

F.No.27(11)/99-Judl.  
Government of India  
Ministry of Law, Justice and Co. Affairs  
Department of Legal Affairs  
Judicial Section

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New Delhi, the 24<sup>th</sup> September, 99

**OFFICE MEMORANDUM**

Subject: Revision of fee payable to Standing/Additional Standing Government Counsel in the District and Subordinate Courts w.e.f. 01.10.1999.

Enclosed herewith please find a copy of the revised scheme containing terms and conditions for the engagement of Standing/Additional Standing Government Counsel on behalf of the Union of India in respect of civil litigation and such criminal cases as may be entrusted to them in District and Subordinate Courts throughout India.

2. For the guidance of various Ministries/Departments, the following clarifications are given for settling the fee bills, TA/DA etc., payable to Standing/Additional Standing Government Counsel for their engagement in the District and subordinate Courts, Commissions of Inquiry, Motor Accident Claim Tribunals, Industrial Tribunals, Labour Tribunals, Consumer Redressal Forums, etc., throughout India.

- (a) The Counsel shall be engaged only in accordance with the terms and conditions contained in this Office Memorandum and the revised Scheme enclosed with this O.M.
- (b) In respect of cases listed for hearing in the District and Subordinate Courts located in Delhi/New Delhi, the Counsel will be engaged by the Officer Incharge of the Litigation (LC) Section of this Department at Tis Hazari Courts, Delhi. In respect of cases listed for hearing in other District and subordinate Courts, the Government Counsel will be engaged through the Officer Incharge of the Branch Secretariat concerned and the distribution of briefs amongst the Government Counsels in the District and Subordinate Courts will also be made by them. As regards the District and Subordinate Courts falling outside the jurisdiction of the Branch Secretariat, the Standing Government Counsel or the Additional Standing Government Counsel or any other authorized Pleader or Advocate, as the case may be, may be contacted by the concerned Ministry/Department directly.
- (c) The Ministry of Law, Justice and Company Affairs, Department of Legal Affairs, will only be making the payment of monthly retainer

to Standing Counsel and installation and annual rental charges of telephone, if any, provided to them.

- (d) For appearance in the District and Subordinate Courts at Delhi/New Delhi, the expenditure involved will be borne by the Litigation (LC) Section of the Department of Legal Affairs. 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 Court. Such expenses will be paid in advance to the Litigation (LC) Section in accordance with the existing instructions issued by the Litigation (LC) Section. However, the expenditure relating to fee, TA/DA etc., payable to the Counsel for their appearance in Courts/Tribunals, Commissions of Inquiry outside Headquarters is to be borne by the Ministry/Department on whose request the Counsel is engaged to conduct the case.
- (e) For appearance in the District and Subordinate Courts other than Delhi/New Delhi, the expenditure in connection with the fee and other miscellaneous and out of pocket expenses payable to them shall be borne by the Ministry/Department concerned and paid directly by them to the Counsel concerned.
- (f) The present procedure regarding the 'High Fee' cases of engagement of private Counsel as laid down in this Department's O.M. No. F. 37(2)/83-Judl., dated 3<sup>rd</sup> September, 1983, as amended from time to time, will continue to be followed.

3. All the Ministries/Departments which propose to engage the Counsel to appear in the District and Subordinate Courts in Delhi/New Delhi are requested to contact the Officer-Incharge of the Litigation (LC) Section of this Department located at Tis Hazari Courts, Delhi. Similarly, for engaging Counsel to appear before the District Courts at Calcutta, Chennai, Bangalore and Mumbai, the Ministries/Departments are requested to contact Officer Incharge of the Branch Secretariat of this Department at these places.

4. As regards the District and Subordinate Courts falling outside the jurisdiction of this Department's Branch Secretariats, the Standing Counsel or the Additional Standing Counsel or any other authorized Advocate/Pleader, as the case may be, may be directly contacted by the concerned Department/Ministry. For the engagement of Government Counsel outside the headquarters at which the District/Subordinate Court is located, the Ministry/Department should obtain the approval of the concerned Branch Secretariat of this Department or of the Main Secretariat as the case may be. The Ministry/Department concerned shall make arrangements for their travel in consultation with the Counsel concerned. All Ministries/Departments are further requested to ensure that the bills submitted by the Government Counsel for their appearance in various courts, etc., are sanctioned and money paid to them promptly 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.

6. This O.M. shall take effect from 01.10.1999.

(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 Standing /Additional Standing Central Government Counsel in various District/Subordinate (as per list enclosed).
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. Legal Adviser, Railway Board, New Delhi (with 5 s/copies).
5. Joint Secretary (Legal), Department of Revenue, Ministry of Finance, New Delhi (5 s/copies).
6. CBDT, Department of Revenue, Ministry of Finance, New Delhi (with 5 s/copies).
7. Branch Secretariats Mumbai/Calcutta/Bangalore/Chennai.
8. Central Agency Section, Litigation (HC) Sections/Cash/Admn.IV(LA)/Admn.I(LA)Admn.II.(LA)/Amn.III(LA)/B&A/Advice A/B/C Sections/Litigation (LC) Section (with 5 s/copies)
9. Pay and Accounts Officer, D/Legal Affairs, New Delhi.
10. Guard File/Judicial Section (with 500 s/copies).
11. Hindi Section for Hindi translation.

