

## **FREQUENTLY ASKED QUESTIONS**

### **ON PAYMENT OF FEE TO PANEL COUNSEL FOR UNION OF INDIA**

**Q.1 What is the Panel Counsel for Union of India (UoI)?**

**Ans:** The Department of Legal Affairs has been mandated to conduct of litigation on behalf of the Union of India before various courts / tribunals in India. For this purpose, the Department of Legal Affairs empanels Advocates for various courts / tribunals in the country generally for a period of three years or until further orders, whichever is earlier. There are several categories (court-wise) in which this Department empanels Advocates and such empaneled Advocates are collectively called as 'Panel Counsel' for the Union of India. However, 'Panel Counsel' is not a civil post, as such, they are not regular government servant.

**Q.2 What kinds of fee are admissible to Panel Counsel?**

**Ans.** Panel Counsel are entitled to various kinds of fee in lieu of their services availed of. A list of regular kinds of fee is tabulated as below:

Sl. No.	Particular of fee	Remarks
1.	Monthly Retainership fee	It is directly paid by DoLA only to entitled category of panel counsel.  (i) Deputy Solicitor General; (ii) CGSC (Delhi High Court); (iii) Sr. CGSC (Tribunals); (iv) Standing Govt. Counsel (in District Courts).
2.	Appearance fee (in lieu of effective hearing)	There is no limit on number of effective hearings in a case or a group of identical cases.
3.	Appearance fee (in lieu of non-effective hearing)	There is limit on number of non-effective hearings in a case or a group of identical cases.
4.	Settling of pleadings	Limited to an entire case or a group of identical cases.
5.	Drafting of pleadings / counter affidavits / returns etc.	-do-
6.	Clerkage	-do-

7.	Conference fee (with officers of administrative Ministry / Department)	There is limit on number of conferences in a case or a group of identical cases.
8.	Miscellaneous and out of pocket expenses	As per actuals and subject to satisfaction of the administrative Ministry / Department. There is no limit on this expenditure.
9.	Daily fee (per day)	In case of services availed out of headquarter in connection with and as per requirement of litigation.
10.	Boarding / Lodging expenses (as per entitlement)	-do-

**(For detailed information on above items of fee vide OMs mentioned in the [Annexure](#))**

**Q.3 What is the fee schedule applicable to panel counsel for UoI?**

**Ans:** The latest fee schedule in tabulated form in this regard is as per this Department's OM No. [26\(1\)/2014-Judl. dated 01.10.2015](#) to be read with other OMs containing detailed terms & conditions applicable to 'Panel Counsel' vide [Annexure](#). A brief in this regard is as follows:

**Fee schedule applicable to panel counsel for UoI**

**(As per OM No. [26\(1\)/2014-Judl. dated 01.10.2015](#))**

<b>Name of Court / Tribunal</b>	<b>Panel Category</b>	<b>Applicable table in OM dated 01.10.2015</b>
Supreme Court of India	Group 'A' Panel Counsel	Table 'A' (3 <sup>rd</sup> Column)
	Group 'B & C' Panel Counsel	Table 'A' (4 <sup>th</sup> Column)
High Court of Delhi	Central Govt. Standing Counsel	Table 'B'
	Senior Panel Counsel	Table 'B' (except retainer fee)
	Govt. Pleader	Table 'D'

High Court of Bombay (PB) at Mumbai, and High Court of Calcutta (PB) at Kolkata along-with CAT Mumbai and Kolkata	Special Counsel	Table 'C' (3 <sup>rd</sup> Column)
	Senior Counsel Group -I	Table 'C' (4 <sup>th</sup> Column)
	Senior Counsel Group -II	Table 'C' (5 <sup>th</sup> Column)
	Junior Counsel	Table 'C' (6 <sup>th</sup> Column)
All other High Court and their Benches along-with Benches of High Court of Bombay at Nagpur, Aurangabad and Goa and the High Court of Calcutta at Jalpaiguri and Port Blair	Senior Panel Counsel	Table 'B' (except retainer fee)
	Central Govt. Counsel	Table 'D'
All CAT Benches throughout the Country (except CAT Benches Mumbai and Kolkata)	Senior Central Govt. Standing Counsel	Table 'B'
	Senior Panel Counsel	Table 'B' (except retainer fee)
	Additional Central Govt. Standing Counsel	Table 'D'
Other Tribunals viz. AFT, NGT, NCLT, RCT throughout the Country	Senior Central Govt. Standing Counsel	Table 'B'
	Senior Panel Counsel	Table 'B' (except retainer fee)
	Central Govt. Counsel	Table 'D'
Districts Courts in Delhi	Senior Panel Counsel	Table 'E' (except retainer fee)
	Additional Central Govt. Counsel	Table 'E' (except retainer fee)
All Districts & Subordinate Courts throughout the Country (except in Delhi)	Standing Govt. Counsel	Table 'E'
	Additional Standing Govt. Counsel	Table 'E' (except retainer fee)
Arbitration Panel Counsel	Sr. Arbitration Counsel Jr. Arbitration Counsel	Table 'F'

