

**GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF EXPENDITURE
STAFF INSPECTION UNIT**

**REPORT OF THE STAFF INSPECTION UNIT (SIU) ON THE
STAFFING REQUIREMENT for Department of Legal Affairs
(Main Secretariat & Branch Secretariats)**

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Report of the SIU on the requirement of manpower in the
Department of Legal Affairs
(Main Secretariat and Branch Secretariats),
Ministry of Law & Justice.

I. INTRODUCTION

1.1 The staffing study of Main Secretariat of Department of Legal Affairs and its Branch Secretariats was included in the programme of studies of SIU at the instance of the Financial Adviser of the Ministry of Law & Justice, Government of India.

1.2. The Department of Legal Affairs has been entrusted the work of rendering advice to the various Ministries/Departments of Government of India on legal matters including conveyancing work and attends to the litigation work of Central Government in the Supreme Court, High Courts, Tribunals and Lower Courts.

1.3 The Department of Legal Affairs has a two-tier organizational set up, namely, the Main Secretariat at New Delhi and the Branch Secretariats at Mumbai, Kolkata, Chennai and Bangalaore.

1.4 The SIU undertook staffing study of the Branch Secretariats located at Mumbai, Kolkata, Chennai and Bangalaore and the Main Secretariat located at Shastri Bhavan including Litigation Section (Delhi High Court) and Litigation Section (Lower Court).

II. ORGANISATIONAL SET UP AND COVERAGE OF STUDY

2.1 The main secretariat in Delhi consists of Law Secretary and the Additional Secretaries of Administration and Litigation, Joint Secretaries and Government Counsels and other officers, viz., Additional Government Counsel, Deputy Government Counsel and Assistant Government Counsel and supporting staff.

2.2 The Branch Secretariats at Mumbai and Kolkata are headed by the Joint Secretary and Government Counsel and those at Chennai and Bangalore are headed by the Additional Government Counsel. The High Court Litigation Section in Delhi is also headed by an Additional Government Counsel, while the Lower Court Litigation Section in Delhi is headed by an Assistant Government Counsel.

2.3 In addition to above, a number of Legal Officers such as Joint Secretary and Government Counsel, Additional Government Counsel, Deputy Government Counsel and Assistant Government Counsel from the strength of Main Secretariat are posted in certain identified Ministries/Departments in Delhi and function from the respective Ministries/Departments. These Ministries/Departments have been identified on the basis of large volume of legal work such

as Ministry of Defence, Ministry of Labour, Ministry of Urban Development, DGS&D, CBI, Department of Telecommunication etc.

2.4 The study covered all officers and staff of Department of Legal Affairs (Main Secretariat and Branch Secretariats) up to the level of Additional Government Counsel

III. FUNCTIONS

3.1 The main functions of the Department of Legal Affairs are to advice the various Ministries/Department/Offices of the Government of India on legal matters and conduct of litigation of the Central Government in the various courts.

3.2 The two distinct functions, namely, legal advice and litigation are handled separately. The tendering of legal advice also includes references on conveyancing, international agreements, Notes for the Cabinet containing Legislative Proposals, State Bills and Ordinances etc. In the Main Secretariat, the work relating to legal advice to the various Ministries/Departments/Offices are allocated amongst groups of officers and each group is normally headed by a Joint Secretary and Government Counsel. After marking by the group head, cases are handled independently by each functionary, namely, Assistant Government Counsel, Deputy Government Counsel, Additional Government Counsel or Joint Secretary & Government

Counsel himself as the case may be. These Legal Officers are assisted by three Advice Sections, viz., Advice A, Advice B and Advice C. The litigation work, including that of Central Administrative Tribunal is handled by the Litigation Section in Delhi High Court and Litigation Section at the Lower Court in Tis Hazari. The legal advice functions in respect of matters pertaining to the litigation in High Court and Lower Court in Delhi are also handled at the Main Secretariat as these litigation units do not have separate Advice Wing. The Legal Officers from the Main Secretariat who are posted in different Ministries/Department/Offices located in Delhi, render legal advice exclusively to the Department/Offices in which they are posted.

