

F.No. -5(2)/07/Lit./ 303-310

GOVERNMENT OF N.C.T. OF DELHI
DEPARTMENT OF LAW, JUSTICE AND LEGISLATIVE AFFAIRS
8th LEVEL, C WING, DELHI SECRETARIAT, NEW DELHI-110002.

Date: 18/3/08

OFFICE MEMORANDUM

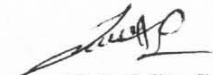
Subject: Terms and Conditions & Revision of Fee payable to Standing Counsels/ Additional Standing Counsels/ Government Counsels in the Delhi High Court /Central Administrative Tribunal.

Please find enclosed herewith a copy of the scheme regarding the terms and conditions for the engagement of Standing Counsel/Additional Standing Counsel/ Government Counsel in the Delhi High Court/Central Administrative Tribunal and the revised fee payable to them, which will be effective from the date of issue of this OM. It is clarified that the Counsels will be engaged only by this Department but the payment of the fee to the Counsels will be made by the administrative Department concerned. It is further clarified that the Counsel will be paid fee at the old fee rates in respect of the cases already assigned to them, i.e. prior to the date of issue of this OM.

2. All the Departments are further requested to ensure that the bills in respect of other expenditure incurred by the Counsel 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.

3. In the event of any doubt or difference regarding fees, the fees determined by the Principal Secretary (Law, Justice & Legislative Affairs), Government of NCT of Delhi, shall be final.

4. This issues with the concurrence of the Finance Department vide U.O. no. 1167 dated 14/01/2008.


(G.P. Mittal)

**Pr. Secretary (Law, Justice & L.A.)
Government of N.C.T. of Delhi**

F.No. -5(2)/07/Lit./ 303-310

Date: 18/3/08

Copy forwarded for information and necessary action to: -

1. The Pr. Secretary to the Lt. Governor, Govt. of NCT of Delhi, Raj Niwas, Delhi.
2. The Pr. Secretary to the Chief Minister, Govt. of NCT of Delhi.
3. The OSD to the Chief Secretary, Govt. of NCT of Delhi.
4. The Registrar General, High Court of Delhi, New Delhi.
5. All Head of the Departments, Govt. of NCT of Delhi, New Delhi.

6. All Standing Counsels (Civil/Criminal), Delhi.
7. All Government Counsels in Delhi High Court/Central Administrative Tribunal through Standing Counsels.
8. Guard file.



(G.P. Mittal)
Pr. Secretary (Law, Justice & L.A.)
Government of N.C.T. of Delhi



FEE PAYABLE TO PANEL ADVOCATES/GOVERNMENT COUNSELS:

S.No.	Designation and number	Fee payable in Rupees
1.	Civil or Criminal Writ Petitions under Articles 226 and 227 of the Constitution, orders made in such petitions, including appearance on admission stage Or in civil miscellaneous petitions. 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 in Number) may be paid by way of refresher Fee.	4500/- per case
2.	Petition under Articles 132 or 133 of the Constitution in Civil or Criminal Cases.	Rs.1800- per case per day, subject to a maximum of Rs.3600/- for the case.
3.	Original suits, civil appeals not otherwise specifically provided under these terms (including drafting of pleadings) a) Value upto Rs.5000/- b) Thereafter: Value upto Rs. 20,000/- c) Thereafter: Value upto Rs.50,000/- d) Thereafter: Value over Rs.50,000/-	ad valorem fee shall be paid on the following scales: a) 7.5% b) 3% c) 1.5% d) 0.75% (The ad valorem fee shall be subject to a maximum of Rs.13500/-.)
4.	Appeals from decrees from suits and proceedings including Second Appeals; except L.P.A. from petition under Articles 226 & 227 as mentioned in item (1) above and appeals from declaratory decrees or such decrees in either there is no valuation or valuation is notional or which are mainly on question of law and such appeals which have been specifically or separately provided herein.	For each case same fee as in item (3) above or fee fixed by the Court, whichever is higher
5.	Civil or Criminal Revision Petitions.	Rs.2100- per case
6.	Civil Miscellaneous applications or petitions under the Indian Succession Act, Contempt of Court proceedings and other proceedings of an original nature not specifically provided otherwise.	Rs.1500/- per case
7.	References to the High Court under Value Added Tax Act and Banking Company Petitions.	Rs.2100/- per case or the amount fixed by the High Court whichever is higher.
8.	Company Petitions (Court)	To be regulated by the rule contained in Appendix III of the Company Rules, 1959.



