandum will also apply to counsel of Central Administrative Tribunal. However, the fee payable to them will be borne by the Ministry/Departments themselves.

4. All the Ministries/Departments which propose to engage the Counsel to appear in various High Courts are requested to contact the Senior/Central Government Standing Counsel engaged by the Department of Legal Affairs in various High Courts directly. However, for the engagement of Counsel outside the Headquarters at which the High Court or its Bench is located, they may obtain the approval of the Department of Legal Affairs, Ministry of Law, Justice and Company Affairs, New Delhi. The Departments are, however, requested to make arrangements for their travel in consultation with the Counsel concerned. They 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.

5. 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 for their appearance in various Courts etc. outside their Headquarters 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 in all respects including fees, TA/DA etc.

6. The Competent Officers of the Ministries/Departments may, under the powers vested in them under the Delegation of Financial Power Rules, 1970, and after satisfying themselves that the fee bill and other bills are in order in all respects may sanction payment to the Counsel and make payment at the earliest without consulting the Department of Legal Affairs, Ministry of Law, Justice and Company Affairs. However, where the fee bills prepared by the Counsel does not strictly conform to the Scheme or where there is any doubt or difference of opinion between the Administrative Ministry/Department and the Counsel on any particular item of fee etc., the matter may be referred to this Department for clarification. In case where the Counsel has been engaged without settling his terms in consultation with this Department, the existing procedure of getting the fee bills certified by this Department will continue.
7. 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/Central Government Standing Counsel/Additional Central Government Standing Counsel in various High Courts (as per list enclosed).
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 (5 s/copies).
5. Joint Secretary (Legal), Department of Revenue, New Delhi.
6. Ministry of Finance, New Delhi (5 s/copies).
7. GBDT, Department of Revenue, Ministry of Finance, New Delhi(5 s/copies).
8. Central Agency Section, Litigation (HC/LC) Sections/Cash/Admn.II.(LA)/B&A/Advice A/B/C Section ( 5 s/copies)
9. Branch Secretariats Mumbai/Calcutta/Bangalore/Chennai.
10. Pay and Accounts Officer, D/Legal Affairs, New Delhi.
11. Guard File/Judicial Section (40 s/copies).
12. O.L. Section for Hindi translation.

(S.K. Kalra)  
Section Officer

Ministry of Law, Justice and Company 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 various High Courts in India (except High Courts of Delhi, Mumbai, Calcutta, Chennai and Karnataka) 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 various High Courts in India (except High Courts of Delhi, Mumbai, Calcutta, Chennai and Karnataka). 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. **IN-CHARGE OF LITIGATION CASES**

The Senior Central Government Standing Counsel in a particular High Court or its Bench, will be in-charge of the entire litigation work on behalf of the Government of India before concerned High Court or its Bench, except such of the work for which separate arrangements have been made i.e. in respect of Railways and Income-tax Departments.

3. **ALLOCATION OF CASES TO THE COUNSEL**

Allocation of cases to the Central Government Standing Counsel and Additional Central Government Standing Counsel will be made by the Senior/Central Government Standing Counsel, In-charge of the litigation work in the concerned High Court or its Bench. As far as possible the Sr.C.G.S.C will ensure that the distribution of work between him and the other Additional Central Government Standing Counsel is fair.

II. **DEFINITIONS**

1. For the purpose of this Scheme, the expressions

- (a) 'Counsel' means and includes the Senior/Central Government Standing Counsel and Additional Central Government Standing Counsel;

- (b) 'Government of India' means and includes the Government of India and 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.