3.3 In the Main Secretariat, Administration-III, Judicial Section, Notary Cell and Implementation Cell are some of the Sections which perform core activities of the Department:

- (i) The Section known as Admn. III has been assigned the work relating to Establishment of Income Tax Appellate Tribunal (ITAT), cases relating to deputation/delegation of legal officers abroad, office accommodation cases of ITAT, Grants- in-aid to various autonomous / statutory bodies of the Department, Reconstitution of Law Commission, matters relating to

National Legal Services Authority (NALSA), Examination of Judicial Reforms and matters relating to Lok Adalat etc.

(ii) The Judicial Section mainly perform the functions regarding processing of cases of appointments of Law Officers such as Attorney General of India, the Solicitor General of India and the Additional/Assistant Solicitor General of India. The Judicial Section also processes the cases of nominations of Central Government Counsels in Supreme Court, High Courts, Central Administrative Tribunals (CAT), District and Subordinate Courts for conducting litigation work on behalf of the Central Government.

(iii) The assigned functions of the Implementation Cell are to process the reports of the Law Commission for laying them before the Parliament and forward them to the Ministry/Department concerned for examination/implementation and thereafter pursue them for expeditious action. This Cell also deals with the administration of the Advocates Act, Advocates' Welfare Fund Act, legal education and legal profession. In addition, this Cell has also recently been given work relating to the RTI Act.

(iv) The Notary Cell deals with examination/scrutiny of the memorials/applications received from different States/Union Territories and processing of these cases for appointment of Notaries. The Cell conducts inquiries in to the allegations of professional/other misconduct on the part of the Notaries. It also deals with renewal of the certificates issued by the Government of India for practice as Notary.

3.4 References from various Ministries/Departments of Government of India for legal opinion on various issues are received in Advice 'A' and Advice 'B' Sections. These sections also deal with references and other communications relating to legal matters. Whereas Advice 'C' keeps record of the opinion given by the Law officers and handle their retrieval as and when asked by the Legal Officers.

3.5 In the Department of Legal Affairs (Main Secretariat) there are other Sections such as Admn.I, Admn. II, Admn. IV and Cash. These Sections deal with the Establishment & Administration, Cash & Accounts work and day-to-day general administration of the Department.

IV. BRANCH SECRETARIATS

4.1 The Branch Secretariats located at Mumbai, Kolkata, Chennai and Bangalore have been entrusted to perform advice and litigation work on the legal matters for Central Government Departments/Offices under their jurisdiction. The Branch Secretariats at Mumbai and Kolkata are headed by the Joint Secretary & Government Counsel and those at Chennai and Bangalore are headed by an Additional Government Counsel.

4.2 The main functions of the Branch Secretariats are to advise the various Ministries/Departments/Offices of the Government of India, located under their respective jurisdiction, on the legal matters of Central Government and conduct litigation of Central Government in the courts under their jurisdiction.

4.3 At the Mumbai and Kolkata Branch Secretariat offices, legal advice and litigation are separately handled by two separate group of officers including JS & GC, Additional Government Counsel, Deputy Government Counsel and Assistant Government Counsel. However in Chennai and Bangalore Branch Secretariats, both the advice and litigation matters are simultaneously handled by the same set of officers.

V. BRANCH SECRETARIAT, MUMBAI

5.1 Functioning of this Branch Secretariat is carried out by three Sections, viz., Advice, Litigation and Administration. The Advice Section mainly deals with advising the various Central Government offices falling under their jurisdiction on all legal matters. It is also concerned with conveyancing work of the Central Government offices that come under its purview. The advice work is handled under the supervision of JS&GC, supported by Additional Government Counsel, Deputy Government Counsel, Superintendent (Legal) and other supporting staff. The litigation section is responsible for the conduct of the litigation work in the Bombay High Court for the Government offices except Income Tax and Railways through their Panel Counsels. The litigation wing functions under the supervision of another JS&GC supported by the Additional Government Counsel and other supporting staff. One Additional Solicitor General (ASG) at Mumbai High Court, who also helps in carrying out the litigation work more effectively. The Branch Secretariat, Mumbai exercises effective control over litigation work of Central Government in the High Courts of Gujarat, Madhya Pradesh, Rajasthan and also Nagpur, Goa and Aurangabad benches of Mumbai High Court for ensuring better coordination. The Mumbai Branch Secretariat also exercises general supervision over litigation

work in subordinate Courts in Mumbai and the various branches of Central Administrative Tribunal (CAT) Mumbai through the Panel Counsel.

