

HOME
JUDICIAL NOTIFICATION

The 6th July,
1953. No.8746-JJ-53/38717 - In exercise of the powers conferred by article 165 of the Constitution, the Governor of Punjab is pleased to make the following rules for regulating the remuneration and duties of the Advocate General for the State in supersession of those contained in Punjab Government notification No.337-JJ-52/877, dated the 19th February, 1952:-

1. In these rules:-

"Advocate General" means the person under clause (1) of Article 165 of the Constitution to be the Advocate General for the State and includes any person appointed to act as the Advocate General during the absence on leave or deputation of the permanent incumbent of the office.

2. The Advocate General will be a whole time servant of the State Government:

Provided that he may engage in such private practice as does not interfere in the discharge of his duties as Advocate General:

Provided further that he will not accept any case against the State of Punjab.

(Substituted by Punjab Government Notification No .21. (20)-4J-62/9475, dated the 7th
March, 1962).

3. The duties of the Advocate General will be as follows:-

(a) He shall advise the State Government upon which legal matters as may be referred to him by the Home Secretary or the Legal Remembrancer to the Government of the State.

(b) He will represent, or arrange for the representation of the State at all stages before the High Court in criminal cases and cases of a quasi-criminal nature, such as those relating to the Press law, writs under the constitution, extradition and preventive detention;

Provided that the State Government may, on account of the special importance of the case require that the Advocate General shall himself represent the State in any particular case.

() He will appear, or arrange for the appearance of counsel, in the following civil

cases:-(i) cases in the High Court to which the State Government is a party; or

(ii) cases in the High Court to which officers serving under the State Government are parties, and which the State Government has decided to conduct on behalf of such officers;

(ii) cases in the High Court in which neither the State Government nor such officers are directly interested, but in which Government consider themselves to be sufficiently interested to render it advisable to conduct the cases on behalf of some third person.

(d) Appeals from the cases referred to in clause (c),

(e) He will appear personally before the High Court, when so required by Government, in references from subordinate courts to which Government is a party or in cases withdrawn to the High Court from subordinate courts under Article 228 of the Constitution or any other law.

(f) He will appear himself or arrange for the conduct of civil cases, of the nature described above, when so" required, in the other civil courts of Chandigarh.

(g) He will also be expected to appear in any civil or criminal case outside Chandigarh whether in Courts subordinate to the High Court or in the Supreme Court, or in any other court, when, specially desired to do so by; the State Government or by the Legal Remembrancer.

(h) He will take part in the proceedings of the House or Houses of the State Legislature or any Committee of the Legislature of which ho may be named as member.

(i) He shall also discharge the functions conferred on him by or under the Constitution, or under any other, law for the time being in force.

4(1) He will be paid such salary as may be determined by the Governor.

(2) He will be entitled to fees in civil and criminal or quasi - criminal cases, when permission under these rulers, according to the scales prescribed herein; but he will not be entitled, to fees for -

(a) Opinion work,

(b) participation in the work of a House or Houses of the Legislature and any Committee of the Legislature of which he may be named a member, and

(c) appearance in the High Court in criminal case including case of contempt of court.

5(i) In Criminal cases in any court other than the High Court, the Advocate General will be paid fee of Rs.200/- in respect of every day's attendance.

ii) In quasi criminal case, in the High Court such as case under the Press Law, or those relating to the conduct of legal practitioner, he will receive fees as for civil miscellaneous cases, i.e. Rs.100/- for each day of attendance.

6, In civil cases the Advocate General will be paid fee in accordance with the following scales
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- a. Seven and half percent on the first Rs.5,000/-of the claim 3 per cent on the next Rs.15,000/- of the claim, 1 per cent on the claim between Rs.20,000/-and Rs.50,000 and 8 annas per cent on the claim above Rs.50,000/- The fee shall be subject to (vide Pb. Govt. Notification No ,43(40-4J-61/2303 dated 15-1-1969. A minimum of Rs.32/- and a maximum of Rs.1000/- for any one case, provided that in any case of great importance making an annual demand on the time and energy of the Advocate General, the State Govt., may direct that such fee as it considers suitable may be granted, not exceeding the fixed percentage rate, upto a maximum of Rs.5000/-
- b. In case in any court subordinate to the High Court conducted through out by the Advocate General, the fee payable shall be to a minimum of Rs.100/- for each day of attendance.
- c. For appearance in any case not conducted throughout by the .Advocate General the fee will be Rs.100 per each day of attendance clause (a) above,
- d. Where a single case passes at different stages through more courts than one, e.g., for original decision, appeal and further appeal or revision, it shall be treated, for the purpose of fee, as a separate case at each such stage.
- e. In miscellaneous civil cases, not expressly covered by these term the ordinary fee shall be Rs.100/-for each case (substituted vide Pb. Govt. Gaz. (Extra August 22 ,1986 (SRVN .31 ,1908 SAKA) Part II Govt. of Punjab Department of Home Affairs & Justice (Judl. Br) Notification, The 18th August, 1986 No. GSR 53/ Const./Art/Amd./86."
- f. In civil writ cases, Letter Patent appeals and in applications for getting certificate of fitness for appeal to the Supreme Court arising from such civil writ cases and appeal, which shall not be considered as civil miscellaneous cases the fee shall be one hundred rupees per such civil writ or Letter Patent Appeal or application, as the case may be -
Provided that in respect of such cases: -
- (a) which are decided by one judgment on account of common questions of law or fact being involved, or
- (b) which are decided on the basis of an earlier judgment on account of being covered by that judgment; full fee shall be payable only in one case in which main judgment is delivered and one half of the fee shall be payable in each connected case subject to the Condition that total fee payable in the main case as well as in the connected cases shall not exceed one thousand rupees.