**Q.4 Who will pay the professional fee to panel counsel?**

**Ans:** The fee to Panel Counsel, for the court / tribunal mentioned under column-I in the table below, is paid by the authorities mentioned under column-II:

<b>Name of Court / Tribunal</b>	<b>Authority to Pay the Fee</b>
<b>I</b>	<b>II</b>
Supreme Court of India	Central Agency Section, Department of Legal Affairs makes payment of all items of fee to panel counsel on behalf of Union of India.  (OM No. <a href="#">21(4)/99-Judl. dated 24.09.1999</a> )
High Court of Delhi	Litigation (High Court) Section, High Court of Delhi, Department of Legal Affairs, makes payment in lieu of appearance of panel counsel.  Rest all other items of fee is to be paid by the Administrative Ministry/Department concerned.  <a href="#">(OM No. 24(2)/99-Judl. dated 24.09.1999)</a>
High Court of Bombay (PB) at Mumbai, High Court of Calcutta (PB) at Kolkata, High Court of Karnataka (PB), High Court of Madras (PB)	Respective Branch Secretariat of Department of Legal Affairs makes payment in lieu of appearance of panel counsel.  Rest all other items of fee is to be paid by the Administrative Ministry/Department concerned.  <a href="#">OM No. 23(1)/87-Judl. dated 24<sup>th</sup> April 1987</a> <a href="#">OM No. 23(1)/87-Judl. dated 5<sup>th</sup> June 1987</a> <a href="#">OM No.F.26(2)/99-Judl., dated 24<sup>th</sup> September 1999</a> <a href="#">OM No. 25(3)/99-Judl. dated 24<sup>th</sup> September 1999</a>
All other High Courts and their Benches along-with Benches of High Court of Bombay at Nagpur, Aurangabad and Goa and the High Court of Calcutta at Jalpaiguri, at Port Blair	All items of fee is to be paid by the Administrative Ministry/Department concerned.  <a href="#">OM No. 26(1)/99-Judl. dated 24<sup>th</sup> September 1999</a>
CAT, AFT, NGT, NCLT, RCT throughout the country	All items of fee is to be paid by the Administrative Ministry/Department concerned.  <a href="#">OM No. 26(1)/99-Judl. dated 24<sup>th</sup> September 1999</a>

Districts Courts in Delhi	<p>Litigation (Lower Court) Section, Department of Legal Affairs makes payment in lieu of appearance of panel counsel.</p> <p>Rest all other items of fee is to be paid by the Administrative Ministry/Department concerned.</p> <p><a href="#">OM No.27(11)/99-Judl., dated 24<sup>th</sup> September 1999</a></p>
All Districts & Subordinate Courts throughout the Country (except in Delhi)	<p>All items of fee is to be paid by the Administrative Ministry/Department concerned.</p> <p><a href="#">OM No.27(11)/99-Judl., dated 24<sup>th</sup> September 1999</a></p>
Arbitration Matters	<p>All items of fee is to be paid by the Administrative Ministry/Department concerned.</p> <p><a href="#">OM No. 30(3)/99-Judl. dated 24<sup>th</sup> September 1999</a></p>

### Q.5 What are identical cases?

**Ans.** Two or more cases where 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 the common or identical judgments are delivered irrespective of the fact whether all the cases are heard together or not, are called identical cases.