9.	All cases of the nature where no substantial legal work is involved and no substantial legal work is actually done till the disposal of the case and miscellaneous petitions or work otherwise provided for, like Forma Pauperis, Transfer Petitions, Settlement of list of Supreme Court cases, Execution proceedings.	Rs.600/- per petition
10.	Cases under Arbitration Act (a) In case under Section 34 of the Arbitration And Conciliation Act, 1996 registered as Suits, the fee payable per case shall be 1/4th of the fee according to the scale mentioned in (3) if the case is uncontested subject to a minimum of Rs.3000/- (b) Where the case is contested, the fee payable shall be half of the ad-valorem according to the scale mentioned in Item (3) above. (c) In case other than Section 34. (d) In case where no legal work is involved and the case is disposed of on oral submission conceding the case of other party, the minimum fee shall be Rs.450/-and the maximum shall be Rs.1350/-. Decision of the Officer in-charge of the Litigation Section as to the admissibility and quantum of fee payable in this behalf shall be final.	Rs.12000/- per case including all expenses
11.	(a) Appeals against awards given under the Statutes relating to the acquisition or requisition of landed property and appeals in Arbitration cases.	Fee shall be calculated on half ad-valorem basis according to the scale mentioned in item (3), subject to a maximum of Rs.2700/-



	(b) Appeals from declaratory decrees or such decree in which either there is no valuation or valuation is notional which are mainly on question of law.	Fee shall be calculated on half ad-valorem basis according to the scale mentioned in item (3), subject to a maximum of Rs.2700/-
12.	Written opinion other than the opinion given by the Counsel regarding advisability of filing an appeal from a decision when any case attended by him is decided against the Government or its Officers.	Rs.900/-
13.	For drafting pleadings, written statements in suits and counter affidavits/returns/ answers to the written petitions, grounds of appeal and applications for leave to appeal to the Supreme Court except in cases where fee on ad-valorem basis has been prescribed.	Rs. 1500/- per pleading.
(Explanation: 1. If substantially identical affidavits/written statement grounds of appeal applications are drafted in connected cases, only one drafting fee will be payable to the main case and no separate drafting fee will be payable in connected cases. 2. When the Counsel does not argue the case himself but only assists the Law Officers, 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 Subordinate Court at the Headquarters will be paid Rs.750/- for the first day and Rs. 450/- for each subsequent day.		



I. OUT OF HEADQUARTERS

- a. When the Counsel is required to go out of headquarters in connection with government litigation e.g. for the conference with a Senior counsel, appearance in a court outside the headquarters, he will be entitled to a daily fee of **Rs.3600/-** per 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.
- b. 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 Government. He will also be paid a lump sum amount of **Rs.600/-** 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. 1200/-** per day.

II. CLERKAGE:

In addition to fees mentioned above, the Counsel will be entitled to 10% of fees subject to **maximum of Rs.2400/-** in a case or a batch of cases by way of clerkage.

III. OUT OF POCKET EXPENSES:

The amount required for court fees at the time of filing a case and other miscellaneous expenses should be obtained by the Counsel in advance from the department concerned of Govt. of N.C.T. of Delhi.

IV. RIGHT TO PRIVATE PRACTICE AND RESTRICTIONS

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

V. 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 of the parties involved in a case are heard by the court. If the case is mentioned and adjourned only directions are given or only judgment is delivered by the Court, it would be constituted an effective hearing but will be termed as non-effective hearing.
 - b. Uncontested Cases: All the 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/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 stage 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 or preliminary objections or filing of the affidavits/counter-affidavits etc. by the Counsel 'substantial' work will be deemed to have been done.
 - d. Identical Cases: Two or more cases in which substantial identical questions of law or facts are involved etc. and where the main difference is in the names, addresses of the parties concerned, amount of money involved etc. where the common or identical judgment 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 either information needed.
 4. No fee will be admissible for a 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 Govt. of NCT of Delhi for parties other than the Govt. of Delhi whose case is not inconsistent with that of the Govt. of Delhi, he will be entitled to only one set of fee.

6. Appeals, revision or petitions arising from one common judgment 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-third 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 adjournments 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 question of law or facts, any one of such cases will be treated as a main case and the others as connected cases and the fee 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 files 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.1000/- in each of the connected case.
 - b. When the main case has been contested as in (a) above, but in the connected cases, either affidavit or ground 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.500/- only in each of the connected cases.
 - c. When substantially different affidavits are drafted in each connected cases but all the cases are disposed off without contest, the Counsel shall get 1/3rd fees in the main case and Rs.500/- in each of the connected cases.
 - d. When the counsel has drafted the affidavit petition or grounds 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 fee in the main case and Rs.500/- in each of the connected cases.



The fee will be paid by the Administrative Department of the case concerned 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 copy of order/judgment where it is necessary in case fee claimed is for appearance, after scrutiny certification by Administration, Govt. of National Capital Territory of Delhi. The out-of-pocket expenses will be payable as and when they are incurred, by the Administrative Department of the case concerned, directly.

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 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 a 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 Pr. Secretary (Law, Justice & Legislative Affairs) of Government of NCT of Delhi shall be final.

In the event of any doubt or difference regarding fees, the fees determined by the Principal Secretary (Law, Justice & Legislative Affairs), Government of NCT of Delhi shall be final.

