



GOVERNMENT OF KERALA

**THE KERALA GOVERNMENT LAW OFFICERS
(APPOINTMENT AND CONDITIONS OF SERVICE)
AND CONDUCT OF CASES RULES, 1978
AND
THE RULES REGARDING THE DUTIES,
REMUNERATION, ETC.,
OF THE
ADVOCATE GENERAL AND ADDITIONAL
ADVOCATE GENERAL, KERALA**



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GOVERNMENT OF KERALA

Abstract

GOVERNMENT LAW OFFICERS—CONDITIONS OF SERVICE AND CONDUCT OF
STATE CASES RULES—ISSUED

LAW DEPARTMENT (INSPECTION WING)

G. O. (P) No. 11/78/Law.

Dated, Trivandrum, 25th January 1978

NOTIFICATION *

S. R. O. No. 568/78.—In exercise of the powers conferred by sub-section (1) of section 2 of the Kerala Public Services Act, 1968 (19 of 1968) the Government of Kerala hereby make the following rules regarding the appointments conditions of service etc., of the Government Law Officers and conduct of State cases

THE KERALA GOVERNMENT LAW OFFICERS (APPOINTMENT AND
CONDITIONS OF SERVICE) AND CONDUCT OF
CASES RULES, 1978

PART I

Appointment, Duties, Disabilities etc., of Government Law Officers

CHAPTER I

PRELIMINARY

1 *Short title, application and commencement*—(1) These rules may be called the Kerala Government Law Officers (Appointment and Conditions of Service) and Conduct of Cases Rules, 1978

* Published as Kerala Gazette No 25 dated 20th June 1978

(2) The appointment, conditions of service, duties, rights and liabilities of Government law officers, other than the Advocate General and the Additional Advocate General and the procedure for the conduct of Government cases shall be governed by these rules

(3) They shall come into force at once

2 *Definitions* —In these rules, unless the context otherwise requires,—

(a) 'Government' means the Government of Kerala, and includes any Officer of the Government, who is a party to any proceedings before any Court, tribunal or authority in his official capacity,

(b) "Government Law Officer" means a person appointed by the Government to conduct Government cases in any Court or tribunal in the State or in the Supreme Court, and includes, —

- (i) Liaison Officer ** in the High Court,
- (ii) Pleader, appointed to do Government work in a Munsiff's Court,
- (iii) Special Government Pleader,
- (iv) Special Public Prosecutor,
- (v) Government Pleader for Arbitration proceedings and
- (vi) Standing Counsel for the State in the Supreme Court
- †(vii) Government Pleader appointed under rule IIA
- ‡(C) "On-line Monitoring system" means the computerised court case tracking and monitoring system established for the purpose of monitoring Government cases.

CHAPTER II

APPOINTMENT OF GOVERNMENT LAW OFFICERS

(A) Government Law Officers in the High Court

3 *Set up in the High Court* —(1) Besides the Advocate General and the Additional Advocate General there shall be the following categories of Government Law Officers in the High Court, namely --

- (i) Public Prosecutor,
- (ii) *Senior Government Pleader
- (iii) Government Pleader, and
- (iv) ** Liaison Officer,

(2) The number of the Law Officers in each of the categories in sub-rule (1) shall be such as may be fixed by the Government from time to time

4 *Method of appointment of Government Law Officers in the High Court* - Appointment as Public Prosecutor, Senior Government Pleader, Government Pleader and Liaison Officer shall be made by the Government from a panel of

* Inserted by G O (P) 109/82/Law dated 19-10-1982

** Substituted by G O (P) No 102/2007/Law dated 17-5-2007 published as S R O No 440/2007

† Inserted by G O (P) No 23/2009/Law dt 5-10-2009 published as SRO No 833/2009

‡ do do do

names of Advocates furnished by the Advocate General Appointment as Public Prosecutor shall be made in consultation with the High Court

5 *Qualifications for appointment as Government Law Officers in the High Court* (1) No person shall be included in the panel furnished by the Advocate General for appointment as a Government Law Officer in the High Court unless such person,—

(a) in the case of Public Prosecutor or Senior Government Pleader* or Liaison Officers has for at least ten years been an advocate of a High Court and has actually practised in the High Court for at least 5 years,

(b) in the case of a Government Pleader** has for at least seven years been an Advocate of a High Court and has actually practised in the High Court for at least 3 years

† Provided that a member of a Scheduled Caste or a Scheduled Tribe shall be eligible to be included in the panel for appointment as a Government Pleader or Liaison Officer if he has for at least five years been an Advocate of a High Court and has actually practised in the High Court for at least 3 years

Explanation—In computing the standing at the bar for purposes coming under clause (a) and (b) above the persons should have actually practised in the High Court for a period of 5 years, to be considered for appointment as Public Prosecutor or *Senior Government Pleader or Liaison Officer and 3 years in the High Court to be considered for appointment as Government Pleader

(2) Only those persons, who having regard to their qualifications, experience, integrity, reliability, reputation and character and antecedents are, in the opinion of the Advocate General, fit to be appointed, shall be included in the panel

Note—It shall not be necessary to advertise the vacancies or invite applications for appointment

6 *Term of appointment of Government Law Officers in the High Court*—The term of appointment of a person appointed as Public Prosecutor, Senior Government Pleader Government Pleader or Liaison Officer shall be for a period of three years. The Government may re-appoint any such person for further periods not exceeding three years at a time

*Inserted by G O (P) 25/82/Law dated, 16-3-1982

**Omitted by G O (P) 28/82/Law dated 16-3-1982

† Inserted by G O (P) 91/78/Law dated 4-7-1978

Provided that the services of any such person ***other than Public Prosecutor shall, automatically terminate on his attaining the age of sixty years

(B) Government Law Officers in District Court, Additional District Court and Sub Court Centres

7 *Set up in District Court Centres, Additional District Court Centres and Sub Court Centres* —(1) There shall be one District Government Pleader and Public Prosecutor at each District Court Centre There may also be such number of Additional Government Pleaders and Additional Public Prosecutors as may be considered necessary by the Government at each District Court Centre, Additional District Court Centre and Sub Court Centre

(2) Notwithstanding anything contained in sub-rule (1) the Government may, if deemed necessary at any time separate the offices of Government Pleaders and Public Prosecutors at any Court and make separate appointments accordingly

8 *Method of appointment of Government Law Officers at District Court, Additional District Court and Sub Court Centres* —(1) Government Law Officer at a District Court Centre, Additional District Court Centre or Sub Court Centre shall be appointed by the Government from a panel of names of Advocates furnished by the District Collector concerned

Provided that the Government shall try to give adequate representation to members of Scheduled Caste/Scheduled Tribe Communities in the matter of appointment of Government Law Officers

*(2) For preparing the panel, the District collector shall follow the following procedure, namely —

(a) A list of advocates from the roll of advocates of the Bar Council of Kerala having at least seven years of practice in the Bar and who having regard to their qualification, experience, integrity, reliability, reputation and character and antecedents, are, in the opinion of the District Collector, fit to be appointed as a Government Law Officer shall be prepared and sent to the concerned District and Sessions Judge for consultation, The District and Sessions Judge shall return the list with his remarks within ten clear days from the date of receipt of the same by him

Provided that in preparing the list it shall not be necessary to advertise the vacancies or invite applications for the appointment

(b) After the expiry of the time limit mentioned in Clause (a) for return of the list from the District and Sessions Judge the District Collector shall prepare the panel of advocates based on the list forwarded by him to the District and Sessions Judge under the said clause

*Substituted by G O (Ms) No 70/02/LAW dated 6-3-2002 published as S R O No 142/2002

***Substituted by G O (P) 344/91/Law dated 15-10-1991

(c) In preparing the panel, the District Collector shall not include the name of any Advocate whose name was not included in the list prepared by him under clause (a) or whose name was specifically disapproved by the District and Sessions Judge on specific grounds

(d) The character and antecedents of all persons included in the panel shall be got verified through the concerned Superintendent of Police

Provided that if members of the Scheduled Caste or Scheduled Tribe Communities are qualified to be appointed as Law Officer, the panel shall contain the name of one member from such community

9 *Term of appointment of Government Law Officers in District Court, Additional District Court and Sub Court Centres*—The term of appointment of a person appointed as District Government Pleader and Public Prosecutor or Additional Government Pleader and Additional Public Prosecutor, where the two posts are combined, or of a person appointed as District Government Pleader or Public Prosecutor or Additional Government Pleader or Additional Public Prosecutor, where the two posts are separate, shall be for a period of three years. The Government may re-appoint any such person for further periods not exceeding three years at a time

Provided that the services of any such person shall automatically terminate on his attaining the age of sixty years

