

F. No. 26(2)/99-Judl.
Government of India
Ministry of Law, Justice and Co. Affairs
Department of Legal Affairs
Judicial Section

New Delhi, the 24th September, 99

OFFICE MEMORANDUM

Subject: **Revision of fee payable to Central Government Standing Counsel/
Additional Central Government Standing Counsel in Karnataka
High Court w.e.f. 01.10.1999.**

Enclosed herewith please find a copy of the Revised Scheme containing terms and conditions for the engagement of Central Govt. Standing Counsel/Additional Central Govt. Standing Counsel in respect of civil litigation and such criminal cases as may be entrusted to them in Karnataka High Court effective from 01.10.1999.

2. For the guidance of the various Ministries/Departments, the following clarifications are given for settling the fee bills, TA/DA etc., payable to them for their engagement in the Karnataka High Court, in courts other than the High Court, Commission of Enquiry, Tribunals, etc. in the country:-

- (a) The counsel will be engaged only in accordance with the revised terms and conditions applicable to them w.e.f. 01.10.1999 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) In respect of the cases listed for hearing in the Karnataka High Court, other courts etc., located in Bangalore, the Counsel will be engaged by the Officer In-charge of Branch Secretariat, Bangalore or any other authorized officer of the Branch Secretariat of this Department at Bangalore depending on the importance of the case, legal issue and financial stakes involved. However, in respect of their engagement in Courts, Commissions of Inquiry, Tribunals, etc. outside Bangalore, prior approval of the Department of Legal Affairs, Ministry of Law, Justice & Company Affairs, New Delhi will be required.
- (c) As in the past, Ministry of Law, Justice and Co. Affairs, Department of Legal Affairs, will only be making the payment of monthly retainer to the Senior C.G.S.C and installation and annual rental charges of telephone provided to them.

- (d) For appearance in the Karnataka High Court, the expenditure in connection with the fee payable to them is to be borne by the Department of Legal Affairs, Ministry of Law, Justice and Co. Affairs, Branch Secretariat, Bangalore. The fee bills are to be processed by the Branch Secretariat, Bangalore and the payment is to be made directly by it to the Counsel concerned. Other Misc. and out of pocket expenses will be borne by the Ministry/Department on whose behalf the Counsel conducts the case in the concerned Court. Such expenses will be paid in advance to the Branch Sectt. in accordance with the instructions issued by the Branch Secretariat. However, the expenditure relating to TA/DA payable to the Counsel for their appearance in Courts, Tribunals, Commissions of Inquiry outside Bangalore and in foreign countries, is to be borne by the Ministry/Department on whose request the Counsel is engaged to conduct the case.
- (e) The Counsel will be paid fee at the old rates in respect of their appearance in the High Court, etc. and other work done by them prior to 01.10.1999 and at the revised rates in respect of the work done by them on/after 01.10.1999. However, in cases where the Sr./Addl. Central Govt. Standing Counsel has put in some appearances before 01.10.1999 and some on/after 01.10.1999, the Counsel will be paid fee in respect of appearances at the revised rates for the entire case. The fee in respect of drafting work, etc., will be paid in accordance with the rates which were applicable to him at the time he completed the drafting work, etc.
- (f) The present procedure, which may be amended from time to time regarding the 'High Fee' cases or engagement of Special Panel Counsel, will continue to be followed.

3. All the Ministries/Departments which propose to engage the Counsel to appear in the Karnataka High Court are requested to contact the Additional Legal Adviser, In-charge of this Branch Secretariat, Department of Legal Affairs located in Karnataka – 240, 4th Main Road, Sadasivnagar, Bangalore-600 080. However, for the engagement of the Counsel outside Bangalore, they may obtain the approval of the Department of Legal Affairs, Ministry of Law, Justice and Co. Affairs, New Delhi after settling the terms and conditions of their engagement. They are further requested to make arrangements for their travel in consultation with the Counsel concerned. The Departments are also requested to ensure that the bills in this respect are made in their names and settled by them directly so that the necessity of reimbursement of expenses incurred by the Counsel later is minimized and they are not put to inconvenience.

4. All the Ministries/Departments are further requested to ensure that the bills in respect of other expenditure, if incurred by the Counsel in connection with TA/DA etc., for their appearance in various Courts etc., outside Bangalore 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.

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 Ministry of Law, Justice and Co. Affairs, Department of Legal Affairs, New Delhi, whose decision shall be final.

