

**F. No. 26(1)/2005-Judl.**  
**Govt. of India**  
**Ministry of Law & Justice**  
**Department of Legal Affairs**  
**Judicial Section**

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Tele No. 2338 5383

New Delhi the 31<sup>st</sup> January, 2008

**OFFICE MEMORANDUM**

Subject: Revision of fee payable to Central Government Standing Counsel /Panel Counsel, Delhi High Court, Asstt. Solicitors General/Central Government Counsel of various High Courts (including Panel Counsel of various CAT, Benches) excluding the High Courts of Bombay and Calcutta.

In partial modification of the terms and conditions contained in OM No. 24(2)/99-Judl., OM No. 26(1)/99-Judl., OM No. 25(3)/99-Judl. and OM No. 26(2)/99-Judl, all dated 24.09.99, the undersigned is directed to convey the approval of the Competent Authority in the Department of Legal Affairs for revision of the fee structure as per the statement annexed herewith as Annexure I, in respect of the Assistant Solicitors General, Central Government Counsel of various High Courts and of the CAT Benches, but excluding the Panel of the High Courts of Bombay and Calcutta.

- 2. The above revised fee will be effective from 01.02.2008.**
- 3. The counsel will be paid fee at the old rates in respect of their appearance in the Court etc. and other work done by them prior to 01.02.2008 and at the revised rates in respect of the work done by them on/after 01.02.2008**
4. This issues with the approval of the Ministry of Finance, Department of Expenditure E.II(B) Branch, ID Note No. 9(11)/99-E.II dated 6<sup>th</sup> August, 2007.

**(M.A. Khan Yusufi)**  
Joint Secretary and Government Counsel.

3. All Asstt. Solicitors General/Central Government Counsel of various High Courts.
4. All Senior Central Government Standing Counsel/Addl. Central Government Standing Counsel of various CAT Benches.
5. Department of Expenditure, Ministry of Finance, New Delhi w.r.t. their ID Note No. 9(11)/99-E.II dated 6<sup>th</sup> August, 2007.
6. Legal Advisor, Railway Board, New Delhi (with 5 spare copies).
7. Department of Personnel and Training (AT Section), New Delhi (with 5 s/copies).
8. Joint Secretary (Legal), Department of Revenue, Ministry of Finance, New Delhi (with 5 s / copies)
9. CBDT, Department of Revenue, Ministry of Finance, New Delhi (with 5 s / copies).
10. Branch Secretariats Mumbai/Calcutta/Chennai/Bangalore.
11. Central Agency Section, Litigation (HC/LC) Sections, Cash/Admn.II (LA)/B&A, Advice A/B/C Section (5 s/copies)
12. Pay and Accounts Officer, Deptt of Legal Affairs, New Delhi.
13. Guard File/Judicial Section (40 s/copies)
14. O.L. Section for Hindi Translation.

**(Kishore Kumar)**  
Section Officer

**STATEMENT OF REVISED FEE PAYABLE TO GOVERNMENT COUNSEL  
BEFORE  
VARIOUS HIGH COURTS AND BEFORE VARIOUS BENCHES OF CENTRAL  
ADMINISTRATIVE TRIBUNALS BUT EXCLUDING THE HIGH COURTS OF  
BOMBAY AND CALCUTTA WITH EFFECT FROM 1<sup>ST</sup> February 2008**

Sl.No.		Item of Work	Revised fee
1.	i) Assistant Solicitor General of India of India in different High Courts and Central Government Standing Counsel of Delhi High Court.	Retainer Fee  Assistant Solicitors General of various High Courts excluding Bombay and Calcutta High Courts CGSCs of Delhi High Court	Rs.3,000/- per month
2.	Assistant Solicitors General of India of India in different High Courts/ Central Government Standing Counsel in Delhi High Court/Central Govt. Counsel/Pleader in different High Courts	i) Civil or Criminal Writ Petitions under Article 226 & 227 of the Constitution, Contempt Petitions, Criminal/Civil Revision Petitions, Reference to the High Court under Sales Tax Act and Banking Company Petitions,	Rs.1500/- per effective hearing  Rs.300/- per non-effective hearing (subject to maximum of five hearings in a case)
		ii) Petitions under Article 132 or 133 of the Constitution in Civil or Criminal Cases.	Rs.1,500/- per effective hearing(subject to max. of Rs. 3000/- in a case)
		iii) Original Suits, Civil Appeal from Decrees in Suits and proceedings including second appeal and land acquisition appeal except LPA from Petitions under Article 226 & 227 of the Constitution (including drafting fee)	Ad. Valoram/regulation fee (subject to maximum of Rs. 30,000/- in a case.)
		iv) Company Petitions	To be regulated by the rule contained in Appendix (iii) of the Company (Court)