(C) Pleader's appointed to do Government work

*10 *Method of appointment of Pleaders to do Government work*—

(1) The Government shall appoint an Advocate for doing Government work in a Munsiff's court at a centre where there are no Government Law Officers

(2) The appointment of a Pleader to do Government work in a Munsiff's Court shall be made from a panel of at least three names of Advocates furnished by the District Collector concerned

(3) The term of appointment of a Pleader appointed under sub-rule (1) shall ordinarily be for a period of three years. The Government may re-appoint any such person for further period not exceeding three years

Provided that the services of any such person shall automatically terminate on his attaining the age of sixty years

(4) The District Collector shall, while preparing the panel, bear in mind the following -

(i) a person included in the panel shall have at least five years practice as an Advocate,

(u) the panel shall be prepared in consultation with the Presiding Officer or the Court and only those persons, who having regard to their qualifications, experience, integrity, reliability, reputation and character and antecedents, are in the opinion of the District Collector, fit to be appointed, shall be included, therein

Note—It shall not be necessary to advertise the vacancies or invite applications for appointment

(D) Special Government Pleaders and Special Public Prosecutors

11 *Appointment of Special Government Pleaders and Special Public Prosecutors*—(1) The Government may appoint for the purpose of conducting any civil case or class of civil cases in which the Government is a party, an advocate, who has been in practice as such for not less than seven years, as a Special Government Pleader

(2) The Government may appoint for the purpose of conducting any criminal case or class of criminal cases, an advocate, who has been in practice as such for not less than ten years, as a Special Public Prosecutor

(3) A Special Government Pleader or Special Public Prosecutor appointed under sub-rule (1) or sub rule (2), as the case may be, for the purpose of conducting any particular case shall cease to hold office with the pronouncement of the judgment in that case. The term of appointment of a Special Government Pleader or Special Public Prosecutor appointed for the purpose of conducting any class of cases shall be such as may be specified in the order appointing him

(4) The Government may terminate the services of a Special Government Pleader or Special Public Prosecutor at any time before the expiry of his normal term of appointment without assigning any reasons therefor

***DA. Government Pleaders appointed for conducting cases before the Motor Accident Claims Tribunals for the Kerala State Insurance Department**

11A *Appointment of Government Pleaders to conduct MACT cases*—(1) The Government may appoint, such number of advocates as it may deem fit as Government Pleaders for the purpose of conducting cases before the Motor Accident Claims Tribunals, on behalf of the Kerala State Insurance Department

(2) The appointment of a Government Pleader under sub-rule (1) shall be made from a panel of advocates furnished by the District Collector concerned

(3) The term of appointment of a Government Pleader appointed under sub-rule (1) shall be for a period of three years from the date of his appointment and the Government may re-appoint such person for further period not exceeding three years at a time

(4) The District Collector shall, while preparing the panel, bear in mind the following --

- (i) A person included in the panel shall have at least seven years practice as an Advocate,
- (ii) the panel shall be prepared in consultation with the Presiding Officer of the Motor Accident Claims Tribunal concerned and only those persons, who having regard to their qualifications, experience, integrity, reliability, reputation and character and antecedents are, in the opinion of District Collector, fit to be appointed, shall be included therein

Provided that if members from the Schedule Caste, Scheduled Tribe Community are qualified to be appointed as a Government Pleader under this rule, the panel shall contain at least the name of one member from such community

Note — It shall not be necessary to advertise the vacancies or invite applications for appointment

(5) There shall be appointed one Government Pleader in each Motor Accidents Claims Tribunal and Additional Government Pleader may be appointed for every additional fifty number of cases

(6) When two or more Government Pleaders on panel are appointed in Motor Accident Claims Tribunal, the senior most among them in terms of practice at the Bar shall distribute the cases among others

Provided that the service of any person appointed under this rule shall automatically be terminated on his attaining the age of sixty years

(E) Government Pleader for Arbitration Proceedings

12 Appointment of Government Pleader for Arbitration Proceedings —(1) The Government may appoint one or more advocates as Government Pleader for conducting arbitration cases coming up before the Government Arbitrator for Engineering Contracts. The appointments shall be made from panels of names furnished by the District Collectors concerned. No person shall be included in the panel unless he is an Advocate with at least five years practice as such. Only those persons, who having regard to their qualifications, experience, integrity, reliability, reputation and character and antecedents are, in the opinion of the District Collector fit to be appointed, shall be included in the panel

(2) The term of appointment of a person appointed as a Government Pleader under this rule shall be three years. The Government may re-appoint any such person for further periods not exceeding three years at a time'

Provided that the services of any such person shall automatically terminate on his attaining the age of sixty years

(F) Standing Counsel in the Supreme Court

13 *Appointment of Standing Counsel in the Supreme Court* —(1) The Government may appoint one or more Advocates of the Supreme Court as Standing Counsel for the State in the Supreme Court. The appointment shall be made from a panel of names furnished by the Advocate General. No person shall be included in the panel unless he is an Advocate-on-Record of the Supreme Court with at least three years practice as such. Only those persons, who, having regard to their qualifications, experience, integrity, reliability, reputation and character and antecedents are, in the opinion of the Advocate General, fit to be appointed, shall be included in the panel.

(2) The term of appointment of a person appointed as Standing Counsel shall be three years. The Government may re-appoint any such person for further periods not exceeding three years at a time.

Provided that the services of any such person shall automatically terminate on his attaining the age of sixty five years *

(G) Common Provisions

14 *Common qualifications regarding age* —No person, who has completed the age of sixty years shall be appointed as a Government Law Officer, other than Public Prosecutor of the High Court, **a Special Government Pleader, Special Public Prosecutor or a Pleader to do Government work.

15 *Common disqualifications* - (1) A person, who is a Member of the Parliament or the Legislature of a State, a Municipal Corporation, a Municipal Council, a Panchayat or any other local authority shall not, as long as he holds that office, be eligible for appointment as a Government Law Officer.

(2) A Government Law Officer, whose term of appointment as such was terminated on the ground that during his term of appointment he was careless or irresponsible in handling any Government case or that he did not conduct any Government case properly and efficiently, shall not be eligible for future appointment as a Government law Officer.

†(3) An Ex-Government Law Officer, who is found careless or irresponsible, in handling any Government case, after the expiry of his term of appointment as such, in any previous occasion, shall not be eligible for future appointment as Government Law Officer.

* Substituted by G O (P) No 57/87/Law dated 24-2-1987

** Inserted by G O (P) No 344/91/Law dated 15-10-1991

† Inserted by G O (P) No 63/93/Law dated 22-2-1993

16 *Number of persons to be included in panels*—A panel for appointing Government Law Officers in the High Court or the Supreme Court shall consist of names of at least thrice the number of such Government Law Officers to be appointed. A panel for appointing Government Law Officers in any District Court, Additional District Court, or Sub Court Centre shall consist of names of at least three times the number of such Government Law Officers to be appointed. The Government may, if considered necessary, in any case, require additional names of qualified persons, if any, in accordance with the principles mentioned in sub-rule (2) of rule 5, or sub-rule (2) of rule 8, or sub-rule (1) of rule 12 or sub-rule (1) of rule 13 as the case may be, to be furnished.

17 *Termination of appointment*—Notwithstanding anything contained in these rules, the Government may terminate the appointment of any Government Law Officer, other than a Special Government Pleader or Special Public Prosecutor, at any time before the expiry of the term of his appointment without assigning any reasons therefor.

*Provided that before such termination he shall be given one month's notice or be paid, as the case may be, one month's salary **in lieu of such notice.