5.2 The legal officers working in the Litigation Wing also functions as Advocate on Record. The legal documents prepared by the Govt. Counsel are required to be filed before Bombay High Court in the name of Advocate on Record.

VI. BRANCH SECRETARIAT, KOLKATA

6.1 The Branch Secretariat, Kolkata functions under the overall charge of a JS & GC. On the advice side, there is one Deputy Government Counsel and Assistant Government Counsel. The Departments/Offices of the Government of India located in the States of West Bengal, Bihar, Orissa, North East States and Union Territory of Andaman & Nicobar have been distributed among the Legal Officers for the advice purposes and cases are handled independently by each functionary assisted by two Assistants (Legal). One Deputy Government Counsel has been posted in Ordnance Factory Board (OFB) for attending exclusively their advice cases on legal matters.

6.2 On the litigation side, there is another post of Joint Secretary and Government Counsel who is incharge of litigation work and is assisted by two Additional Government Counsel and four Junior Central Government Advocate. Like in Mumbai Branch Secretariat, officers of the Litigation Wing act as Advocates-on-Record in the Kolkata High Court and get the matter heard/argued through Panel Counsel engaged for this purpose. Two posts of Junior Central Government Advocate are at present vacant. There is also a post of Superintendent (Legal) on the litigation side, who has been given the work of processing of fee bills. This Branch Secretariat also exercises control over all litigation work of Central Government in the High Courts of Assam, Nagaland, Manipur, Arunachal Pradesh, Meghalaya, Bihar, Jharkhand, Orissa, Tripura, Mizoram and Sikkim including U.T. of Andaman and Nicobar Admn. etc.

VII. BRANCH SECRETARIAT, CHENNAI AND BANGALORE

7.1 The Branch Secretariats, Chennai and Bangalore are headed by an Additional Government Counsel. In these Branch Secretariats, the Government Counsel handles both the advice and litigation matters. The Branch Secretariat, Chennai has been entrusted with the work to render legal advice and litigation work to all Central Government Offices located in the States of Tamil Nadu, Kerala and

Union Territory of Pondicherry and the Bangalore Branch Secretariat looks after the advice and litigation work of all Central Government offices located in the State of Karnataka and Andhra Pradesh.

7.2 The Branch Secretariat at Chennai looks after the litigation work of Central Government (except cases relating to Railways and Income Tax) in the High Court of Madras and Kerala, Chennai and Ernakulam Branches of CAT and in the City Civil Courts. This Branch also deals with work of Central Government Litigation in the District Consumer Disputes Redressal Forum and State Consumer Redressal Commission, both located at Chennai. The Bangalore Branch Secretariat supervises litigation of Central Government offices in the High Court of Karnataka and Andhra Pradesh, subordinate Courts in Bangalore and Hyderabad/Secunderabad and CAT in both the States. This Branch also looks after the work of Central Government litigation in the District Consumer Dispute Redressal Forums and State Consumer Redressal Commission of both the States.

7.3 The functions of the Branch Secaretariat, in addition to advice and litigation work, includes distribution of work among the Panel Counsels, processing and payment of the fees to the Counsels, certification for the payment of the fee bills of the Counsels in

CAT/subordinate courts and to maintain the liaison between the concerned Government offices and the Courts.

VIII. METHODOLOGY ADOPTED FOR ASSESSMENT OF MANPOWER

8.1 The study team carried out on-the-spot study first at each of the office of Branch Secretariat at Mumbai, Chennai, Bangalore and Kolkata and thereafter in the Main Secretariat at Delhi including Litigation Section (High Court and Lower Court at New Delhi) in order to ascertain the actual quantum of workload for conducting litigation and rendering advice and other allied work. The study at Mumbai Branch was conducted from 19.02.06 to 24.02.06. The study at Chennai Secretariat was conducted from 25.04.06 to 28.04.06. The study at Bangalore Secretariat was conducted from 17.05.06 to 25.05.06 and the study at Kolkata was carried out from 10.07.06 to 19.07.06. The study team conducted the on-the-spot study at the Main Secretariat at Delhi during the period from 28.08.06 to 30.11.06 including the Litigation Sections of Delhi High Court and lower court at Tis Hazari.