(S.K. Kalra)  
Section Officer

Enclosure to O.M. No. 27(11)/99-Judl., dated 24.9.1999

**Standing/Additional Standing Government  
Counsel in District &  
Subordinate Courts  
throughout India.**

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 Standing/Additional Standing Government Counsel on behalf of the Government of India in respect of Civil Litigation and such Criminal cases as may be entrusted to them in District and Subordinate Courts throughout India effective from 01.10.1999.

**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 District and Subordinate Courts. They will conduct cases only in that court for which they have been specifically engaged. 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:**

(i) In the case of Delhi/New Delhi, the Officer Incharge of the Litigation (LC) Section, Department of Legal Affairs, Ministry of Law, Justice & Co. Affairs, New Delhi, will be Incharge of the entire litigation work on behalf of the Government of India before the District and Subordinate Courts at Delhi/New Delhi except such of the work for which separate arrangements have been made.

(ii) In the case of Chennai, Calcutta, Bangalore & Mumbai, Officer Incharge of the respective Branch Secretariat at these places will be the Incharge of the entire litigation work on behalf of the Govt. of India except such of the work for which separate arrangements have been made.

(iii) In other places, the Standing Government Counsel engaged in the District and Subordinate Courts will be Incharge of the entire litigation work on behalf of the Government of India before the respective court. However, he will function under the overall charge of the designated Officer in-charge of the concerned Branch Secretariat of the Department of Legal Affairs or of the Main Secretariat, as the case may be.

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

Allocation of cases to the Counsel in Delhi/New Delhi will be made by the Officer Incharge of the Litigation (LC) Section, Department of Legal Affairs, Ministry of Law, Justice & Co. Affairs, New Delhi, or any other officer authorized by him. Allocation of cases at Chennai, Calcutta, Mumbai, Bangalore will be done by Officer Incharge of Branch Secretariat.

At other places, the allocation of cases to the Additional Standing Government Counsel will be made by the Standing Government Counsel in the concerned Courts who should ensure that, as far as possible, the distribution of work amongst the Counsel is fair. The Standing Government Counsel will be responsible to submit monthly statements of distribution of briefs/cases and also refer any problem to the concerned Branch Secretariat of the Department of Legal Affairs or to the Main Secretariat, as the case may be.

### II. **DEFINITIONS:**

For the purpose of this Scheme, the expressions;

- (a) 'Counsel' means and includes the Standing/Additional Standing Government Counsel;
- (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 GOVERNMENT COUNSEL AND PANEL OF ADDITIONAL STANDING GOVERNMENT COUNSEL**

1. There will be one Standing Government Counsel and a panel of counsel consisting of Additional Standing Government Counsel to conduct the litigation cases on behalf of the Government of India before the District and Subordinate Courts. The strength of the Counsel engaged/empanelled may be determined by the Government of India from time to time.

### IV. **TERM OF ENGAGEMENT/EMPANELMENT:**

1. Initial/further 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 engagement/empanelment of the Counsel would be terminable at any time without assigning any reason.

V. **HEADQUARTERS OF THE COUNSEL:**

The Counsel will locate his Headquarters during the period of his engagement/empanelment as such, at the places of the usual sitting of the Court.

VI. **DUTIES:**

The Counsel shall:

- (i) appear in the District and Subordinate Courts:-
  - (a) at Delhi/New Delhi in the cases marked to him by the Officer Incharge of the Litigation (LC) Section, Department of Legal Affairs, Ministry of Law, Justice & Company Affairs, New Delhi.
  - (b) at other places for which he has been appointed by the Government of India.
- (ii) if so required, appear in the Tribunals, Commissions of Inquiry, before the Arbitrators/Umpires etc. at the or outside the Headquarters;
- (iii) advise the Government of India on matters incidental to such litigation and also, 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, Special or Senior Counsel, if required to do so, who may be engaged in a particular case before the District and Subordinate Courts, Tribunals, Commissions of Inquiry, before the Arbitrators/Umpires etc.;
- (v) keep the designated Officers Incharge of Litigation (LC) Section at Delhi/New Delhi and the Branch Secretariat/Main Secretariat of the Department of Legal Affairs as the case may be, at other places, and 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 judgements etc.;
- (vi) furnish, in the case of Delhi/New Delhi, to the Litigation (LC) Section and at other places to the Branch Secretariats/Main Secretariat, as the case may be, and also to the Department of Legal Affairs, Ministry of Law, Justice & Company 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, in the case of Delhi/New Delhi to Officer Incharge/of Litigation (LC) Section, and in the case of Mumbai, Chennai, Bangalore, Calcutta, to the Officer Incharge of the respective Branch Secretariats at these places and at other places to the Ministry/Department concerned; 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 Company Affairs from time to time.