		vi) Drafting of Civil Misc. applications to petitions under the Indian Succession Act, Contempt of Court proceedings and other proceedings of an original nature	Rs.750/- per petition
		vii) Civil Misc. petitions, forma paupers, transfer petitions and other civil misc. petitions of routine nature	Rs. 300/- per petition
		viii) consultation /conference fee	Rs. 300/- per conference (subject to maximum of 4 conferences in a case)
		ix) Appearance before the High Court in application under Section 34 & 37 of the Arbitration and Conciliation Act, 1996 x) Appearance before Arbitrator/Umpires etc.	Rs.1500/- per effective hearing  Rs. 300/- per non-effective hearing (subject to a maximum of 5 hearing in a case).  Rs. 300/- per non-effective hearing (subject to a maximum of 5 hearings in a case).

SNZ(R)

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No.33(01)/2010-Judl(Misc)  
Department of Legal Affairs  
Judicial Section

Dated the 16<sup>th</sup> November, 2010.  
**FTS - 1147/Jud.Sec./2010**

**NOTE**

Reference Note/PUC is from Ministry of Tribal Affairs dated 28<sup>th</sup> October, 2010 seeking clarification regarding the fee bills of Shri Sunny Xavier, CGC for conducting the OP No.22260/2004 before the Hon'ble High Court of Kerala at Ernakulam.

2. In the first instant, the referring Department is requested to kindly settle the matter as per the following instructions, thereafter, in case there still remains any specific doubt, the same may be referred to this Department for clarification/consideration please:-

Sl. No.	Details of instruction
1.	Settle the fee bills of the C.G.Counsel as per the OM No.26(01)/99-Judl. dated 24.09.99 read with 26(01)/2005-Judl. dated 31.01.2008
2.	Settle the fee bills of Senior Panel Counsel as per the OM No.24(02)/99-Judl. dated 24.09.99
3.	Settle the fee bills of the Law Officer as per the notification dated 01.01.1987 read with notification dated 18.07.08 and dated 23.09.08(OM No. 18(1)/98-Judl. dated 18.07.2008.
4.	Settle the fee bills of the Counsel/ Law Officer as per the OM No.33(01)/2000-Judl. dated 11.09.2000
5.	Refer the proposal to this Department after processing the same as per the instructions issued vide OM No.29(02)/2002-Judl. dated 11.11.2002
6.	The details of the Counsels whether he is a Sr. Panel Counsel or Central Govt. Counsel can be searched through our url link <a href="http://www.lawmin.nic.in/webreport.htm">www.lawmin.nic.in/webreport.htm</a> .
7.	The details of the circulars is available in our url link <a href="http://www.lawmin.nic.in/judicial/index.htm">www.lawmin.nic.in/judicial/index.htm</a>
8.	The engagement of Law Officer/Counsel for the matters before Supreme Court, In-charge, Central Agency Section, Supreme Court Compound, New Delhi, Ph: 23386257/ 23381225 may be contacted.
9.	Assistant Solicitor General/Sr.CGSC/Standing Govt. Counsel of the respective benches of High Courts/CAT benches/District Courts respectively are the In-charge for conducting Central Govt. Litigation of the respective court (Except Allahabad HC and Lucknow Bench of AHC, Bombay High Court and Chennai High Court where Addl. SG in the In-charge). For engagement of a Counsel in such cases the referring Min/Deptt need not refer the matter to this Department, instead they can directly approach the In-charge of the respective court. The details of Law Officers/Assistant Solicitor General/Sr. CGSC/Standing Govt. Counsel are available in our site <a href="http://www.lawmin.nic.in/legal.htm">www.lawmin.nic.in/legal.htm</a>
10.	Miscellaneous expenses (typing, printing, photo copy, court fee, inspection, postage etc) are payable as per actuals to the satisfaction of the Department as per OM No.33(1)/2000-Judl dated 11.09.2000.
11.	For engagement of Private Advocate, the referring department is requested to send the proposal, specifying the name, the terms and conditions of engagement and special reasons for the engagement of the Counsel, duly approved by the Minister In-charge of the Administrative Ministry before the proposal can be considered for Concurrence by this Department.
12.	The Department may settle the fee bills of Central Government Counsel in identical cases as per O.M. F. No.26(1)/99-Judl. dated 24 <sup>th</sup> September, 1999/ O.M. F.No.26(1)/2005-Judl. dated 31 <sup>st</sup> January, 2008 read with the O.M. No.33(1)/2000-Judl. dated 11.09.2000.
13.	The Department may settle the fee bill of CGC as per O.M. F.No.27(11)/1999-Judl. dated the 24 <sup>th</sup> September 1999, applicable to Counsels in the District and Subordinate Courts.
14.	Special observation. It is clarified for hearings in a case before 1.2.2008, fee @ Rs.2,250/- per case. If in a case hearing on a Writ Petition goes on for more than 3 days, an additional fee of Rs.450/- per day(not exceeding three number) may be paid by way refresher fee. A fee of Rs. 750/- per pleading is payable for drafting of main pleadings/counter affidavit/written statement. Clerkage is payable @10% on fees excluding misc. expenses. Department may settle the fee bill of Miscellaneous expenses of the C.G.Counsel as per actuals to its own satisfaction..