8.2 In order to facilitate the study, preliminary and basic data in the prescribed proformae for various Sections/Cells was obtained in respect to each Branch Secretariat and Main Secretariat. The data so

received was scrutinized and supplementary data wherever considered necessary was also obtained during on-the-spot study. The work sample for the work being performed by the officers and staff up to the level of Director was drawn for a period of five consecutive days. Detailed discussions were held with the officer working on litigation as well as advice side in the Branch Secretariats and Main Secretariat to understand their difficulties and to make an objective assessment of the actual manpower requirement in those functional areas including Administration/Establishment work.

8.3 The work sample was then analyzed and average time factor required for completion of each job reflected in daily log sheet was determined. This was also supplemented by discussion with the individual functionaries and their supervisors. Further, job description sheets and time factor for jobs which did not occur during the sample period were also obtained/determined by analytical method through discussions with the actual job performer/supervisor. In addition, data for seasonal item of work, which are non-repetitive in nature and time consuming, was also obtained from all the Sections/Officers. For working out the annual workload, mutually agreed time factors after discussion with Dealing Hands/Supervisors were applied and weightage on account of time

being spent on miscellaneous items of work, such as discussion, outside visits, tours attending meetings and telephone calls etc. as frictional allowance wherever admissible were also taken into account.

8.4 To workout the annual workload at the level of the Legal Officers (Additional G.C., Deputy G.C. and Assistant G.C) in the Main Secretariat, first a work sample for five consecutive days was drawn for the purpose of recording all activities being performed by them. Subsequently a travel sheet was also introduced for ten working days for obtaining the time factor required for completion of advice cases on each occasion. The time factor so arrived was applied to the average annual frequency data obtained for the year 2004-05 and 2005-06. Subsequently, 50% of the total workload at the Joint Secretary & G.C. level was also added to the workload of these Legal Officers keeping in view work involved for providing assistance to the senior officers. In addition, the quantum of annual workload for performing the jobs such as preparation of Cabinet Notes, International Agreements, Private Members' Bill, Parliament Questions, work relating to State Bills and Ordinances and conveyancing work has also been separately added to the annual workload of these Legal Officers. Apart from this, due weightage has also been provided for the activities like meetings, discussions,

outside visits, etc Accordingly, the assessment for the post of Additional G.C., Deputy G.C. and Assistant G.C. in the Main Secretariat have been made and given in Annexure-I

8.5 While assessing the posts required for the Implementation Cell, it has been proposed that this Cell may be placed under the Sectional level supervision of Superintendent (Legal) instead of Section Officer primarily keeping in view the fact that the nature of work handled in this section pertains to follow up of the recommendations of the Law Commission.

8.6 While assessing the workload of Advice 'A', Advice 'B' and Advice 'C' Sections, it was seen that Advice 'C' Section primarily deals with the maintenance and retrieval of the opinion of the law officers given in the past and other related legal pronouncements. One post of Assistant (Legal) and one post of UDC has been assessed exclusively for this work. It is proposed that out of these three Advice Sections, Advice 'A' and 'C' may be merged into a single entity as Advice 'A' and may be placed under one Superintendent (Legal). The assessment of these sections has been worked out accordingly. The provision of leave reserve etc., wherever applicable have also been made. The section-wise assessment of staff for the Main Secretariat have been detailed in

Annexure-I and assessment for the Sr.PPS/PPS/PS/Stenos, Driver posts and Group 'D' posts have been given in Annexure-II, III and IV respectively.

8.7 The legal officers posted in various Ministries and Department outside the Main Secretariat at Delhi were also requested to furnish the annual data for the year 2005-2006. For computing their annual workload, similar time factor/per unit time was applied as in the case of Main Secretariat. Functional necessity was also kept in view while assessing the workload of these officers. Assessment of these Legal Officers is given as Annexure-V.