### III. **STANDING COUNSEL AND ADDITIONAL STANDING COUNSEL**

#### 1. **Senior/Central Government Standing Counsel and 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 Government of India before the concerned 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/empanelment 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 concerned High Court or its Bench in the cases marked to him by the Senior Central Government Standing Counsel, In-charge of the Litigation work;
- (ii) the Senior Central Government Standing Counsel, In-charge of the litigation work in the concerned High Court or its Bench will mark cases to other Additional Central Government Standing Counsel and shall

ensure that as far as possible the distribution of work between him and the other Additional Central Government Standing Counsel is fair;

- (iii) 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;
- (iv) when any cases 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;
- (v) 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.;
- (vi) 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 cases, supplying copies of judgements etc.;
- (vii) furnish to the Branch Secretariat concerned with a particular High Court and the Department of Legal Affairs periodical statements and reports/returns, which may be called for from time to time.
- (viii) render detailed account of the advance in the form of out of pocket expenses to the Ministry/Department from whom the advance has been drawn; and
- (ix) 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.2250/- (Rupees two thousand two hundred fifty only) which will include charges for staff, office, rent and postage and 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: Deleted vide O.M.No.44(10)/2004–Judl., dated 3<sup>rd</sup> September, 2004.

**VIII. FEE PAYABLE TO THE COUNSEL**

1. The fees payable to the Counsel would be as follows:

- |                  |   |   |
|------------------|---|---|
| (i)              | Civil or Criminal writ Petitions under Articles 226 and 227 of the Constitution or Special Appeals from orders made in Such petitions   | Rs.2250/- per case  |
|                  | If in case hearing on a Writ Petition goes On for more than 3 days  | Rs.375/- per day for every addl. day (not exceeding three in number) by way of refresher fee. |
| (ii)             | Petitions 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                      |
| (iii)            | Original Suits  | Regulation fees or the fee which the Court decrees ever is                                    |
| which-<br>higher |   |   |
| (iv)             | Civil appeals from decrees in original suits and proceedings except under Articles 226 and 227 of the Constitution second Appeals LPA other than those mentioned in item (i) above and Land acquisition appeals to the High Court | for each case regulation fee or fee fixed by the Court which-ever is higher                   |
| (v)              | Civil or Criminal Revision Petitions  | Rs.1050/- per petition  |
| (vi)             | Civil Miscellaneous Applications or Petitions under the Indian Succession Act, Contempt of Court Proceedings and other Proceedings of an original nature specifically not provided otherwise.                                     | Rs.750/- per case   |
| (vii)            | Reference to the High Court under Sales Tax Act and Banking Company Petitions   | Rs.1050/- per case or the amount fixed by the Court, which-ever is higher                     |

(viii)	Company Petitions	to be regulated by the rules contained in Appendix III of the Company's (Court) Rules, 1959.
(ix)	Examination of title deeds	2 ½% of the amount in the transaction such as sale mortgage etc., subject to a minimum of Rs.120/- and a maximum of
Rs.1200		
(x)	Civil Miscellaneous Petitions forma pouporis transfer petitions and other civil miscellaneous petitions applications not other wise provided for	Rs.300/- per petition
(xi)	Written opinion other than referred to in VI(iv)	Rs.450/-
(xii)	For drafting pleading i.e. written statements in suits and counter affidavits/returns/ answers to the writ petitions, grounds of appeals 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 paid in connected cases).

- |        |  |                      |
|--------|--|----------------------|
| (xiii) | “Appeals arising under Section 54, of the Foreign Exchange Regulation Act, 1973”   | Rs.1800/- per Appeal |
| (xiv)  | For conducting the arbitration cases of the Central Government before the Arbitrators/Umpires at their Headquarters, the Counsel will be entitled to a fee of Rs.240/- for the first hour and Rs.120/- per half hour of hearing, thereafter provided, however, that 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 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. 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 day 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 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 a reasonable actual expenses for stay in Hotel, subject to a maximum of Rs.600/- per day.