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S. K. N. S. R. S. D. No. 11/2010  
Ministry of Tribal Affairs  
New Delhi

Submitted for approval.

Acharya  
16/11/2010

S.O. (S)

18/11/10

Addl. LA (Sh. A. S.)

18/11/2010

Ms A

F.No.33(1)/2000-Judl.  
Government of India  
Ministry of Law, Justice & Co. Affairs  
Department of Legal Affairs  
Judicial Section

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New Delhi, the 11th September, 2000

OFFICE MEMORANDUM

Subject : Revision of fee payable to Senior Counsel/Central  
Government Standing Counsel in various High Courts  
- Clarifications req.

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The undersigned is directed to refer to this Department's O.M. No. 24(2)/99-Judl., O.M. No. 26(1)/99-Judl., O.M. No. 26(2)/99-Judl. and O.M. No. 25(3)/99-Judl., all dated 24th September, 1999 regarding revision of fee payable to Senior Counsel/Central Government Standing Counsel in Delhi High Court, various High Courts, Karnataka High Court and Madras High Court respectively and to state that certain doubts have been raised by some departments. The doubts have been examined by the Government and the following decisions have been taken :-

1. Proforma Party :-

(i) In a case where Union of India is only a proforma party and no instructions from the concerned department are given to the Counsel and the Counsel continues to appear in the matter, the Counsel is entitled to 1/3rd fee. Even if such a case is disposed of at admission stage, the Counsel is entitled to 1/3rd fee.

(ii) In such cases where the Administrative Department informs the Counsel/concerned Litigation Section not to contest the case on their behalf, then the Counsel is not entitled to any fee.

2. Cases disposed of at the admission stage (where the Department is one of the main respondents) :-

(i) Where the case is disposed of or dismissed at the admission stage and the Department has no notice of the case and no instructions are given to the Counsel, the Counsel may be paid 1/3rd fee.

(ii) In such a case where the Department has notice of the case and instructions are given to the Counsel and/or some reply is also filed and the Counsel gets the case disposed of/dismissed at the admission stage, the Counsel may be paid full fee.

3. In identical cases where more than 10 cases are involved :-

Where more than ten identical cases are involved, groups of ten cases each may be made treating one case in each group as the main case and the other nine cases in each group as connected cases and pay the fee to the Counsel as per term XIII-10 of the terms and conditions of engagement of Counsel of Delhi High Court and other similar terms of engagement of Counsel in various High Courts.

