

F.No.30(3)/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 24th September, 1999

OFFICE MEMORANDUM

Sub:- Revision of fee payable to Senior Counsel/Junior Counsel for conducting arbitration cases on behalf of the Central Government before the Arbitrators in Delhi/New Delhi and other places w.e.f. 1.10.1999.

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Enclosed here please find a copy of the Revised Scheme containing terms and conditions for the engagement of (i) Senior Counsel and (ii) Junior Counsel in respect of the arbitration cases on behalf of the Government of India before the Arbitrators in Delhi/New Delhi and other places.

2. For the guidance of various Ministries/Departments the following clarifications are given for settling the fee bills, TA/DA etc. payable to them for their engagement in Delhi/New Delhi and other places outside Delhi.

(a) The counsel will be engaged only in accordance with the revised terms and conditions applicable to them w.e.f. 1.10.1999 and no case for payment of fee at the higher rates than the rates prescribed in the Revised Scheme will be entertained by this Department.

(b) The Counsel will be paid fee at the old rates in respect of their appearance before the Arbitrator and other work done by them prior to 1.10.1999 and at the revised rates in respect of work done by them on/after 1.10.1999. However, in cases where the Arbitration Panel Counsel put in some appearance before 1.10.1999 and some on/after 1.10.1999, the counsel will be paid fee in accordance with the rates before or on/after 1.10.1999, keeping in view the respective terms and conditions applicable to them.

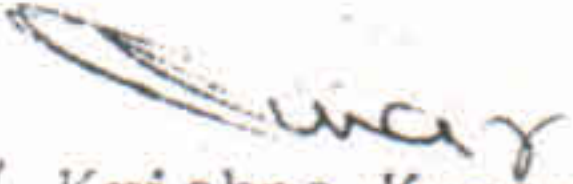
(c) In respect of the cases listed for hearing before the Arbitrators in Delhi/New Delhi and outside Delhi, the Senior Counsel/Junior Counsel will be engaged by the officer incharge of the Judicial Section, Department of Legal Affairs, Ministry of Law and Justice depending on the importance of the case and financial stakes involved.

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(d) The Fee Bills submitted by the Panel Counsel will be processed by the concerned Department and the payment is to be made directly by it to the Counsel concerned. Other miscellaneous and out of pocket expenses such as typing, court fee stamps if any, will be borne by the Ministry/Department on whose behalf the Counsel will conduct the case before the Arbitrator. The expenditure relating to TA/DA payable to the Counsel for their appearance outside Delhi has to be borne by the Ministry/Department on whose request the Counsel is engaged to conduct the case.


3. All the Ministries/Departments which propose to engage Senior/Junior Counsel for arbitration matters outside the headquarters are requested to make all necessary arrangements with regard to travel and boarding and lodging and local transportation expenses with them. Departments are further requested to ascertain that the Bills in these respects are made in their names and settled by them directly so that the necessity of reimbursement of expenses incurred by the Counsel later is minimised. They are further requested to make arrangements for their travel in consultation with the Counsel concerned. All the Ministries/Departments are further requested to ensure that in case the Counsel concerned incur the expenditure, the Bills in respect of such expenditure 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.

4. If any difference or doubt arises in respect of fee bills claimed by the Counsel, the matter may be referred to the Ministry of Law, Department of Legal Affairs whose decision shall be final.


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

Copy to:-

1. Shri N.C. Jain, JS & LA, Railway Board, New Delhi.
2. Ministry of Urban Development, Nirman Bhavan, New Delhi.
3. DGS&D, New Delhi (Smt. Shail Goel, Arbitrator).
4. Shri B.L. Nishad, Arbitrator, DGS&D, New Delhi.
5. Shri U.K. Jha, Addl. Legal Adviser & OSD(Lit), DGS&D, New Delhi.
6. All the advocates concerned as mentioned in the list.
7. Judicial Section with 50 (s/copies).
8. O.L. Section for Hindi translation.
9. All Ministries/Departments to the Govt. of India.


(S.K. Kalra)
Section Officer

Ministry of Law, Justice and Co. Affairs
Department of Legal Affairs
Judicial Section

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Revised Scheme containing terms and conditions for the engagement of Senior Counsel and Junior Counsel for conducting arbitration cases on behalf of the Central Government before the Arbitrators in Delhi/New Delhi and other places effective from 1.10.1999.

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1. SCOPE OF THE SCHEME

1. The Scheme will be operative in respect of the arbitration cases on behalf of the Government of India as may be entrusted to the Counsel for conducting such cases before the Arbitrators appointed by the Government of India in Delhi, New Delhi and other places.

2. Incharge of Litigation cases and allocation of cases

The officer incharge of the Judicial Section, Department of Legal Affairs, Ministry of Law, Justice and Company Affairs will nominate the Counsel for conducting the arbitration cases on behalf of the Government of India before the concerned Arbitrator, except in respect of cases for which separate arrangements have been made.

II. DEFINITIONS

1. For the purpose of this Scheme,

(a) 'Counsel' will mean and include the Senior Counsel and Junior Counsel, as the case may be;

(b) 'Government of India' means and includes the Government of India and the Government of a Union Territory.