8.8 The High Court Litigation Section in Delhi has been placed under an Additional Government Counsel, who is assisted by two Superintendents (Legal) and other supporting staff for conducting litigation work in the Delhi High Court and Principal Bench of Central Administrative Tribunal (CAT). The Advice cases are handled in the Main Secretariat and therefore no separate advice section exists in Delhi High Court/CAT. The assessment of officers and staff in the Litigation Section of Delhi High Court and Principal Bench of CAT is based on the number of litigation cases, number of receipts and number of fee bills processed during one complete year period. Detailed discussions were held with each functionary to arrive at per

unit time required for completion of assigned jobs/work. This per unit time was applied to the annual frequency to get the annual workload for each individual. During the study it was pointed out by the Additional Government Counsel that after they find it difficult to get the urgent and time-bound orders/judgements/directions of the Court delivered to the concerned organizations for whom they are meant. For this purpose, they contact the concerned organization to collect the necessary order. This however entails delay in compliance of Court orders. Hence one post of Peon has been assessed exclusively for delivering urgent dak/orders of Hon'ble Court to the concerned organization. The assessment of officers and staff for High Court Litigation Section is given in Annexure-VI.

8.9 The Lower Court Litigation Section (Tis Hazari), Delhi is headed by an Assistant Government Counsel, who is assisted by a Superintendent (Legal) (presently this post is vacant) in processing of litigation cases and fee bills with the help of other supporting staff. During on-the-spot study, the number of litigation cases and receipt work was taken in to consideration. After detailed discussions with the actual job performer and their Supervisors, the annual workload for each individual was computed and assessments so prepared have been depicted in Annexure-VII and Consolidated statement showing the post wise sanctioned and assessed staff

strength in the Main Secretariat and other than Main Secretariat (includes number of legal officers posted outside the Main Secretariat and Litigation Section, Delhi High Court and Litigation Section, Lower Court at Tis Hazari) in Delhi, has been given in Annexure-VIII.

8.10 Similarly, in the case of four Branch Secretariats, the SIU study team conducted on-the-spot study in each of the Branch Secretariat to ascertain the actual quantum of workload relating to litigation and rendering of advice on the legal matters. The number of litigation and advice cases in each Branch Secretariat gives a fairly good idea of the workload.

8.11 Requisite data pertaining to Advice, Litigation and Administrative work including processing of the fee bills from each Branch Secretariat was collected. Detailed discussions were held with the officers on litigation side and as well as advice side to understand their difficulties to make an objective assessment for manpower requirement in those functional areas. For this purpose workload on advice and litigation was assessed by drawing job description of various posts and also through case studies followed by discussions with officials at various levels for each item of work. The working pattern in the Branch Secretariat in Mumbai and Kolkata

is similar. The Branch Secretariat, Kolkata had projected an additional demand which was also considered with reference to the existing level of workload and accordingly the staff assessment was made. The assessment pertaining to the Branch Secretariat at Mumbai and Kolkata are given at Annexure-IX and X respectively.

8.12 The Branch Secretariat at Chennai and Bangalore function on similar pattern (somewhat different from Mumbai and Kolkata Offices). There is no separate Litigation Wing and both advice and legal functions are handled by the same set/group of Legal Officers. During the course of study, after going through the total number of advice and litigation cases and other allied work, detailed discussions were held with the actual job performer and their supervisors. To arrive at per unit time, work sample taken during on-the-spot study was first analyzed for the purpose and average time for the items not covered by the work sample was obtained through analytical method. Thus, the average per unit time, required for completion of each job was applied to the annual frequency of each job for computing annual workload of each functionary.

8.13 The assessment of staff of all categories, based on existing workload, for the Branch Secretariat of Chennai and Bangalore have been worked out and shown in Annexure XI and XII respectively. A consolidated statement of sanctioned and assessed staff strength in all four Branch Secretariats is shown in Annexure XIII.

8.14 A consolidated statement indicating the total number of posts sanctioned and assessed in the Department of Legal Affairs as a whole including Branch Secretariats has been prepared and is shown in Annexure XIV.