*** "18 *Liability of Law Officers to pay damages in certain cases*—A person appointed as Government Law Officer shall conduct the cases carefully and efficiently and safeguard Government interests and in case of any default, he shall be liable to pay the Government, even after he ceases to be Government Law Officer, damages equal to the loss or injury incurred or sustained by the Government as a result of his carelessness, negligence or other misconduct in conducting any case or safeguarding Government interests"

* Substituted by G O (P) No 362/96/Law dated 11-10-1996

** Omitted by G O (P) No 521/2000/Law dated 3-10-2000 published as S R O No 907/2000

*** Inserted by G O (P) No 216/94/Law dated 23-7-1994

CHAPTER III
DUTIES AND DISABILITIES OF GOVERNMENT
LAW OFFICERS

19 *Duties of public Prosecutor, Senior Government Pleader and Government Pleader in the High Court* -A Public Prosecutor, Senior Government Pleader or Government Pleader in the High Court shall,

(1) represent Government in all cases entrusted to him by the Advocate General and conduct them properly,

(2) appear on behalf of the Central Government in any suit by or against a Public Officer in the service of the Central Government in pursuance of Notification No GSR 1412 dated 25-11-1960 published by the Government of India, Ministry of Law, Department of Legal Affairs,

*(2A) appear on behalf of the Central Government in any Criminal case in which the offence had been investigated by the Delhi Special Police Establishment constituted under the Delhi Special Police Establishment Act, 1946 (Central Act 25 of 1946) or by any other agency empowered to make investigation into an offence under a Central Act other than the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) as the State Government may by special or general order, direct them to do or as the Government of India may, with the concurrence of the State Government, from time to time direct them to do,

(3) Prepare counter affidavits and other documents which are to be filed in court,

(4) assist the High Court whenever required by the High Court in cases of special importance,

(5) assist the Advocate General or the Additional Advocate General whenever such assistance is required by him,

(6) instruct the Advocate General or the Additional Advocate General in proceedings in which the Advocate General or the Additional Advocate General is required to appear on behalf of the Government,

(7) in difficult cases, especially in cases where a question relating to the policy of the Government is involved, obtain the opinion of the Advocate General or the Additional Advocate General before deciding the strategy for the defence or prosecution of such cases,

(8) report to the Government or the concerned department, as the case may be, on the day the judgment in any case conducted by him is pronounced the decision thereof,

(9) inform the office about the disposal of the cases conducted by him as soon as the judgement is delivered by the Court and direct the office to apply for certified copy of judgment and to obtain it from Court as expeditiously as possible. Within ten days of the receipt of the judgment he shall cause the office to forward it to the Government or to the Department concerned, as the case may be, with his opinion regarding further action, if any, to be taken,

(10) attend to case work and other duties in accordance with such instructions as may be given by the Advocate General and the Government from time to time,

(11) attend to such other work as may, from time to time, be assigned to him by the Advocate General or the Government

Note -- The Public Prosecutor shall be responsible for the conduct of all criminal cases. The Senior Government Pleaders and Government Pleaders appearing in criminal cases shall act under and in accordance with the directions of the Public Prosecutor

20 *Duties of Liaison Officer*—The following shall be the duties of the Liaison Officer in the High Court,—

(1) Whenever petitions are filed in the High Court praying for stay or injunction against the operation of any Government order, the Liaison Officer shall immediately collect all details connected with the matter by contacting the concerned departmental officers and bring to the notice of the Court how such stay and injunction petitions, if allowed, would affect the economy of the State and create financial or other difficulties to Government,

(2) He shall, on receipt of requests from Government or their officers in the various departments for vacating stay orders or injunction orders issued by the High Court in Writ Petitions, take prompt action by bringing to the notice of the Court, the falsity of the Writ Petitions and the irreparable loss and injury and the financial or other difficulties caused to the Government by such orders,

(3) He shall attend to the Court work connected with the matters mentioned in clauses (1) and (2) above,

(4) He shall be present in the Court in which urgent petitions like stay petitions and injunction petitions in Writ Petitions are moved so as to take appropriate action or opposing the stay petitions and injunction petitions,

(5) He shall prepare and swear to affidavits in urgent interlocutory matters on behalf of the Government or departmental officers on the basis of the information available from the files in particular cases sent to him for the purpose (cases in which the formation of statutory opinion or satisfaction of the officers of the concerned department is not involved and where the bonafides or good faith of the impugned action is not challenged by the petitioners),

(6) He shall take notice from the High Court of Writ Petitions, with appeals and interlocutory applications on behalf of the Government and officers of all the departments under Government,

(7) He may correspond direct with Government or the officers of the department and vice-versa in the matter of taking expeditious action for vacating interim orders issued by the High Court,

*(7A) He shall control and supervise the performance of duties of the Liaison Officers appointed by the various Departments, with respect to the cases relating to such Departments

(8) He shall report to Government and Advocate General about the lapses, if any on the part of the Government officers in furnishing to him materials and papers required for carrying out his duties efficiently and expeditiously, and

(9) He shall attend to such other work as may, from time to time, to be assigned to him by the Advocate General or the Government

21 *Law Officers in High Court to abide by instructions of Advocate General*—All Government Law Officers in the High Court shall abide by all orders and instructions that may be issued by the Advocate General from time to time in the matter of conduct of cases and shall also follow such procedure in relation thereto as may be laid down in that behalf

22 *Duties of Government Law Officers at District Court, Additional District Court and Sub Court Centre*—(1) The duties of a Government Law Officer at District Court, Additional District Court or Sub-Court centre shall be the following—

- (i) he shall advise Government and their officers on all legal matters whenever required,
- (ii) he shall conduct all miscellaneous legal business of the State,
- (iii) he shall, as agent of the Government, receive processes in civil cases against the State and notices in criminal appeals,
- (iv) he shall appear for Government, unless instructed to the contrary in all civil cases in which they are interested, whether in the District Court or any lower court including cases in which the Collector appears as agent to the Court of Wards,
- (v) he shall conduct prosecution in every trial before the court of Session and shall also appear in criminal appeals and other cases of such importance as to require professional aid,
- (vi) he shall appear when so instructed by the Collector or the Government in suits filed by or against public officers,

- (vii) he shall protect the interest of Government in applications by parties to sue *informa pauperis*,
- (viii) he shall conduct cases on behalf of Government in all enquiries under the Indian Merchant Shipping Act, 1923,
- (ix) he shall appear on behalf of Government controlled institutions like Corporations, Boards, Local Authorities, etc , whenever the Government so instruct,
- (x) he shall apply for enquiry into lunacy of persons possessed of property,
- (xi) he shall assist the High Court when required by the Chief Justice in cases of special importance or difficulty on occasions of enquiries made by the court into the conduct of legal practitioners,
- (xii) he shall appear when so instructed either by a District Judge or by a District Magistrate in any proceedings under sub-section (1) of Section 340 of the Code of Criminal Procedure, 1973 before a court as defined in sub section (3) of section 195 of the said Code,
- (xiii) he shall generally appear in all cases required by the Collector to appear
- (xiv) he shall render such assistance as may be required of him by the Government, any Head of Department of the Government, or any Judge or Magistrate in such investigations as are likely to result in criminal prosecutions,
- (xv) he shall instruct or otherwise assist the Advocate General, Additional Advocate General, Public Prosecutor or Government Pleader in the High Court in any case in which such instruction or assistance is considered necessary by the Advocate General,
- (xvi) he shall bring to the notice of the Government any special circumstances connected with any case which seem to him to require the attention of Government with copy to the District Collector or Head of the Department,
- (xvii) he shall not withdraw from the prosecution of any person without obtaining the permission of the Collector,
- (xviii) he shall, as soon as a case is disposed of, report the result thereof with his recommendation about the further action, if any, to be taken- -

- (a) in suit relating to Agricultural income tax and sales-tax, to the Board of Revenue,
 - (b) in other civil cases, to the Collector or the Head of the Department concerned with copy to the Collector, and
 - (c) in criminal matters, to the Collector and the Superintendent of Police
- (xix) he shall on the same day on which the Judgement in any case is pronounced, apply for a certified copy of judgement and decree, obtain the same as expeditiously as possible and send them to the collector or the Head of the Department or the Board of Revenue, or the Superintendent of Police, as the case may be, with his recommendation regarding the further action to be taken in the light of the judgement. He shall also inform the concerned authority the amount, if any required to be deposited for satisfying the decrees in cases where there is no scope for further action by way of revision or appeal,
- (xx) he shall apply for and obtain carbon copies of judgements and decrees under sub-rule (3) of rule 239 of the Kerala Civil Rules of Practice, under which amounts are payable by the State as also of judgements and decrees which are of importance in other respects and taken further action as provided in clause (xix),
- (xxi) he shall see that timely notices of deposits of decretal amounts are given to the parties concerned,
- (xxii) he shall remit all amounts received by him directly or through Court in satisfaction of decrees and orders of Courts in favour of the State, into the Treasury to the credit of the Government,
- (xxiii) he shall carefully scrutinise the courts order of costs in all suits and applications and see that the costs are duly assessed and entered in the decree together with an order specifying the party from whom they are to be recovered. In pauper suits decreed by the Court, he shall also see that correct amount of the court fee payable on the suit is entered in the decree for payment to the State,