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

Copy forwarded to: -

1. All Ministries/Departments to the Government of India.
2. All Central Govt. Standing Counsel/Additional Central Govt. Standing Counsel in Karnataka High Court through Branch Secretariat, Department of Legal Affairs, Bangalore.
3. Department of Expenditure, Ministry of Finance, New Delhi w.r.t. their U.O. No. 9(11)/99-E.II(B) dated 6.9.1999.
4. Legal Adviser, Railway Board, New Delhi (with 5 s/copies).
5. Department of Personnel & Training (AT Section), New Delhi (with 5 s/copies).
6. Joint Secretary (Legal), Department of Revenue, Ministry of Finance, New Delhi (5 s/copies).
7. CBDT, Department of Revenue, Ministry of Finance, New Delhi (with 5 s/copies).
8. Branch Secretariats Mumbai/Calcutta/Bangalore/Chennai.
9. Central Agency Section, Litigation (HC/LC) Sections/Cash/Admn.II.(LA)/B&A/Advice A/B/C Section.
10. Pay and Accounts Officer, Department of Legal Affairs, New Delhi.
11. Guard File/Judicial Section (100 s/copies).
12. Hindi Section for Hindi translation.

(S.K. Kalra)
Section Officer

**Sr./Addl. CGSC in
Karnataka High Court**

Government of India
Ministry of Law, Justice & Co. Affairs
Department of Legal Affairs
Judicial Section

Revised Scheme containing terms and conditions for the engagement of Senior/ Additional Central Government Standing Counsel on behalf of the Government of India in respect of Civil Litigation and such Criminal Cases as may be entrusted to them in Karnataka High Court 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 the Karnataka High Court. However, the Counsel will not put in their appearance as a matter of course, in cases relating to Central Sales Tax unless they have been specifically instructed otherwise, in regard to any particular case.

2. In-charge of Litigation cases: The Officer In-charge of the Branch Secretariat, Department of Legal Affairs, Bangalore, will be In-charge of the entire litigation work on behalf of the Government of India before the Karnataka High Court except such of the work for which separate arrangements have been made.

3. Allocation of the cases to the counsel: Allocation of cases to the Counsel will be made by the Officer In-charge of the Branch Secretariat, Department of Legal Affairs, Bangalore, or any other Officer authorized by him.

II. DEFINITIONS:

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

- (A) 'Counsel' will mean and include the Sr./Addl. Central Government Standing 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 for India and Additional Solicitors-General for India.

III. STANDING COUNSEL AND PANEL OF ADDITIONAL CENTRAL GOVERNMENT STANDING COUNSEL:

1. Senior Central Government Standing Counsel and a Panel of Additional Central Government Standing Counsel:

There will be one Senior Central Government Standing Counsel and a panel of counsel consisting of Additional Central Government Standing Counsel to conduct the litigation cases on behalf of Government of India before Karnataka High Court. The strength of the Counsel engaged/empanelled may be determined by the Government of India from time to time.

IV. **TERM OF ENGAGEMENT:**

1. Initial Engagement: 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 not exceeding three years, at the discretion of the Government of India.

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

V. **HEADQUARTERS OF THE COUNSEL:**

Headquarters at Bangalore: The Counsel will locate his Headquarters during the period of his engagement/empanelment as such, at Bangalore.

VI. **DUTIES:**

1. The Counsel shall

- (i) appear in the Karnataka High Court in the cases marked to him by the Officer Incharge of the Branch Secretariat, Department of Legal Affairs, Bangalore.
- (ii) If so required, appear in the District and Subordinate Courts, Tribunals, Commissions of Inquiry, before the Arbitrators/Umpires etc. at the Headquarters. He may also be required to appear in Courts, Tribunals, Commissions of Inquiry, before the Arbitrators/Umpires outside the headquarters;
- (iii) When any case attended to by him is decided against the Government of India /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, Advocate General of the State Government, Special or Senior Counsel, if required to do so, who may be engaged in a particular case before the High Court, Tribunals, Commissions of Inquiry, before the Arbitrators/Umpires etc.;

- (v) keep the Department concerned informed of the important developments in the case from time to time, particularly with regard to drafting, filing of papers, dates of hearing of the case, supplying copies of judgement etc.;
- (vi) furnish to the Branch Secretariat, Bangalore and the Department of Legal Affairs, New Delhi 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 to Officer In-charge of Branch Secretariat, Bangalore; 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 Co. Affairs from time to time.

VII. RETAINER AND OTHER PERQUISITES:

1. Retainer payable to Senior Central Government Standing Counsel:

The Senior Central Government Standing Counsel will be paid a monthly retainer of Rs. 2250/- (Rupees two thousand two hundred fifty only), which will include charges for staff, office, rent postage and other establishment charges. The Addl. Central Govt. Standing Counsel will not be entitled to any retainer and other perquisites mentioned herein under.