8.15 The overall analysis has revealed that out of a total sanctioned staff strength of 330 posts in the Main Secretariat at Shastri Bhavan, justification has been found for a total of 264 posts. This includes 5 posts recommended for creation and 19 posts assessed as leave reserve in different cadres. Thus, a total of 66 posts of various categories have been found as surplus in the Main Secretariat. As regards other staff of the Main Secretariat working in various Ministries/Departments, in Delhi, Litigation Section of Delhi High Court and Lower Court at Tis Hazari, against a sanctioned strength of 52 posts (including all categories of staff), 48 posts are found justified as per the workload and functional requirements. The details of sanctioned and assessed posts in the Main Secretariat and other than Main Secretariat have been summarized as under:-

S.No.	Location	Sanc tione	Assesse	Surplus
1	Main Secretariat Hq. at Shastri Bhava	330	264	66
2	Other than Main Secretariat (Outside Shastri Bhavan Ministries/Departmment, Litigation Section, Delhi High Court and Lower Court at Tis Hazari)	52	48	04

8.16 The assessment of various posts in the Branch Secretariats located at Mumbai, Kolkata, Chennai and Bangalore has revealed that out of the total sanctioned staff strength of 203 posts in these

Branch Secretariats, 184 posts are found justified as per details given as under:-

Sl.No.	Branch Sectt.	Sanctioned	Assessed	Surplus
1	Kolkata	92	86	06
2	Mumbai	69	61	08
3	Chennai	27	25	02
4	Bangalore	15	12	03
Total:-		203	184	19

IX OBSERVATIONS/RECOMMENDATIONS

9.1 As per the established practice, the posts of Joint Secretary and above are not within the purview of SIU. However, on the basis of the on-the-spot study in the Department of Legal Affairs (both at the Main Secretariat and Branch Secretariats), the study team is of the view that the number of JS & GC and above level posts are required to be reviewed, keeping in mind the existing workload at that level. It is, therefore, recommended that the Department of Legal Affairs may initiate necessary action for constitution of an appropriate Review Committee for this purpose consisting, among others, representatives of Ministry of Finance and DOP&T.

9.2 During the course of study, it has been observed that Branch Secretariats at Mumbai and Kolkata follow a different working pattern from those at Chennai and Bangalore. These two Branch Secretariats (Mumbai and Kolkata) have separate Litigation Wing. The legal

officers working in the Litigation Wing in these two offices function also as Advocate on Record. The papers/legal documents prepared by the Panel Counsel are required to be filed before the High Courts of Bombay and Calcutta in the name of Advocate on Record. This requirement is limited to Bombay and Calcutta High Courts only and is not applicable to other High Courts. The other Branch Secretariats at Chennai and Bangalore do not have separate Litigation Wing and the monitoring work of High Court is carried out through Additional Solicitor General. Keeping the above in view, the requirement of having a separate Litigation Wing in the branch Secretariats at Bombay and Calcutta is required to be reviewed so as to adopt uniform pattern of working in all the Branch Secretariats.

9.3 In the existing system, bills for making payments to the Govt. Counsel for appearance etc. in High Court cases are processed by the Branch Secretariats on behalf of all Central Government Offices. However, payments to the Counsels for the CATs and other court cases are being processed and made by the office/organization concerned. The Department of Legal Affairs may examine the possibility of authorizing the Ministries/Departments to make payment to the panel counsel, as per the prescribed rates in respect of all types of cases, including High Court cases, after due certification by the Branch Secretariats or from Additional Solicitor General or Assistant Solicitor General, as the case may be.

9.4 The Categorization and consolidation of posts in the Department of Legal Affairs has revealed that a number of posts, particularly from the Main Secretariat are diverted and being utilized elsewhere. The study team is of the view that this practice should be avoided and posts should be utilized in the office where they are sanctioned and for the purpose for which they were created.

9.5 The total number of group 'D' posts assessed for the Main Secretariat and Branch Secretariats have been shown in the report. These posts are recommended to be outsourced for better output and quality services. This will also reduce the liabilities of the Department of Legal Affairs.

X. – ACKNOWLEDGEMENT

The SIU takes the opportunity to place on record their sincere thanks to the officers and staff of the Department of Legal Affairs for active assistance and cooperation extended to the study team during the course of the study.