(Substituted by Notification No.12679-2JJ-75/25572 dated 7-8-1975)

- 6-A. The Advocate General, Punjab will be paid fees for his appearance in any civil or criminal case in the Supreme Court of India on behalf of the State Government according to the scale of fees laid down from time to time in the second schedule to the Supreme Court Rules, 1966 for leading counsel or senior Advocate as the case may be.

7. If in any case the Advocate General is required attendance before any Election Commission Tribunal, he shall be permitted to receive such fees as may be recommended by the Commission in their report.

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9. The leave rules will be as follows:

- (a) Leave, on pay equivalent to full pay may be sanctioned up to 1/11th of period spent on duty, as -Advocate-General, provided that leave of this kind shall not accumulate beyond four months*
- (b) Leave on medical certificate on leave salary equivalent to half pay may be granted upto 2/11th of two periods spent on duty as Advocate General, subject to a maximum of three months at any time.
- (c) Extraordinary leave may be granted without allowances, subject to a maximum of three months at any one time.
- (d) Leave of the various kinds may be granted in combination up to a maximum of six months only at any one time.
- (e) For the first two years of the appointment, the Advocate General will not be entitled to more than one months' leave, except on medical certificate in any one year.

For purposes of travelling and mileage allowances, the Advocate General will be treated as grade I Government servant. His travelling allowance will be governed by Punjab Civil Services Rules, Volume III, except that the limit of 10 days for the drawl of holding allowance will not be operative, when he is required to conduct a case before any court or tribunal or any authority within the territory of India in the discharge of his duties.

"Provided that no halting allowance will be admissible to the Advocate General, Punjab, for the day or days which he appears before a Court and for which he is entitled to get fees under rules 6 and 6A".

(Inserted by Notification No. 17812-4JJ-67/38230 dt. 27-10-1967)

10. The Advocate General shall not accept appointment as a Director in any company without the permission of the Government.

Gyan Singh Kahlon,

Home Secretary to Government Punjab.

No. 8746-JJ-58/38718, dated the 6th July, 1953

A copy is forwarded to the Advocate-General, Punjab, for information and guidance, in continuation of Punjab Government Endorsement No. 337-JJ-52/878, dated the 19th February, 1952.

By order,

A.R. Malhotra,
Under Secretary, Home,
for Home Secretary to Government, Punjab,

PART IV
HOME DEPARTMENT (JUDICIAL)
NOTIFICATION

The 30th March, 1965.

No. G.S.R.65/Const./Art.165/65—

The following rules, as amended • up to the 30th March, 1965, are republished below for general information:

**RULES FOR REGULATING THE REMUNERATION AND DUTIES OF THE
ADVOCATE -GENERAL FOR THE STATE.**

1. In these rules:— "Advocate-General" means the person under clause (1) of Article 165 of the Constitution to be the Advocate-General for the State and includes any person appointed to act as the Advocate-General during the absence, on leave or deputation of the permanent incumbent of the office.

□²[2. The Advocate-General will be a whole-time servant of the State •Government provided he may engage in such private practice as does not. interfere in the discharge of his duties of Advocate-General ; Provided further that he will not accept any case against the State of Punjab.

3. The duties of the Advocate-General will be as follows:—

(a) He shall advise the State Government upon such legal matters as may be referred to him by the Home Secretary or the Legal Remembrancer to the Government of the State.

(b) He will represent, or arrange for the representation of the State at all stages before the High Court in criminal cases and cases of a quasi-criminal nature, such as those relating to the Press Law, writs under the Constitution, extradition and preventive detention: Provided that the State Government may, on account of the special importance of the case require that the Advocate-General shall himself represent the State in any particular case.

(d) He will appear, or arrange for the appearance of counsel, in the following civil cases :

(i) cases in the High Court to which the State Government is a party;

or

(ii) cases in the High Court to which officers serving under the State Government are parties, and which the State Government has decided to conduct on behalf of such officers;

(iii) cases in the High Court in which neither the State Government nor such officers are directly interested, but in which Government consider themselves to be sufficiently interested to render it - advisable to conduct the cases on behalf of some third person.

(d) Appeals from the cases referred to in clause (c).

(e) He will appear personally before the High Court, when so required by Government, in references from subordinate courts to which Government is a party or in cases withdrawn to the High Court from subordinate courts under Article 228 of the Constitution or any other law.