- (xxiv) he shall, if the decree or order does not properly provide for the Government costs or payment of court fee in pauper suits, at once bring the fact to the notice of the Collector in order that the desirability of applying for a review or, if necessary, the filing of an appeal or application for revision may be considered,
- (xxv) he shall examine the cases of title scrutiny referred to him for legal opinion under the various loan schemes,
- (xxvi) he shall obtain and furnish to the District Collector or Department, as the case may be, the following documents in respect of all amounts remitted into Treasury or deposited in Court for satisfying decrees and orders of Courts,
- (a) in a case where no execution petition has been filed and where any amount is remitted into Treasury through chalan obtained from court a certified copy of the endorsement by the Court on the memo filed by him along with the chalan to the effect that the amount has been remitted into the Treasury as per the chalan.,
- (b) in a case where an execution petition has been filed, a certified copy of the order entering satisfaction, and
- (c) receipts issued by court for all amounts directly deposited in court, whether any execution petition has been filed or not,
- (xxvii) he shall furnish to the Collector and the Inspection Wing of the Law Department such periodical returns as the Government may require from time to time,
- (xxviii) he shall maintain such registers for watching progress of cases and for realisation of amounts due to the Government as may be prescribed by the Government from time to time,
- (xxix) he shall perform such other duties as may be assigned to him by the Government from time to time,
- (xxx) he shall conduct the cases and attend to matters connected therewith in accordance with the rules in Part IV
- *(xxxi) he shall ensure that data relating to up-to-date case status of all Government cases, pending in his office or reported to him by any Government Law Officer in the district, are entered in the system installed in his office in order to ensure effective on-line monitoring by the Government " "

(2) The District Government Pleader shall also appear on behalf of the Central Government in any suit by or against the Central Government or against a Public Officer in the service of the Central Government in pursuance of Notification No GSR 1412 dated 25-11-1960 issued by the Government of India, Ministry of Law, Department of Legal Affairs

23 *Duties of special Government Pleaders, Special Public Prosecutors and Pleaders to do Government work*—The duties of Government Law Officers at District Court, Additional District Court and Sub-Court centres specified in clauses (i), (ii), (xvi), (xvii), (xviii), (xix), (xx), (xxi), (xxii), (xxiii), (xxv), (xxvi), (xxvii), (xxviii) and (xxix) of sub-rule (1) of rule 22 mutatis is mutandis apply to Special Government Pleaders, Special Public Prosecutors and Pleaders to do Government work also

†“23A *Duties of Government Pleader appointed to conduct MACT cases*—(1) The Government Pleader appointed to conduct MACI cases under rule 11 A shall,—

(i) represent the Department in all cases entrusted to him and conduct them properly ,

(ii) ensure that the cases entrusted to him are not decreed ex parte,

(iii) verify the criminal case records viz , the First Information Report, scene mahazar, report of the Motor Vehicle Inspector, wound certificate, postmortem certificate, charge sheet and all records connected thereto and shall obtain certified copies of police records from the criminal court and produce the same before the Motor Accident Claims Tribunal,

(iv) ensure that the written statement containing all the pleas required to safeguard the interest of the Department is filed in time,

(v) make sure that if any evidence or personal appearance by the Officials of the Department is necessary, the same is intimated to the head of the Kerala State Insurance Department in writing well in advance,

(vi) ensure that on the same day on which the award in any case is passed application is filed for the free copy and certified copy of the award, and the same is obtained as expeditiously as possible and is sent to the department with legal opinion thereon,

(vii) Furnish the documents if any, required by the Advocate General for filing and conducting the appeal case

24 *Duties of Government Pleaders for Arbitration Proceedings*—(1) The Government Pleader for Arbitration Proceedings shall be in exclusive charge of and shall be responsible for the conduct of all arbitration proceedings in which

the Government is a party, coming up before the Government Arbitrator for Engineering Contracts. He shall conduct all arbitration proceedings in accordance with such instructions as may be given to him by the Government from time to time. He shall also be in charge of Arbitration Proceedings coming up before the Government Arbitrator for Engineering Contracts in which quasi-Government institutions are parties, in case such institutions choose to entrust such cases to him.

Provided that the Government may entrust any arbitration case at any stage to any other Government Law Officer or other person.

(2) He shall conduct the cases under his charge or entrusted to him with due care and attention. He shall be responsible for any loss caused to the Government or quasi-Government institutions as a result of any carelessness or any wilful act of omission on his part in conducting the cases.

25 *Duties of the Standing Counsel in the Supreme Court*—The Standing Counsel in the Supreme Court shall look after all State cases in the Supreme Court including intervention petitions at all stages and arrange for their proper conduct. He shall keep the Advocate General and the Government informed of the stage of each case from time to time and seek their instructions regarding the action to be taken in relation thereto. Each Standing Counsel shall act in and attend to such cases or class of cases as may be assigned to him by the Advocate General or the Government.

26 *Disabilities of Government Law Officers in the High Court*—A Public Prosecutor, Senior Government Pleader, Government Pleader and Liaison Officer shall be debarred from—

(1) advising or holding briefs against Government in any legal matter in which Government is a party,

(2) giving advice to private parties in cases in which he is likely to be called upon to appear or advise the Government;

(3) defending accused persons in criminal prosecutions,

*(3A) defending an accused person in any criminal case in which the offence had been investigated by the Delhi Special Police Establishment constituted under the Delhi Special Police Establishment Act, 1946 (Central Act 25 of 1946) or by any other agency empowered to make investigation into an offence under a Central Act other than the Code of Criminal Procedure, 1973 (Central Act 2 of 1974)

(4) retaining his engagement in respect of briefs from private parties against Government accepted by him prior to his appointment as Government Law Officer,

* Inserted as per GO (P) No 770/95/Law dated 12-12-1995

(5) communicating directly or indirectly to any private person any document or information which has come to his possession or knowledge in the course of the conduct of Government cases,

(6) accepting a brief from any person whether a petitioner or respondent in proceedings initiated by an election petition in connection with an election to a local authority or the State Legislative Assembly or the Parliament *except in cases where Government officials are impleaded

27 *Disabilities of Government Law Officers at District Court, Additional District Court or Sub Court Centres*—A Government Law Officer at District Court, Additional District Court or Sub Court Centre shall not—

(1) Communicate with the Advocate General on public litigation

Provided that he may, when functioning as Public Prosecutor address the Advocate General in regard to the filing of appeals against any acquittal, if he and the District Superintendent of Police concerned agree in favour of filing such appeal.

(2) appear in any suit or appeal against the Government or the Court of Wards or the Collector until he has ascertained from the Collector that his services as Pleader on behalf of Government or the Court of Wards or the Collector are not required,

Note—When a Government Law Officer has thus appeared against the Government or the Court of Wards or the Collector in and original suit he may similarly appear in any connected appeal until the suit is finally decided

(3) give advice to private parties in cases in which he is likely to be called on to advise Government,

(4) undertake the defence of any person or appear against the Government in any Criminal proceedings,

(5) accept any engagement or fee from private parties in cases in which he appears on behalf of Government,

(6) retain his engagements in respect of briefs from private parties against Government accepted before his appointment as Government Law Officer,

- (7) communicate directly or indirectly to any person any document or information which has come into his possession in the course of the conduct of cases,
- (8) accept a brief from any person, whether a petitioner or respondent in proceedings initiated by an election petition in connection with an election to a local authority or the State Legislative Assembly or the Parliament *except in cases where government officials are implicated

28 *Disabilities of Special Government Pleader, Special Public Prosecutor and Pleader to do Government work* —The disabilities of Government Law Officers at District Court, Additional District Court and Sub-Court Centres specified in clause (1), (5) and (7) of rule 27 shall mutatis mutandis apply to Special Government Pleaders, Special Public Prosecutors and Pleaders to do Government work also

*28A *Disabilities of Government Pleaders on panel in the Motor Accidents Claims Tribunal Cases* —(1) Government Pleaders appointed to conduct cases before the Motor Accidents Claims Tribunal shall not,—

- (i) undertake any case filed against the interest of the Kerala State Insurance Department,
- (ii) give advise to private parties in cases in which they are likely to be called on to advise the Kerala State Insurance Department,
- (iii) accept any engagement or fee from private parties in cases in which they appear on behalf of the Kerala State Insurance Department,
- (iv) retain their engagement in respect of briefs from private parties against the Kerala State Insurance Department accepted before their appointments as Government Pleaders for the Kerala State Insurance Department,

29 *Disabilities of Government Pleader for Arbitration Proceedings* —The disabilities of Government Law Officers at District Court, Additional District Court and Sub-court Centres specified in clauses (1), (2), (3), (5), (6) and (7) of rule 27 shall mutatis mutandis apply to the Government Pleader for Arbitration Proceedings also

30 *Disabilities of Standing Counsel in Supreme Court* —The disabilities of Government Law Officers in the High Court specified in rule 26 shall mutatis mutandis apply to the Standing Counsel in the Supreme Court also.

* Added by G.O (P)No 63/93/Law dated 22-2-1993.