## VII. RETAINER AND OTHER PERQUISITES:

### 1. Retainer payable to Standing Government Counsel:

The Standing Government Counsel will be paid a monthly retainer of Rs.2000/- (Rupees two thousand only) which will include charges for staff, office, rent, postage and all other establishment charges. The Additional Standing Government Counsel will not be entitled to any retainer and other perquisites mentioned herein.

2. The retainer will be paid by the Department of Legal Affairs, Ministry of Law, Justice and Company Affairs, New Delhi.

3. Perquisites:- The Standing Government Counsel will be allowed the facility of a telephone and furniture in the office allotted for the use of Standing Government Counsel in the premises of the District and Subordinate Courts 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 requirements of the Department of Legal Affairs.

The Additional Standing Government Counsel will be entitled to the grant of telephone connection on priority basis. However, the expenditure on the Registration and installation of the telephone and all other expenditure connected with the utilization of this facility will be borne by the Additional Standing Government Counsel.

## VIII. FEE PAYABLE TO THE COUNSEL:

### FOR BEARINGS

#### Item of Work

#### Rates of Fee payable

a) Suits	}	i) Rs.600/- per day for appearance for for effective hearing
b) Motor Vehicles Act Claim Cases	}	ii) Rs.200/- per day for non-effective hearing with not more than five such hearings in a case
c) House Rent cases	}	

d) Cases under the Public premises (eviction of unauthorized occupants) Act	}	
e) Labour Courts Industrial Tribunals	}	
involve	}	
f) Cases under the Consumer Protection Act	}	
questions of fact, the fee for	}	
	}	
g) Cases under the Arbitration Act, etc	}	
	}	
h) Railway Claims Tribunals etc.	}	
	}	

Notes:  
Where two or more Suits together substantially identical law or the first suit shall be paid in accordance with the foregoing.  
clauses; for the remaining suits, the Counsel may, for all the suits, claim at the rate of suit  
Rs.150/- per subject to a maxi-  
mum of three cases on the whole irrespective of the facts whether all the suits are heard together or nor

**B. FOR DRAFTING:**

- i) For drafting written statements and grounds of appeal etc. the Counsel shall be paid a fee of Rs.500/- per pleading.
- ii) For drafting other pleadings of miscellaneous nature the Counsel shall be paid Rs.200/- per pleading.

Provided that if substantially identical complaints, pleadings, written statements, affidavits and grounds of appeal 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.

**C. FOR CONFERENCES:**

For conferences, the Counsel shall be paid a Conference Fee of Rs.300/- per conference subject to a maximum of three such conferences for hearing in an individual case, Group of cases.

**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, Commission of Inquiry, before the Arbitrators/Umpires etc., outside the Headquarters, he will be entitled to a daily fee of Rs.900/- for the days of his absence from the Headquarters including the day of departure, 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. The daily fee will be in addition to the usual fee as prescribed herein.

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 Gr. 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:**

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 a batch of cases by way of clerkage.

**XI. OUT OF POCKET EXPENSES:**

The actual amount required for court fees at the time of filing a case in the District and Subordinate Courts at Delhi and other miscellaneous expenses a total amount, not exceeding Rs.300/- should be obtained by the Counsel in advance from the Litigation (LC) Section of the Department of Legal Affairs, Ministry of Law, Justice and Company Affairs, New Delhi. An account of the expenses incurred should be rendered to that Section while presenting the final fee bill.

In the case of the District and Subordinate Courts in other places, such amount should be obtained from the Ministry/Department concerned and 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 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 District and Subordinate Courts or any case arising in other Courts out of these cases e.g. appeals and revisions in such courts or the High Court or the Supreme Court of India.

## **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 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) 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 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 where 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 High 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. 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.
8. The fee to the Counsel will be paid by the Ministry/Department concerned 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.
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 contained in the Scheme.

(Krishna Kumar)  
Joint Secretary & Legal Adviser to the Government of India  
F. No. 27(11)/99-Judl.

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

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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 various High Courts in India (except High Courts of Delhi, Mumbai, Calcutta and Channai) effective from 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 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 High Courts (except High Courts of Delhi, Mumbai, Calcutta and Channai).

II. **DEFINITIONS**

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

- (d) 'Counsel' will mean and include the Senior Counsel;
- (e) 'Government of India' means and includes the Government of India and the Government of a Union Territory.
- (f) 'Law Officer' means and includes the Attorney General for India, the Solicitor-General for India and Additional Solicitors-General for India.

III. **PANEL FOR 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 ENGAGEMENT**

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

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|------|---|--|
| (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 maximum of Five hearings. |
| (ii) | Applications for leave to appeal to the Supreme Court other than in Writ Petitions                              |  |

(iii)	Setting pleadings	Rs.900/- per case
(iv)	Miscellaneous applications	Rs.900/- per case
(v)	Conference	Rs.300/- per conference

subject to:

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

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. 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 decided by the Department of Legal Affairs on the basis of per day of appearance for the day 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 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.

## **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.

## **XIII. GENERAL**

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 state 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 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 of facts, any one of such cases will be treated as a main cases 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/- for 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 list 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