(Vide any of the OMs mentioned in the [Annexure](#))

### Q.6 How to make payment of fee to Panel Counsel in identical cases?

**Ans.** Two or more identical cases (but not more than 10 cases) are to be bunched and any one of these cases will be treated as main case and the others as connected cases. Payment of fee in such bunched cases is regulated as follows:

- (i) when the Counsel files separate and materially different affidavits, applications, 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.
- (ii) 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.
- (iii) when substantially different affidavits are drafted in each connected case but all the cases are disposed of without contest, the Counsel shall get 1/3rd fees in the main case and Rs.150/- in each of the connected cases.

- (iv) when the Counsel has drafted the affidavit, petition or ground of appeal in the main case but has not drafted them in the connected cases or the drafts in the connected cases are substantially similar to the one in the main case and the cases are disposed of without contest, the Counsel shall get 1/3rd fees in the main case and Rs. 75/- in each of the connected cases.

(Vide any of the OMs mentioned in the [Annexure](#))

**Q.7 If a proxy counsel or junior Advocate appears in Court on behalf of Panel Counsel, is that Panel Counsel eligible to claim fee in lieu of appearance of the proxy counsel or junior Advocate?**

**Ans.** No.

(Vide any of the OMs mentioned in the [Annexure](#))

**Q.8 If Senior Counsel (designated by the Supreme Court or any High Court concerned) appears with an assisting Panel Counsel, are both eligible for payment of the appearance fee?**

**Ans.** Yes.

(Vide any of the OMs mentioned in the [Annexure](#))

**Q.9 What is effective and non-effective hearing?**

**Ans.** As per this Department's various OMs and clarification as per OM No. [F. No. 33\(1\)/2000-Judl. dated 11<sup>th</sup> September 2000](#):

- (i) a hearing in which either one or both parties involved in a case are heard by the court, it would be an effective hearing;
- (ii) if the case is mentioned and adjourned or only directions are given or only judgement is delivered by the court, it would be a non-effective hearing.

**Explanation:-**

If the matter is called in its turn and the Counsel is present to represent the Department and the Court listens to the submissions made by him or by other side or by both and if thereafter the court adjourns the matter, that will be an effective hearing.

Further, effective hearing should not be interpreted to mean final hearing because final hearing takes place only once and not from time to time.

If a case is mentioned and adjourned (which means the counsel has not to wait till the matter is called in its turn) and if the Court gives only directions and if the Court delivers judgement, that will be a non-effective hearing.

**Q.10 Is there any limit on payment of fee in lieu of non-effective hearings?**

**Ans.** Yes. Only five non-effective hearings in a case or a group of identical cases are admissible for payment of fee on rates prescribed for non-effective hearings in OM No. [26\(1\)/2014-Judl. dated 01.10.2015](#) .

**Q.11 Who is entitled for clerkage and what is the limit of fee in a case?**

**Ans.** The fee for clerkage is regulated as under:

Name of Court	Category of Counsel	Admissibility for clerkage
Supreme Court of India	Group A, B & C	Nil  <a href="#">OM No. 26(1)/2014-Judl. dated 01.10.2015</a>
High Court of Delhi including CAT (PB) at New Delhi	<p><b>In High Court:</b></p> <p>(i) Central Govt. Standing Counsel</p> <p>(ii) Senior Panel Counsel</p> <p>(iii) Government Pleader</p> <p><b>In CAT:</b></p> <p>(iv) Senior Central Govt. Standing Counsel</p> <p>(v) Senior Panel Counsel</p> <p>(vi) Additional Central Govt. Standing Counsel</p>	<p>Admissible to category (i), (iii), (iv) &amp; (vi) only, as under:</p> <p>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.</p> <p>Category (ii) &amp; (v) are not entitled for clerkage.</p> <p><a href="#">OM No. 24 (2)/99-Judl. dated 24<sup>th</sup> September 1999</a></p>
High Court of Bombay (PB) and High Court of Calcutta (PB) including CAT Benches at Mumbai and Kolkata	<p>(i) Special Counsel</p> <p>(ii) Senior Panel Counsel Group-I</p> <p>(iii) Senior Panel Counsel Group-II</p> <p>(iv) Junior Counsel</p>	<p>Not admissible to all the four categories.</p> <p><a href="#">OM No. 23(1)/87-Judl. dated 24<sup>th</sup> April 1987</a></p> <p><a href="#">OM No. 23(1)/87-Judl. dated 5<sup>th</sup> June 1987</a></p>