** Inserted by G.O (P) No 23/2009/Law dated 5-10-2009 published as S R O No 833/2009

PART II

Remuneration, Travelling Allowance and Leave

CHAPTER IV

REMUNERATION

31 *Remuneration of High Court Law Officers*—(1) A Public Prosecutor, Senior Government Pleader, Government Pleader and Liaison Officer may be paid such monthly salary *and allowances as may be fixed by the Government from time to time [Government are pleased to revise the monthly salary of the Government Law Officers in the High Court with effect from 1-4-1995 as follows - - Vide GO (Ms) 53/96/Law dated 8-2-1996]

1 Public Prosecutor*	(x)
2 Additional Public Prosecutor*	(x)
3 Senior Government Pleaders and Liaison Officer	Rs 8000 (Rupees Eight thousand only)
4 Government Pleaders	Rs 7000 (Rupees seven thousand only)

(2) A Public Prosecutor, Senior Government Pleader or Government Pleader shall, in addition to his monthly salary ** and allowances, be entitled to fees at the following rates --

- | | |
|---|---|
| (a) For appearance in the High Court on behalf of Boards, Corporations, Hindu Religious and Charitable Endowments (Administration) Department, Government Commercial Concerns and Local Authorities | Fees at the rates as agreed to by the particular authority |
| (b) For appearance on behalf of Government before Tribunals such as Income-tax Tribunal, Sales-tax Tribunal, etc | Rs 50 for effective appearance provided that the total fee earned in a diem shall not exceed Rs 100 |
| (c) For appearance in Courts Subordinate to the High Court or before any tribunal or other authority in the State | Rs 100 per diem |

* status, facilities, emolument, rate of monetary benefits etc of Public Prosecutor and Additional Public Prosecutor were enhanced to that of Advocate General and Additional Advocate General respectively as per GO (Ms) No 297/94/Law dated 27-10-1994 and GO (Ms) No 287/94/Law dated 24-10-1994

** Substituted by GO (P) 63/93/Law dated 22-2-1993 and has effect from 1-1-1989

- (d) For appearance in Courts and Tribunals outside the State Rs 150 per diem
- (e) For work in the Supreme Court Rs 300 per diem for arguing any case, and Rs 200 per diem for instructing any Counsel

(3) He shall not be entitled to any remuneration for preliminary work done in connection with any case

Provided that the Government may in any special case having regard to the arduous nature of the work, or the time spent in the preliminary work, or for any other sufficient reason of a like nature allow payment of such remuneration for preliminary work, as may be fixed by them

(4) Fees under sub-rule (2) for appearance in Government cases shall be sanctioned by the Government. Fees for appearance on behalf of Boards, Corporation etc. may be paid by the Board, Corporation etc., as the case may be, through the Advocate General

31A Remuneration of Government Law Officers of District Court, Additional District Court and Sub Court Centres*—(1) District Government Pleader and Public Prosecutor shall be paid a consolidated amount of *[Rs 14,000 (Rupees fourteen thousand only)] per month and Additional Government Pleader and Additional Public Prosecutor shall be paid a consolidated amount of ***[Rs 12,500 (Rupees twelve thousand five hundred only)] per month

(2) A Government Law Officer at the District Court or Sub Court Centre shall, in addition to his monthly remuneration, be entitled to a fee for the conduct of case in accordance with the rates specified below—

- | | | |
|---|---|---|
| 1 | Appearance on behalf of Boards, Corporations, Commercial Concerns, Local Authorities etc , | Regulation fee or the fee decreed by the court or as agreed to by the concerned body or authority |
| 2 | Appearance in cases, the fees of which are not ultimately met from the revenues of the Government | Regulation fee or fees decreed by the court |
| 3 | Appearance on behalf of the Government of India or any other State Government | Regulation fee or the fee decreed by the court |
| 4 | Other cases not specifically provided for | Regulation fee or the fee fixed by the court or ***[Rs 75] whichever is higher |

* Inserted by GO (P) No 521/2000/Law dated 3-10-2000 published as SRO No 907/2000

*** Substituted by GO (P) No 5/2008/Law dated 17-6-2000 published as SRO No 634/2008

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|----|--|---|
| 5 | Explanation of Title deeds relating to sites of Co-operative Housing Societies applying for State loans | One per cent of the amount of Government loan subject to a minimum of***[Rs 40] and a maximum of *** [Rs 250] for each case, if otherwise permissible |
| 6 | Do in the case of loans to low income group people | Half per cent of the loan amount subject to a minimum of ***[Rs 40] and a maximum of ***[Rs 150] in each case |
| 7 | Do in connection with the issue of loans under the Village Housing Project Scheme | Half per cent of the loan amount subject to a minimum of ***[Rs 40] and a maximum of ***[Rs 150] in each case |
| 8 | Do in other cases of loans | ***[One per cent of the amount of loan subject to a minimum of Rs 40 and a maximum of Rs 250 for each case, if otherwise permissible] |
| 9 | Examination of title deeds relating to properties proposed to be acquired | ***[Rs 75] for each case |
| 10 | Conveyance allowance to those who are entrusted with cases in Tribunals, Special Courts, Forums, Family Courts etc. which are located outside the court centre and within the headquarters | ***[Rs 450] per month |

Note – (a) When two or more cases are heard together or wherein a number of connected cases, the result is virtually determined by the issue in one of such cases, fee for only one case will be paid

(b) All the appeals, revisions or petitions from one judgment or order will be considered together as one case if they are heard together

*32 *Remuneration of Special Government Pleaders, Special Public Prosecutors and Pleaders to do Government Work*—A Special Government Pleader Special Public Prosecutor or Pleader to do Government work shall be paid fees in accordance with the rates specified below —

1	Original Suits	Regulation fee or the fee decreed by court
2	Civil Miscilaneous Appeals	Rs 40 Per appeal
3	Civil Revision Petitions	Rs 40 per petition
4	Execution Petitions	Rs. 40 per petition
5	Court fee references	Rs 20 and in exceptional cases higher amount to be fixed by the Collector subject to a maximum of Rs 50
6	Petitions under the Indian Succession Act or Other Proceedings of an Original nature	Rs 40 per petition
7	Banking Company petitions	Rs 30 per petition
8	Company petitions	Rs 30 per petition
9	Land Acquisition cases	Regulation fee or the fee fixed by Court
10	Sessions cases, Criminal Appeals and cases related to Essential Commodities Act	Rs 170 per day for each case, a period of 3 hours or more being taken for purposes of calculation as constituting a day's work in court, and Rs 70 per day maximum fee for a case occupying less than 3 hours in Court When more than one case are conducted on the same day Rs 240 in all For conducting cases in outlying Stations Rs 240 per day
11	Bail petitions	Rs 50 per petition
12	Criminal Revision petitions	Rs 50 per petition
13	Criminal Original petitions	Rs 50 per petition
14	Professional misconduct references	Rs 40 per case
15	Counter petition of Court proceedings	Rs 30 per case

* Substituted by G.O (P) No 521/2000/Law dated 3-10-2000 published as SRO No 907/2000

- | | | |
|----|--|--|
| 16 | Company prosecutions and other prosecution cases | Rs 30 per effective appearance occupying a period of three hours or more and a maximum fee of Rs 20 for work occupying less than three hours. Total fees not to exceed Rs 70 per day |
| 17 | Appearance before tribunals such as Income Tax Tribunal, Sales tax Tribunal, Special Court Forums, Family Courts, Motor Accidents Claims Tribunal etc | Rs 50 per effective appearance occupying a period of three hours or more and a maximum fee of Rs 30 per work occupying less than three hours. Total fees not to exceed Rs 80 per day |
| 18 | Appearance in Courts and Tribunals outside the State | Rs 100 per day |
| 19 | Appearance on behalf of Boards, Corporations, Commercial concerns, Local authorities etc | Same fee as for the conduct of State cases or as agreed to by the concerned body or authority |
| 20 | Appearance on behalf of the Government of India or any other State Government | Same fee as for the conduct of similar State cases |
| 21 | Other cases not specifically provided for | Regulation fee or the fee fixed by Court or Rs 50 whichever is higher |
| | [22, 23, 24, 25, 26]* | |
| 27 | Conveyance allowance to those who are entrusted with cases in Tribunals, Special Courts, Forums, Family Courts etc, which are located outside the Court Centre and within the Headquarters | Rs 300 per month |

Note — (a) When two or more cases are heard together or wherein a number of connected cases, the result is virtually determined by the issue in one of such cases, fee for only one case, will be paid

(b) All the appeals, revisions or petitions from one judgement or order will be together considered as one case if they heard together

* Omitted by G O (P) No 521/2000/Law dated 3-10-2000 published as SRO No 907/2000

- * "(c) The Government may, in special circumstances, sanction fees at a higher rate or a consolidated fee to any Special Government Pleader or Special Public Prosecutor"

***32A *Remuneration to Government Pleader appointed to conduct cases before the Motor Accident Claims Tribunal* --(1) Government Pleader appointed for conducting cases before the Motor Accident Claims Tribunal in the State shall be paid an amount of Rs 3,500 (Rupees three thousand and five hundred only) per case towards his remuneration irrespective of the quantum of amount claimed and allowed, the duration of the case, the number of hearing etc and the said amount shall be paid at two stages at the following rates, namely --