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

3. Perquisites: Deleted vide O.M.No.44(10)/2004–Judl., dated 3rd September, 2004.

VIII. FEE PAYABLE TO THE COUNSEL:

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

(i)	Civil or Criminal Writ Petitions under Articles 226 and 227 of the Constitution or Special Appeals from orders made in such petitions	Rs.2,250/- per case
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In case hearing on a Writ Petition goes on for more than three days	Rs.375/- per day for every additional day (not exceeding three in
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number) by way of refresher fee.

case	(ii) Petitions under Articles 132 or 133 of the Constitution in civil or criminal cases	Rs.900/- per case per day subject to a maximum of Rs. 1800/- for the
which	(iii) Original Suits	Regulation fees or the fee which the Court decrees ever is higher
	(iv) Civil appeals from decrees in original suits and proceedings except under Articles 226 and 227 of the Constitution Second Appeals Letter Patent Appeals other than these ever is higher mentioned in item (i) above and Land acquisition appeals to the High Court	for each case, regulation fee or fee fixed by the Court which-
	(v) Civil or Criminal Revision Petitions	Rs.1050/- per petition
	(vi) Civil Misc. Applications or Petitions under the Indian Succession Act, Contempt of Court Proceedings and other Proceedings of an original nature specifically provided otherwise.	Rs.750/- per case
	(vii) Reference to the High Court under Sales Tax Act and Banking Company Petitions	Rs.1050/- per case or the amount fixed by the Court, whichever is higher
	(viii) Company Petitions	to be regulated by the rules contained in Appendix III of the Company's (Court) Rules, 1959.
	(ix) Civil Misc. Petitions forma pauperis transfer petitions and other civil misc. petitions, applications not other wise provided for	Rs.300/- per petition
	(x) Examination of title deeds	2 ½% of the amount in the transaction such as sale mortgage etc.,

		subject to a min. of Rs.120/- and a maximum of
Rs.1200		
(xi)	Written opinion other than referred to in VI(iv)	Rs.450/-
(xii)	For drafting pleading i.e. written statements in suits and counter affidavits/returns/ answers to the writ petitions, grounds of appeals and applications for leave appeal to the Supreme Court	Rs.750/- per pleading

(Explanation: if substantially identical affidavit/written statements/grounds of appeal applications are drafted in connected cases, only one drafting fee will be payable in the main case and no separate drafting fee will be paid in connected cases).

(xiii)	“Appeals arising under Section 54, of the Foreign Exchange Regulation Act, 1973”	Rs.1800/- per Appeal
(xiv)	For conducting the arbitration cases of the Central Government before the Arbitrator/Umpire at their Headquarters the Counsel will be entitled to a fee of Rs.240/- for the first hour and Rs.120/- per half hour of hearing, thereafter provided, however, that no fee will be payable where a case is adjourned for reasons personal to him or after advance notice to him.	

2. When the Counsel does not argue the case himself but only assists the Law Officer, Advocate General of the State Government or other Special/Senior Counsel, he will be entitled to the same fee as are payable to him deeming that he has appeared and argued the case himself.

3. Fees for appearance in the case in the Subordinate Court at the Headquarters will be Rs.750/- for the first day and Rs.450/- for each subsequent day.

IX. OUT OF HEADQUARTERS:

1. If the Counsel is required to go out of the Headquarters in connection with Central Government litigation e.g. for conference with a Senior Counsel, appearance in a Court outside the Headquarters, he will be entitled to daily fee of Rs.1200/- per day for the days of his absence from the Headquarters including the day of departure from intervening holidays and arrival back at the Headquarters, but no fees will be paid for the day of departure if he leaves the Headquarters after Court hours or for the day of arrival if he arrives at the Headquarters before the Court hours.

2. Travel/Hotel expenses: In addition to the daily fee, the Counsel will also be entitled to travel expenses for travel by air (Economy Class) or first class by train, road mileage for the journey from his Headquarters to the airport/railway station and vice-versa and from the airport/railway station to the place of his stay out of Headquarters and vice-versa 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 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 batch of cases by way of clerkage.

XI. **OUT OF POCKET EXPENSES**

The amount required for court fees at the time of filing a case and other miscellaneous expenses not exceeding Rs.300/- should be obtained by the Counsel in advance from the concerned Ministry/Department on whose behalf the Counsel conducted the case in the concerned High Court, an account of the expenses incurred should be rendered to that Ministry/Department while presenting the final fee bill.

XII. **RIGHT TO PRIVATE PRACTICE AND RESTRICTIONS**

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

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

3. If the Counsel happens to be a partner of a firm of lawyers or solicitors, it will be incumbent on the firm not to take up any case against the Government of India in the concerned High Court or any case arising in other Courts out of those cases e.g. appeals and revisions in the High Court or Supreme Court.

XIII. **GENERAL:**

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

- (a) Effective Hearing: A hearing in which either one or both the parties involved in a case are heard by the court. If the case is mentioned and adjourned or only directions are given or only judgement is delivered by the court, it would not constitute effective hearing but will be termed as non-effective hearing.