<p>All the other High Courts and Benches of High Court of Bombay and Calcutta, and various CAT Benches in the respective states (except at New Delhi, Mumbai and Kolkata)</p>	<p><b>In High Courts:</b>            (i) Senior Panel Counsel            (ii) Central Govt. Counsel</p> <p><b>In CAT Benches:</b>            (iii) Senior Central Govt. Standing Counsel            (iv) Senior Panel Counsel            (v) Additional Central Govt. Standing Counsel</p>	<p>Admissible to category (ii), (iii) and (v) only, as under:</p> <p>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.</p> <p>Category (i) and (iv) are not entitled for clerkage.</p> <p><a href="#">OM No. 26(1)/99-Judl. dated 24<sup>th</sup> September 1999</a></p>
<p>District &amp; Subordinate Courts (throughout India)</p>	<p>(i) Standing Govt. Counsel            (ii) Additional Standing Govt. Counsel</p>	<p>10% of total fee excluding misc. and out of pocket expenses (maximum 5250/- in a case).</p> <p>OM No. <a href="#">26(1)/2014-Judl. dated 01.10.2015</a></p>
<p>Benches of AFT, NGT, NCLT, RCT throughout India</p>	<p>(i) Senior Central Govt. Standing Counsel            (ii) Senior Panel Counsel            (iii) Central Govt. Counsel</p>	<p>Admissible to category (i) and (iii) only, as under:</p> <p>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.</p> <p>Category (ii) is not entitled for clerkage.</p> <p><a href="#">OM No. 26(1)/99-Judl. dated 24<sup>th</sup> September 1999</a></p>

**Q.12 What is 'Proforma Party'?**

**Ans.** A respondent in a case from whom no relief or prayer has been sought, is called a 'Proforma Party'.



**Q.13 What fee is payable where Union of India is only a proforma party?**

**Ans.** In a case where the Union of India is only a proforma party and no instructions from the concerned Ministry/Department are given to the panel counsel and he or she continues to appear in the matter, the panel counsel is entitled to 1/3 of the appearance fee. Even if such a case is disposed of at the admission stage, the Counsel is entitled to 1/3 of the appearance fee. ([F. No. 33\(1\)/2000-Judl. dated 11<sup>th</sup> September 2000](#)).

**Q.14 What is the fee payable misc. expenses and out of pocket expenses?**

**Ans.** Miscellaneous expenses and out of pocket expenses are payable to Panel Counsel subject to satisfaction of the Ministry/Department concerned and as per the actuals. OM No. [26\(1\)/2014-Judl. dated 01.10.2015](#))

\*\*\*\*

<b>S. No.</b>	<b>Name of Court</b>	<b>Details and link of Office Memorandum</b>
1.	Supreme Court of India	<a href="#">OM No.F.21(4)/99-Judl., dated 24<sup>th</sup> September 1999</a>
2.	High Court of Delhi	<a href="#">OM No. 24 (2)/99-Judl. dated 24<sup>th</sup> September 1999</a>
3.	High Court of Bombay (PB)	<a href="#">OM No. 23(1)/87-Judl. dated 24<sup>th</sup> April 1987</a>
4.	High Court of Calcutta (PB)	<a href="#">OM No. 23(1)/87-Judl. dated 5<sup>th</sup> June 1987</a>
5.	High Court of Karnataka	<a href="#">OM No.F.26(2)/99-Judsl., dated 24<sup>th</sup> September 1999</a>
6.	High Court of Madras	<a href="#">OM No. 25(3)/99-Judl. dated 24<sup>th</sup> September 1999</a>
7.	All the other High courts	<a href="#">OM No. 26(1)/99-Judl. dated 24<sup>th</sup> September 1999</a>
8.	District and Subordinate Courts (All over India)	<a href="#">OM No.F.27(11)/99-Judl., dated 24<sup>th</sup> September 1999</a>
9.	Senior and Junior Arbitration Counsel	<a href="#">OM No. 30(3)/99-Judl. dated 24<sup>th</sup> September 1999</a>