- (i) Rs 1500 (Rupees one thousand five hundred only), when the written statement is filed, and
- (ii) Rs 2000 (Rupees two thousand only), when the certified copy of the award is obtained and forwarded to the Department, with his legal opinion thereon. If there are more than one case arising out of one accident, the fee shall be fixed as Rs 2000 (Rupees two thousand only) per case which will be paid at the above said two stages at Rs 1000 (Rupees one thousand only) each

(2) Government Pleaders appointed to conduct MACT cases shall be paid Rs 750 (Rupees seven hundred and fifty only) towards clerkage for each case

(3) No Government Pleaders appointed to conduct MACT cases shall be eligible for any remuneration before filing the written statement"

**[33]

***33A *Remuneration of Government Pleader to conduct cases before the MACT outside the State on behalf of the Kerala State Insurance Department* --(1) Notwithstanding anything contained in these rules, the Government Pleader conducting cases before the Motor Accident Claims Tribunal or other bodies outside the State on behalf of the Kerala State Insurance Department shall be paid an amount of Rs 3500 (Rupees three thousand and five hundred only) per case towards his remuneration irrespective of the quantum of amount claimed and allowed, the duration of the case, the number of hearing etc. The remuneration shall be paid in two stages of the cases at the following rates, namely --

- (i) Rs 1500 (Rupees one thousand five hundred only), when the written statement is filed, and

* Inserted by G O (P) No 521/2000/Law dated 3-10-2000 published as SRO No 907/2000

** Omitted by G O (P) No 521/2000/Law dated 3-10-2000 published as SRO No 907/2000

** Inserted by G O (P) No 23/2009/Law dated 5-10-2009 published as S R O No 833/2009

(u) Rs 2000 (Rupees two thousand only), when the certified copy of the award is obtained and forwarded to the Department, with his legal opinion thereon

(2) Government Pleaders appointed to conduct MACT cases shall be paid Rs 750 (Rupees seven hundred and fifty only) towards clerkage for each case

(3) No Government Pleaders appointed to conduct MACT cases mentioned in sub-rule (1) shall be eligible for any remuneration before filing the written statement

34 *Realisation of fees in respect of loans under the scheme for the grant of house construction advance to Government servants* —(1) A Government Law Officer may realise direct from the applicant scrutiny fee payable on the loan amount intimated by the Finance Department according to the prescribed rate

(2) In case the amount of loan applied for by an applicant is less than the amount admissible to him under the rules and an application submitted by him subsequently for the grant of the full eligible amount or for enhancing the amount of the loan is entertained by the Government after the issue of the title certificate by the Government Law Officer the applicant shall pay to the Government Law Officer the fee for the additional amount he has since applied for

(3) No fee shall be realised by a Government Law Officer from the party for any further clarifications asked for by the Government on the title certificate once issued

*[35, 36, 37, 38, 39]

****40 *Remuneration to Government Pleaders for Arbitration Proceedings*** — A Government Pleader for arbitration proceedings appointed under rule 12 shall be paid remuneration at the following rates for conducting arbitration cases coming up before the Government Arbitrator for Engineering Contracts —

*** (i) Retainer fee	Rs 400 p m
(u) Allowance for office expenses	Rs 75 p m
(iii) Fee for appearance and argument before the Arbitrator	Regulation fee treating the Arbitration cases as original suits subject to a maximum of Rs 450 per case

Provided that the total amount of fees payable to the Government Pleader for a period of one year shall not exceed Rs 60,000

* Omitted by GO (P) No 521/2000/Law dated 3-10-2000 published as SRO No 907/2000

** Substituted by GO (P) 88/79/Law dated 30-8-1979

*** Substituted by GO (P) 79/96/Law dated 4-3-1996

* Provided further that the following fees shall not be taken into account in calculating the maximum yearly ceiling, namely —

(a) Fees payable in respect of Arbitration Cases conducted before any arbitrator other than the Arbitrator for Engineering Contracts,

(b) Fees which are not ultimately met from the revenue of the State Government,

(c) The retainer fee and allowances for office expenses

Explanation — For the purpose of this rule, a year shall be reckoned from the date on which the Government Pleader has assumed charge of his duties

41 *Fees to Standing Counsel in the Supreme Court*—(1) The fees and charges payable to the Standing Counsel in the Supreme Court shall be regulated in accordance with the following principles

(a) Normally the acting fee will be as provided in the Supreme Court Rules, subject to the maximum of Rs 500 per case. Only one acting fee will be allowed, even if the same case is conducted by more than one standing counsel,

**Provided that the fee payable for the following items of work shall be at the rates shown against each, namely --

	Rs	Ps
1 Drafting Special Leave Petitions	220	00
2 Drafting Counter Affidavit	110	00
3 Appearing in court to argue Special Leave Petitions as Leading Counsel	600	00
4 Assisting the Senior to argue Special Leave Petitions	220	00
5 Appearance in Court to argue the final hearing as leading counsel (for the first day)	900	00
6 Appearance in court to argue the final hearing as leading counsel on each of the subsequent days	600	00
7 Appearance in court at the final hearing to assist the Senior Advocate (for the first day)	600	00
8 Appearance in court at the final hearing to assist the Senior Advocate on each of the subsequent days	375	00

* Inserted by GO (P) No 164/85/Law dated 23-9-1985

** Inserted by GO (P) No 709/95/ dated 7-11-1995

(b) As regards the expenses coming under Schedule II, Part III of the Supreme Court Rules, and for cyclostyling the records coming under Schedule III, Part III, item 41 of those rules, the Standing Counsel will be paid the charges provided that in no case the Government will allow more than [Rs 5]* per page for matters coming under Schedule II, Part III and Rs 10 per page for matters coming under Schedule III, Part III, item 41

** (bb) "As regards the expenses translation coming under Schedule III, Part III, item 28 of the Supreme Court Rules, 1966 the Standing Counsel will be paid the actual charges not exceeding Rs 20 per page"

(c) Actual charges will be allowed for obtaining certified copies of the judgements and decrees

(d) Actual postage and telegraphic charges incurred by the Standing Counsel while conducting State cases will also be admitted

(e) In respect of items for which actual charges are payable, vouchers should be produced along with the claim bills for scrutiny by the sanctioning authority

*** (f) A retainer fee of Rs 1,500 shall be paid to the Standing Counsel per mensem

(2) All bills claiming fees and charges shall be forwarded to the Government for sanction through the Advocate General along with the relevant vouchers. The claim shall be supported by a declaration affirming the correctness of the details of the cases or proceedings in respect of which the claim is made and the nature of the action shown in the bill as taken by the Standing Counsel for which fee or charges are claimed and a certificate to the effect that no claim for the same item of work was made or sanctioned previously. The Advocate General will scrutinise the claims and transmit the same to the Law Department with his recommendations.

****42 *Fees to Panel Counsel in the Supreme Court* - (1) Panel Counsel engaged in State Cases in the Supreme Court shall be paid at the following rates, namely -

- (i) For appeals and Writ Petitions Rs 3000 per case per day,
- (ii) For Special Leave Petitions Rs 2500 per case per day,
- (iii) For Stay Petitions Rs 2000 per case per day,
- (iv) For holding conference Rs 300 per conference

* Substituted by GO (P) No 407/2002/Law dated 6-11-2002 published as SRO No 906/2002

** Inserted by GO (P) No 407/2002/Law dated 6-11-2002 published as SRO No 906/2002

*** Inserted by GO (P) No 709/95/Law dated 7-11-1995

**** Substituted by GO (P) No 95/96/Law dated 20-3-1996

*Provided that in the case of appeals arising out of a common judgement or order disposing of more than one suit or other proceeding, together whether or not copies of such common judgement or order had been furnished separately in each of such suits or other proceedings and in the case of appeals arising out of one suit or other proceedings the fee prescribed for one appeal alone shall be payable, unless, the court otherwise directs

**Provided further that the Government may, in special circumstances, sanction payment of fees at a higher rate or consolidated fee to a Panel Counsel in the Supreme Court, in deserving cases

(2) The fee in regard to other matters will be governed by the Supreme Court Rules

43 *Limitations as to payment of fees* —Notwithstanding anything contained in the rules,—

(1) No fee shall be payable in respect of a case in which the Government Law Officer was instructed by the Government, The District Collector or the Departmental Officer not to contest

(2) The Government in the Law Department if it is satisfied in any case that a Government Law Officer has failed to effectively safeguard the Government interests or that he was dishonest, careless or negligent in handling that case, disallow any claim for fees in respect of that case or allow fees only as such lesser rates as they may consider proper in the circumstances of the case