III. PANELS OF COUNSEL

There shall be separate panels of Senior Counsel and Junior Counsel to conduct the arbitration cases on behalf of

the Government of India before the Arbitrators. The strength of the Counsel to be borne on the Panels may be determined by the Government of India from time to time.

IV. TERM OF EMPANELMENT

1. Initial/further empanelment:

The term of 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 not exceeding three years, at the discretion of the Government of India.

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 at Delhi/New Delhi or in other places.

The Counsel may locate his headquarters, during the period of his empanelment as such, at Delhi/New Delhi or any other place where he has been empanelled as a Counsel.

VI. DUTIES

The Counsel shall:

- (i) appear before the concerned Arbitrator in the case marked by the Officer Incharge of the Judicial Section, Department of Legal Affairs, Ministry of Law, Justice and Company Affairs and appointed as such by the concerned Department for a particular case;
- (ii) hold conference/consultation with the representatives of the Department in regard to the particular case;
- (iii) if so required, appear before the arbitrator outside the headquarters in connection with the case;
- (iv) when any case attended to by him is decided against the Government of India, give his opinion regarding the advisability of filing an appeal from such a decision;
- (v) keep the Department concerned informed of the developments in the case from time to time, particularly with regard to drafting, filing of papers, dates of hearing of the case etc;

- (vi) furnish to the Department concerned and the Department of Legal Affairs periodical statements and reports/returns, which may be called for from time to time; and
- (vii) perform such other duties of the 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. The Counsel shall not be entitled to the payment of any retainer or any other perquisites.

VIII. FEE PAYABLE TO THE COUNSEL

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

<u>Sl.No.</u>	<u>Nature of work</u>	<u>Senior Counsel</u>	<u>Junior Counsel</u>
1.	Fee for effective hearing	Rs.1000/- (per appearance)	Rs.750/-
ii.	Non-effective hearing	Rs.200/- (per case for non-effective hearing subject to maximum of four hearings)	Rs.150/-
iii.	For drafting Pleadings i.e. applications or objections etc.	Rs.750/- ..per pleadings..	Rs.450/-
Note: If substantially identical applications or objections 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 the connected cases.			
iv.	Conference fee per actual conference subject to a maximum of three such conferences for hearing in individual case	Rs.270/- ..per conference..	Rs.180/-

IX. OUT OF HEADQUARTERS

1. If the Counsel is required to go out of headquarters in connection with Central Government Arbitration, he will be entitled to a daily fee of Rs. 1800/- per day in the case of Senior Counsel and Rs. 1200/- per day in the case of Junior Counsel irrespective of the number of cases heard on any single day for the days of his absence from the headquarters including the days of departure from, intervening holidays and arrival back at the headquarters, but no 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 Gr.I/Class I Officers of the Central Government. He will also be paid lumpsum 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. The counsel will not be entitled to any clerkage.

XI. OUT OF POCKET EXPENSES

1. The Counsel will not be entitled to any fee by way of "out of pocket expenses".

XII. RIGHT TO PRIVATE PRACTICE AND RESTRICTIONS

1. A counsel will have the right to private practice which should not, however, interfere with the efficient discharge of his duties as a Counsel for the Government of India.

2. A Counsel shall not advise any party in or accept any case against the Government of India in which he has appeared or is likely to be called upon to appear for or advise or which is likely to affect or lead to litigation against the Government of India.

3. If the Counsel happens to be a partner of a firm of Lawyers or Solicitors it will be incumbent on the firm not to

take up any case against the Government of India or the Public Sector Undertaking in Delhi High Court or any case arising in other Courts out of those cases e.g. appeals and revisions in the High Court or the Supreme Court.

XIII. GENERAL

1. The various terms used in this Scheme will have the following meanings:
 - (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 judgment is delivered by the Court, it would not constitute an effective hearing, but will be termed as non-effective hearing.
 - (b) 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 awards 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.
4. Professional fees mentioned above shall include fees for perusal of all papers and documents necessary for preparing for the hearing and no additional fees will be payable for the time spent on such preparatory or reading 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. No fee will be payable to the Counsel if an advance notice about the adjournment has been issued of the adjournment of the case has been made at his request due to reasons personal to him.
7. Where two or more cases (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.

8. Where two or more cases together involve substantially identical question of law or fact and they are heard together, any one of such cases will be treated as a main case and the others as connected cases and the counsel will be entitled to fee in the main case as admissible to him under the head SENIOR COUNSEL or JUNIOR COUNSEL as the case may be and in the connected cases to Senior Counsel at the rate of Rs. 75/- and to Junior Counsel at the rate of Rs. 45/- per case per day.

9. However, in case two or more cases together do not involve substantially identical question of law or fact and they are heard together, the time will be equally divided in all the cases and the Senior Counsel and the Junior Counsel will be entitled to fees as indicated for them under that respective head subject.

10. The fee to the Counsel will be paid by the concerned Department 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/award 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.

11. 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 Govt. of India.

No. F. 30(3)/99-Jull.