4. Misc./out of pocket expenses :-

In para 2(d) of this Department's O.M. Nos.26(1)/99-Judl., 24(2)/99-Judl. and 26(2)/99-Judl. dated 24th September, 1999, it is clearly stated that misc./out of pocket expenses will be borne by the Ministry/Department on whose behalf the Counsel conducts the case in the concerned Court. As regards ceiling, it may be stated that the Counsel is to be reimbursed the actual expenses incurred. Such expenses are to be paid to the Counsel by the concerned Department to their own satisfaction. For this purpose, if need be, the Counsel can be requested to furnish the details of the misc. expenses incurred. The other course could be that the misc. expenses are directly borne by the concerned Department so that the necessity to reimburse the misc. expenses to Government Counsel does not arise. The misc. expenses are in addition to the clerkage.

5. Refresher fee :-

The terms and conditions provide that if in a case, hearing on a writ petition goes on for more than three days, an additional fee of Rs.375/450.00 per day (not exceeding three in number) may be paid by way of refresher fee. From the above wording, it follows that refresher fee is to be paid when hearing on a case is continuously held for more than three consecutive days. In other words, if hearings in the case are held on different dates, the Counsel is not entitled to refresher fee. To put it more clearly, it may be stated that if hearing in a case is held continuously for four days, the Counsel is entitled to one day's refresher fee, if the hearing is held continuously for five days, the Counsel is

entitled to two days' refresher fee, if the hearing in a case goes on for six days continuously, the Counsel is entitled to three days' refresher fee.

6. Misc. Applications :-

Terms and conditions provide for a fee of Rs.300/- per petition in Civil Misc. Petitions, Fornas Pauperis, Transfer Petitions and other Civil Misc. Petitions/ Applications not otherwise provided for. It is clarified that for drafting and conducting Misc. Applications e.g. stay application, application for exemption from filing certified copies, condonation of delay, early hearing and urgent application, the Counsel is entitled to Rs.300/- per application.

7. Daily fee for going out of headquarters and appearance fee :-

Sometimes doubts are raised as to whether daily fee is in addition to the appearance fee or it includes appearance fee. It is, hereby, clarified that the daily fee is to be paid in addition to the appearance fee.

8. Regulation fees :-

Terms and conditions of engagement of Counsel in various High Courts provide that in original suits and Civil Appeals from decrees in original suits and proceedings (except under Articles 226 and 227 of the Constitution) - 2nd Appeal, LPA (other than those mentioned in Item (i) of the schedule of fee) and Land Acquisition Appeals in the High Courts, the Counsel will be paid regulation fee. It is, hereby, clarified that the regulation fee is the fee prescribed in the concerned High Court Rules for such items.

In respect of Senior Panel Counsel :-

9. Effective and non-effective hearings :-

Though the terms and conditions define effective and non-effective hearings, these may further be clarified as under :-

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 because the case in any event is to be adjourned after hearing from time to time till it is finally disposed of. Further the 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, they will not be effective hearings.

Ministry of Environment and Forests, etc. are requested to bring these decisions/clarifications to the notice of all concerned.

( D.R. MEENA )  
Joint Secretary & Legal Adviser to the Government of India

Copy to :-

1. All Ministries/Departments to the Government of India.
2. All Senior C.G.S.C./Additional C.G.S.C. in Delhi High Court and various High Courts.
3. All Senior C.G.S.C./Additional C.G.S.C. in Karnataka High Court/Madras High Court.
4. All Senior C.G.S.C./Additional C.G.S.C. in CAT, Delhi.
5. Incharge, Branch Secretariats - Mumbai, Calcutta, Bangalore & Madras.
6. Incharge, Litigation (HC) Section.
7. Incharge, Central Agency Section.
8. Central Agency Section, Litigation (HC) Section.
9. Guard File, Judicial Section (with 10 s/copies).
10. OL Section for Hindi translation.

( D.R. MEENA )  
Joint Secretary & Legal Adviser to the Government of India