*** (3) All bills claiming fee and charges for the conduct of Government cases shall be forwarded by the Government Law Officer concerned to the appropriate authority within three years from the date of disposal of the case by the court or from the date of relinquishment of his office, whichever is earlier

****43 A *Authority to pay remuneration* --(1) The District Collector concerned shall be the drawing and disbursing officer in respect of the Law Officers of his District

(2) The Government Law Officer at the District and Sub Court Centres shall present the bill for the monthly remuneration before the District Collector along with a statement of cases dealt with by him during the month and the District Collector shall draw and disburse the amount from the head of account allotted by the Government for this purpose

44 *Authority to sanction fees* - (1) Subject to sub-rule (2) the District Collector may sanction all fees in criminal cases and fees in civil cases upto Rs 3,000 in each case, subject to rules, and in all other cases power to sanction pleader's fee will vest with the Government

* Inserted by GO (P) No 56/87 dated 24-2-1987

** Added by GO (P) No 95/96/Law dated 20-3-1996

*** Inserted by GO (P) No 42/2002/Law dated 29-1-2002 published as SRO No 81/2002

**** Inserted by GO (P) No 521/92000/Law dated 3-10-2000 published as SRO No 907/2000

(2) In the case of Government Law Officers in the High Court and the Standing Counsel and Panel Counsel in the Supreme Court fee shall be sanctioned only by the Government. The fees of the Government Pleader for Arbitration Proceedings may be sanctioned by the Chief Engineer concerned with the cases to which the fees relate.

(3) Fees in respect of cases conducted on behalf of Boards, Corporations, Local Authorities, etc., shall be paid to a Government Law Officer only through the District Collector or the Advocate General, as the case may be.

(4) For calculating the fee of the Government Law Officers, other than Government Law Officers of the High Court, and Standing Counsel and the Panel Counsel in the Supreme Court, in respect of civil cases, a register in the form given in Appendix II shall be maintained in the office of the Collector.

(5) As soon as the copy of a decree is received, the office of the Collector shall enter all the details required in the register.

(6) If the claim of the Law officer tallies with the fee that is noted in the register, then payment may be made by the Collector without reference to the decree, if it is within his sanctioning power, and if it has to be sanctioned by the Government, an extract pertaining to the case from the register should be forwarded to the Board of Revenue along with the report of the Collector.

(7) Case diaries shall not be necessary for the settlement of fees in civil cases and they need not be insisted upon.

(8) Fees in criminal cases may be sanctioned on submission of the bill in the prescribed form accompanied by a certificate from the presiding officer of the concerned court regarding the correctness of the numbers of the cases and the dates and duration of the hearing.

45 *Apportionment of fees between outgoing and incoming Government Law Officers*—(1) In the case of a suit, appeal or other proceedings conducted at different stages both by an outgoing and incoming Government Law Officers, who have agreed among themselves to divide the fees according to the work done by them, the fees shall be divided accordingly.

(2) In cases where the outgoing and incoming Government Law Officers disagree, the fees payable to each of them may be determined in accordance with the principles laid down below and the decision of the Collector, or the Government, as the case may be, shall be final.

<i>Nature of work</i>	<i>Fees that may be paid for the various stages of proceedings</i>
(1)	(2)
A SUITS, APPEALS ETC,	
(1) For mere appearance	No payment need be made
(2) For preparation and filing of plaint or written statement in suits or memorandum of grounds of appeal, in appeals	One-fourth regulation fee
(3) For attending to stages upto and including settlement of Issues	Half regulation fee
(4) For attending to stages upto and including trial	Three-fourths regulation fee
(5) For attending to all stages upto and including arguments and closing of the case	Full regulation fee
B EXECUTION PETITIONS	
(1) For mere appearance	No fee
(2) For preparation and filing of a petition or counter	Half regulation fee
(3) For attending to all stages upto and including completion of execution	Full regulation fee
C IN LAND ACQUISITION CASES	
(1) For attending to stages upto and including settlement of Issues	One-third regulation fee
(2) For attending to stages upto and including trial	Two-thirds regulation fee
(3) For attending to all stages upto and including arguments and closing of, the case	Full regulation fee

46 *Presentation of bills by Government Law Officers* - Bills for fees in criminal cases and civil cases shall be submitted in the form prescribed in Appendix III and Appendix IV respectively. Bills for fees in criminal cases shall be submitted through the presiding officer of the concerned Court in duplicate. One copy may be retained by the court and the other copy with the required court certificates shall be submitted by the Government Law Officer to the District Collector. Bills for fees in civil cases may be submitted to the District Collector directly by the Government Law Officer without any court certificate.

47 *Details to be shown in orders sanctioning fees* - All orders sanctioning fees to Government Law Officers shall contain the following details -

- (i) the rule or the item in the schedule in the rule governing the payment of fees,
- (ii) whether the payment is subject to the annual ceiling with reference to the year in which the claim accrued or any other conditions, and
- (iii) any other information that may be required by the Government, from time to time, to be shown

CHAPTER V

TRAVELLING ALLOWANCE AND DIARY

48 *Travelling Allowance of Government Law Officers* --(1) A Government Law Officer in the High Court, District Court, Additional District Court or Sub Court Centre or a Government Pleader for Arbitration Proceedings shall be entitled to I A and D A admissible to an Officer of the first grade of the State

Provided that he shall not be entitled to claim Daily Allowance on days for which he claims his day fee for actual appearance in any court or tribunal

(2) A Government Law Officer, other than a Government Law Officer, mentioned in sub-rule (1), shall not be entitled to I A or D A except under special orders of the Government

(3) The Advocate General shall sanction journeys of the Government Law Officers in the High Court. The Collector shall sanction journeys of the Government Law Officers at District Court, Additional District Court and Sub-Court Centres. Journeys of a Government Pleader for Arbitration Proceedings in connection with any Arbitration Proceedings shall be sanctioned by the Head of the Department to which the Arbitration Proceedings relate.

*48A *Travelling Allowance* — The Government Pleader conducting cases before the Motor Accidents Claims Tribunal or other bodies outside the State on behalf of the Kerala State Insurance Department shall be eligible for travelling allowance, admissible to an Officer of the First grade of the State.”

49 *Leave to Government Law Officers* **[in the High Court] — A Government Law Officer in the ***High Court, District Court, Additional District Court or Sub-court Centre may be granted the following leave,—

- (a) Casual leave for 10 days during a year,
- (b) Leave on medical certificate on half pay subject to a maximum of 15 days in a year,
- (c) Leave without any allowances, in special circumstances, when no other leave is admissible.

****50 *Sanctioning of leave* —(1) The leave sanctioning authority in respect of a Law Officer in the High Court shall be the Advocate General and in respect of Law Officers in the District Court, Additional District Court and Sub-Court Centres shall be the District Collector concerned.

Provided that leave without allowances for a period exceeding four months shall be sanctioned by the Government.

* Inserted by GO (P) No 23/2009/Law dated 5-10-2009 published as SRO No 833/2009

** Omitted by GO (P) No 13/2004/Law dated 20-1-2004 published as SRO No 49/2004

*** Substituted by GO (P) No 13/2004/Law dated 20-1-2004 published as SRO No 49/2004

**** Substituted by GO (P) No 13/2004/Law dated 20-1-2004 published as SRO No 49/2004

(2) Every application for grant of leave without allowances for a period exceeding four months shall be submitted to Government through the Advocate General or, as the case may be, the District Collector concerned

*51 *Arrangements during leave or absence* - (1) The Government Law Officer shall keep the Advocate General or, as the case may be, the District Collector concerned, informed in advance of the duration of his leave of absence so as to enable the Advocate General or the District Collector to make suitable alternative arrangements for the conduct of case during the leave period

**[2]

(3) If a Government Pleader for arbitration proceedings absents himself from duty, he shall keep the concerned Chief Engineer informed of his absence sufficiently early and the Chief Engineer shall make immediate suitable arrangements for the conduct of cases during his absence

52 *Availing of vacation* - A Standing Counsel in the Supreme Court, a Government Law Officer in the High Court or a Government Law Officer in District Court, Additional District Court or Sub Court Centre shall not leave Headquarters during vacation of the court except with the written permission of the Advocate General or the District Collector, as the case may be. He should be available at the Headquarters for attending to any court work or for any consultation or discussion that may be considered necessary by the Government, the Advocate General or the District Collector, as the case may be

PART III

Conduct of Cases

CHAPTER VI

GENERAL DUTIES OF COLLECTOR

53 *General Duties of the Collector in the conduct of State cases in courts Subordinate to High Court* --(1) The Collector shall be in sole charge of litigation in courts subordinate to the High Court and appertaining to the Departments of which the Board of Revenue is the head, and with regard to other Departments, he shall act as a channel of communication between the Head of the Department and the Government Law Officer