- (b) Uncontested Cases: All suits and appeals are deemed to be 'uncontested', if these are withdrawn by the plaintiff/appellant or are dismissed in limine or are otherwise decided by the Court ex-parte before the final hearing. No Writ Petition/revision petition/second appeal (including any interlocutory application connected therewith) will be considered as 'uncontested' if it is decided by the Court on preliminary legal objections or is withdrawn by the petitioner/appellant at or during any state of the final hearing in the presence of the Government or is withdrawn by the Government at the time of its admission.
- (c) Substantial work: When the case has been admitted by the Court after hearing of preliminary objections or filing of affidavits/counter-affidavits etc. by the Counsel, 'substantial work' will be deemed to have been done.
- (d) Identical Cases: Two or more cases where substantially identical questions of law or facts are involved and where the main difference is in the names, addresses of the parties concerned, amount of money involved, etc., where the common or identical judgements are delivered irrespective of the fact whether all the cases are heard together or not.

2. In all cases, effective appearance is necessary for the Counsel to claim fee.
3. No fee will be payable in cases where no legal work is required to be done e.g. cases in which the interests of the Government of India are to be watched pending instructions, cases regarding transmission of record to the Supreme Court, inspection of the Court record for ascertaining the position of the case or other information needed.
4. No fee will be admissible for preparation but the Government may consider payment of a separate fee for preparation in special cases involving arduous work.
5. If the Counsel appears at the instance of the Union of India for parties other than the Union of India whose case is not inconsistent with that of the Union of India, he will be entitled to only one set of fee.
6. Appeals, revision or petitions arising from one common judgement or order will be together considered as one case, if they are heard together.
7. When cases argued before a Single Judge are referred to a Division Bench or to a Full Bench separate fee at the prescribed rates will be paid for appearance before each Bench.
8. In 'uncontested cases' the fee shall be one-third of the fees otherwise payable but if such a case is later on restored and decided in contest, the remaining

two-thirds of the fee will be payable. A case shall be regarded as contested when a decision is given after hearing arguments on both sides.

9. No fee will be payable to the Counsel if an advance notice about the adjournment has been issued or the adjournment of the case has been made at his request due to reasons personal to him.

10. Where two or more cases (but not more than 10 cases) involving substantially identical questions of law or facts, any one of such cases will be treated as a main case and the others as connected cases and the fees in such cases will be regulated as under, irrespective of the fact whether all the cases are heard together or not: -

- (a) when the Counsel filed separate and materially different affidavits, applications or grounds of appeal etc. in more than one case but the argument is heard in the main case and the other cases are decided accordingly, the Counsel shall be paid the full fee in the main case and Rs.150/- in each of the connected cases.
- (b) when the main case has been contested as in (a) above, but in the connected cases either affidavits or grounds of an appeal or petition similar to the one in the main case or nothing at all has been drafted by the Counsel, he shall be paid the full fee in the main case and Rs.75/- only in each of the connected cases.
- (c) When substantially different affidavits are drafted in each connected case but all the cases are disposed of without contest, the Counsel shall get 1/3rd fees in the main case and Rs.150/- in each of the connected cases.
- (d) When the Counsel has drafted the affidavit, petition or ground of appeal in the main case and has not drafted them in the connected cases or the drafts in the connected cases are substantially similar to the one in the main case and the cases are disposed of without contest, the Counsel shall get 1/3rd fees in the main case and Rs.75/- in each of the connected cases.

11. The fee to the Counsel will be paid by the Branch Secretariat, Department of Legal Affairs, Bangalore, on presentation of a stamped receipt, and on submission of a copy of the documents drafted, if it is drafting fee and submission of minutes or gist of proceedings, or a copy of order/judgement where it is necessary in case the claim is for appearance fee. The counsel shall submit the fee bills within three months from the date on which the fee has accrued.

12. The fee will be payable in two stages: firstly, 1/3rd fee after substantial action has been taken, i.e. first stage and secondly, the remaining 2/3rd fee after the case has been decided i.e. second stage.

Provided, however, where during the pendency of a proceeding a Counsel is changed for some reason or the other, a fee commensurate to the work done by the outgoing Counsel, not exceeding 1/3rd of the total fee admissible for the case, may be paid. In such an event, the balance of fee payable in the case will be paid to new Counsel after completion of the case. As regards, admissibility and quantum of fee in such cases, the decision of the Officer-in-charge of the Judicial Section of the Department of Legal Affairs shall be final.

13. In the event of any doubt or difference regarding the fees, the fees determined by the Secretary, Department of Legal Affairs, Ministry of Law, Justice and Co. 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

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