(f) He will appear himself or arrange for the conduct of civil cases of the nature described above, when so required, in the other Civil courts of Chandigarh

(g) He will also be expected to appear in any civil or criminal case outside Chandigarh,

whether in courts subordinate to the High Court or in the Supreme Court, or in any other court, when specially desired to do so by the State Government or by the Legal Remembrancer.

(h) He will take part in the proceedings of the House or Houses of the State Legislature or any Committee of the Legislature of which he may be named a member.

(i) He shall also discharge the functions conferred on him by or under the Constitution or under any other law for the time being in force,

4. (1) He will be paid such salary as may be determined by the Governor. (2) He will be entitled to fees in civil and criminal or quasi-criminal cases, when permissible under these rules, according to the scales prescribed herein ; but he will not be entitled to fees for :-

(a) opinion work,

(b) participation in the work of a House or Houses of the Legislature and any Committee of the Legislature of which he may be named a member, and

(c) appearance in the High Court in criminal cases including cases of contempt of court.

5. (i) In criminal cases in any court other than the High Court, the Advocate-General will be paid fee of Rs. 200 in respect of every day's attendance,

(ii) In quasi-criminal cases in the High Court, such as cases under the Press Law, or those relating to the conduct of Legal Practitioners, he will receive fees as for civil miscellaneous cases, i.e. Rs. 100 for each, day of attendance.

6. In civil cases the Advocate-General will be paid fees in accordance with the following scales

:

(a) seven and half per cent on the first Rs. 5,000 of the claim, 3 percent. on the next Rs. 15,000 of the claim, 1 per cent on the claim between Rs. 20,000 and Rs. 50,000 and 8 annas per cent on the claim above Rs. 50,000. The fee shall be subject to a maximum of Rs. 1,000 for any one case; provided that, in any case of great importance-making an unusual demand on the time and energy of the Advocate-General, the State Government may direct that such fee as it considers suitable may be granted, not exceeding the fixed percentage rate, up to a maximum of Rs. 5,000.

(b) In cases in any court subordinate to the High Court conducted throughout by the Advocate-General, the fee payable shall be that laid down in clause (a) above subject to a minimum of Rs. 100/- for each day of attendance.

(c) For appearances in any case not conducted throughout by the Advocate-General, the fee will be Rs. 100/- for each day of attendance subject to the maximum laid down in clause (a) above.

(d) Where a single case passes at different stages through more courts than one, e.g. for original decision, appeal and further appeal, or revision, it shall be treated, for the purpose of fees, as a separate case at each such stage.

(e) In miscellaneous civil cases, not expressly covered by these terms, the ordinary fee shall be Rs. 100 for each day of attendance.

(f) In civil writ cases and in Letters Patent Appeals arising there from which shall not be considered as civil miscellaneous cases the fee shall be one hundred rupees per civil writ

or Letter's Patent Appeal. [This clause shall be deemed to have come into force with effect from the 6th of July, 1953.]

7. If in any case the Advocate-General is required to attend before any Election Commission/Tribunal, he shall be permitted to receive such fees as may be recommended by the Commission in their report.

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9. The leave rule will be as follows:

(a) Leave, on pay equivalent to full pay may be sanctioned upto 1/11th of the period spent on duty, as Advocate-General; provided that leave of this kind shall not accumulate beyond four months.

(c) Leave on medical certificate on leave salary equivalent to half pay may be granted up to 2/11th of the period spent on duty as Advocate-General, subject to a maximum of three months at anyone time .

(d) Extraordinary leave may be granted without allowances, subject to a maximum of three months at any one time.

(b) Leave of the various kinds may be granted in combination upto a maximum of six months only at any' one time.

(c) For the first two years of the appointment, the Advocate-General will not be entitled to more than one month's leave, except on medical certificate in any one year.

For purposes of travelling and mileage allowances, the Advocate-General will be treated as grade I Government servant. His travelling allowances will be governed by Punjab Civil Services Rules, Volume III, except that the limit of 10 days for the drawl of halting allowance will not be operative, when it is required to conduct a case before any court or tribunal or any authority within the territory of India in the discharge of his duties.

10. The Advocate -General shall not accept appointment as a Director in any company without the permission of Government.

S. K. CHHIBBER,

Home Secretary to Government, Punjab.

PART III

GOVERNMENT OF PUNJAB

DEPARTMENT OF HOME AFFAIRS AND JUSTICE (JUDICIAL BRANCH)

Notification

The 18th August, 1986

No. G-S.R. 53/Const./Art. 165/Amd./86.—In exercise of the powers conferred by Article 165 of the Constitution of India, and all other powers enabling him in this behalf, the Governor of Punjab is pleased to make the following amendment in the rules regulating the remuneration and duties of the Advocate General for the State republished,— vide Punjab Government, Home Department (Judicial), Notification No. G.S.R. 65/Const./Art. 165/65, dated 30th March, 1965, namely:-

- AMENDMENT -

In the said rules, in rule 6, clause (e), for the words "for each day of attendance" the words "for each case" shall be substituted.

R. P. OJHA,
Financial Commissioner, Home and
Secretary to Government of Punjab,
Department of Home Affairs and Justice