#### **X. CLERKAGE**

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 not exceeding Rs.300/- should be obtained by the Counsel in advance from the concerned Ministry/Department on whose behalf the Counsel conducted the cases in the concerned High Court. An account of the expenses incurred should be rendered to that Ministry/Department 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 any case against the Government of India in the concerned High Court or any case arising in other Courts out of these cases e.g. appeals and revisions in the High Court or 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 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 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 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 where substantially identical questions of law of 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 for 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 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 filed 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 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.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 concerned Department/Ministry on whose behalf the Counsel conducted the case on presentation of a stamped receipt, and on submission of a copy of the document drafted, if it is 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 the counsel 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-in-charge of the Judicial Section of the Department of Legal Affairs shall be final.

13. In the event of any doubt or difference regarding the fees, the fee 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.

(Krishna Kumar)  
Joint Secretary & Legal Adviser to the Government of India  
F. No. 26(1)/99-Judl.

\*\*\*\*\*

**SENIOR COUNSEL**  
**VARIOUS HIGH COURTS**

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

\*\*\*\*\*

Scheme containing terms and conditions for the engagement of Senior Counsel in respect of Civil Litigation cases and Criminal cases as may be entrusted to them in (various) High Courts (except High Courts of Delhi, Mumbai, Calcutta and Channai) w.e.f. 1.10.1999.

**I. SCOPE OF THE SCHEME**

1. The Scheme will be applicable for engagement of Senior Counsel in Civil litigation cases and criminal cases on behalf of the Government of India as may be entrusted to the Counsel in (various) High Courts in India (except the High Courts of Delhi, Mumbai, Calcutta, Channai and Karnataka).
2. Engagement: On receipt of a written request from the concerned Administrative Ministry for the engagement of a Senior Counsel, the Department of Legal Affairs will authorize the concerned Ministry/Department to engage a Senior Counsel from the panel.

**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 OF COUNSEL**

Panel of Senior Counsel: There will be a panel of Senior Counsel to conduct cases on behalf of Government of India before various High Courts.

**IV. TERM OF EMPANELMENT**

1. Empanelment: The term of empanelment of a Counsel would be for a period of three years or until further orders whichever is earlier.

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

#### V. HEADQUARTERS OF THE COUNSEL

Headquarters: The Counsel may locate his Headquarters during the period of his empanelment at the place of the usual sitting of the High Court or its Bench.

#### VI. DUTIES

The Counsel shall:

- (i) appear in High Courts in the cases entrusted to him;
- (ii) appear in the District and Subordinate Courts, Tribunals, Commissions of Inquiry, before the Arbitrators/Umpires etc. at the Headquarters/outside the Headquarters if so required by the Government of India.
- (iii) Render all assistance to the Law Officers, Advocate General of the State Government, Special Counsel, who may be engaged in a specific case before the High Court, Tribunals, Commissions of Inquiry, before the Arbitrators/Umpires etc., if required to do so;
- (iv) 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 High Court would be as follows:

- |   |   |
|---|---|
| (i) Suits, writ petitions and appeals including 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 a 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 pleading - one conference
- (b) in respect of hearing of Writ matters, suits appeals and Supreme Court Leave Applications etc. - three Conferences (maximum)

#### IX. CLERKAGE

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

#### X. 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 Special 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 a reasonable actual expenses for stay in Hotel, subject to a maximum of Rs.600/- per day.

## XI. 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.

## XII. GENERAL

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

- (a) Effective Hearing: A hearing in which either 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 or 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 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.90/- in each of the connected cases, but subject to a maximum of 10 cases only.

11. The fee to the Counsel will be paid by the concerned Department/Ministry on presentation of a stamped receipt, and on submission of a copy of the document settled, if it is a settling fee and submission of minutes or gist of proceedings, or a copy of order/judgement wherever 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. In the event of any doubt or difference regarding the fees, the fees determined by the Department of Legal Affairs, Ministry of Law, Justice and Company Affairs, shall be final and binding

**(Krishna Kumar)**  
**Joint Secretary & Legal Adviser to the Government of India**  
No.F.26(1)/99-Judl.