(2) The Collector and the Government Law Officer shall be in close touch with each other with regard to the conduct of State cases

¹ Substituted by G.O (P) No 13/2004/Law dated 20-1-2004 published as SRO No 49/2004

** Omitted by G.O (P) No 13/2004/Law dated 20-1-2004 published as SRO No 49/2004

(3) He shall watch the progress of each case at every stage and do all things necessary for the successful prosecution of the cases by giving suitable and timely instructions to the Government Law Officers and arranging for the extension of the co-operation and assistance of the Departments required by the Government Law Officers

*(3A) He shall ensure that the on-line monitoring system is functioning properly and that all Law Officers connected to the District Government Pleader's Office in the district including the Government Pleader appointed under rule 11A, are reporting the details and status of the Government cases conducted by them daily to that office, in order to keep data entry of the case events up-to-date "

(4) In criminal matters he shall ensure that the District Superintendent of Police arranges for necessary instructions to be given to the Government Law Officer for the conduct of cases at all stages

(5) The Collector shall alert a Government Law Officer, if he is not found vigilant or careful, and if his efforts fail to produce the desired result bring the matter to the notice of the Inspection Wing of the Law Department He shall similarly report all cases of slackness, inaction and the like noticed on the part of any Department or Officer in attending to any work in-connection with the conduct of cases

(6) He shall be responsible for realising all amounts decreed in favour of Government either through his Tahsildars or by initiating execution proceedings

***53A *General Duties of the Collector in the conduct of cases before the Motor Accident Claims Tribunals by the Government Pleader appointed under rule 11A --* (1) The Collector shall exercise control and supervision on the conduct of cases by the Government Pleader appointed under rule 11A,

(2) He shall ensure that necessary instructions are issued by the Director of Insurance Department to the Government Pleader appointed under rule 11A for the proper conduct of cases at all stages "

* Inserted by GO (P) No 23/2009/Law dated 5-10-2009 published as SRO No 833/2009

** Inserted by GO (P) No 23/2009/Law dated 5-10-2009 published as SRO No 833/2009

CHAPTER VII
CIVIL MATTERS

54 *Legal advice to be taken before a suit is instituted*—Legal advice shall always be obtained before a suit is instituted on behalf of the Government. It shall not, however, be necessary to obtain such advice merely because a notice of suit under section 80 of the Code of Civil Procedure 1908, is received though in important cases it may be desirable to obtain legal advice regarding it. The legal advice received in any case shall not be rejected unless for sufficient reasons to be recorded in writing. In the case of Collectors, officers in charge of District offices, and Officers in District Headquarters the legal advice of the District Government Pleader, and in the case of other Subordinate Officers, the legal advice of the Local Government Law Officer, if any, may be obtained.

55 *Report before a suit is instituted*—Any Officer, who wishes to institute a suit, shall submit a report to the Head of the Department stating the circumstances which render such institution necessary, the nature of the claim, the steps which have already been taken, availability of evidence, both oral and documentary, etc.

56 *Obtaining sanction and filing suit*—On receipt of a report under rule 55 the Head of the Department shall, if he agrees with the report, move the Government in the concerned Administrative Department for sanction for filing the suit (the Board of Revenue in the case of the Collector) along with a draft of the plaint prepared by the concerned Government Law Officer. The Head of the Department or Collector, as the case may be, shall, after getting Government sanction, arrange for the plaint as approved by Government being engrossed on court fee stamp paper of the required value and also for the preparation of the requisite number of copies thereof. The Head of the Department or Collector, as the case may be, shall then have the plaint signed and verified by the person duly authorised in this behalf under Order XXVII, Rule 1 of the Code of Civil Procedure, 1908 and shall forward it to the concerned Government Law Officer in the case of a Head of Department through the Collector for being filed in court. The Head of Department shall also arrange through the local officers of the Department for giving necessary instructions and other assistance to the concerned Government Law Officer for the conduct of cases at all stages.

57 *Suits against Government*—(1) The Collector, who receives notice under section 80 of the Code of Civil Procedure, 1908, shall forward it to the Head of Department concerned if the proposed suit relates to Departments, other than the Board of Revenue for necessary action.

(2) The Collector or the Head of the Department concerned shall then investigate the matter and if the complaint is well founded, grant redress after obtaining the orders of the Board of Revenue or the Government, if necessary

(3) If the proposed suit is groundless, the notice shall be recorded and a reply given to the notice-given to that effect. In important or doubtful cases, the opinion of the Local Government Law Officer shall be obtained even at this stage

(4) Once a suit is filed against the Government, the Government Law Officer, who receives the summons under Order XXVII Rule 4 of the Code of Civil Procedure shall immediately address the Collector or the Departmental head concerned (with copy to the Collector). When an officer is sued in his official capacity he shall submit a report to the Head of the Department stating the number of the suit, the date on which and the court in which it was instituted, the names of all parties, the date of the first hearing, whether notice of the suit was given under section 80 of the Code of Civil Procedure, 1908 and if so, the date of delivery of the same. If two or more officers belonging to different departments are sued jointly or if the plaint relates to acts of two or more such officers they shall, whenever possible prepare a joint report. The Collector or the Head of the Department, as the case may be, shall forward to the Government in the Administrative Department, the copy of the plaint or appeal memorandum or other proceedings together with draft statement of facts with relevant records for scrutiny and approval of the draft. He shall also intimate the Government the date of hearing of the proceedings

(5) The written statement after approval by Government shall then be signed and verified by the person duly authorised under Order XXVII, Rule 1 and sent to the Local Government Law Officer for being filed in Court. Hereafter it shall be the responsibility of the Collector or the Head of the Department concerned as the case may be, to see that their local subordinates give the Government Law Officer all instructions and facilities for the conduct of the defence. The Government Law Officer shall watch the progress of the proceedings at all stages and carefully and effectively safeguard Government interests

58 *Appeals and Revisions in Civil cases* —(1) As soon as a suit is disposed of the Government Law Officer shall on the same day apply for a certified copy of the judgement and decree, obtain them as expeditiously as possible and send them to the Collector with copy to the Head of Department with his recommendation as to the further action to be taken

Note - As the Government Law Officer is not the sole or final authority for deciding whether an appeal or revision is to be filed or not, no discretion is allowed to him in the matter of applying for and obtaining copies of judgements and decrees and he must apply for certified copies in all cases irrespective of his opinion regarding scope for filing appeal or revision

(2) If an appeal or revision is to be filed, sanction for such filing may be accorded by

- (a) the Collector or the Head of the Department in cases where the value of the subject matter of the suit is less than Rs. 1 lakh except administration cases and cases relating to sales tax or agricultural income tax,
- (b) the Board of Revenue in cases where the suit relates to sales tax and agricultural income tax cases, and
- (c) the Government in all other cases

Provided that the powers under this sub-rule shall not be exercised by the Collector, Head of the Department and the Board of Revenue in respect of suits where the Government are a party

(3) The Collector, Head of the Department or the Board of Revenue may consult the Advocate General before taking a decision under this rule, in cases where an appeal or revision is to be filed in the High Court

(4) In case where it is decided to file an appeal the decision should be communicated to the concerned Government Law Officer at least ten days prior to the expiry of the period of limitation. A certified copy of the judgement shall also be forwarded to the Government Law Officer along with the instructions to file the appeal

59 *Suits informā pauperis* --(1) A Government Law Officer, who receives notices of applications for leave to sue *informā pauperis*, shall obtain instructions of the Collector (to whom he shall send a copy of every application). The Collector shall make necessary inquiries through the concerned tahsildar in each case regarding the financial position of the applicant and inform the Government Law Officer as to whether the application should be opposed or not

(2) The Government Law Officer shall, if necessary, take steps for obtaining an adjournment of the hearing of the application for a period sufficient for the completion of the enquiry by the Collector

(3) The Collector shall communicate his decision to the Government Law Officer concerned within two months from the date of receipt of the notice and if he decides that the application should be opposed, he shall also forward to the Government Law Officer all the papers relating to the inquiry caused to be made.

(4) The Government Law Officer shall take steps for opposing an application only if he is instructed by the Collector to do so, and in other cases in which the Collector has instructed him not to oppose, he may inform the court that the Government do not wish to oppose the application.

(5) The court fees and costs, if any, awarded to Government in such proceedings shall be recovered by the Collector through the concerned Tahsildar or by initiating execution proceedings through the concerned Government Law Officer.

60 *Procedure in regard to Original Petitions and other Civil Proceedings in the High Court* —*(1) The Advocate General shall forward copies of all original petitions, tax references, tax revisions and other proceedings of an original character filed in the High Court regarding which he receives notices and of all interlocutory applications, wherein interim orders are sought to be passed—

(a) to the Administrative Department in the Secretariat, in cases in which orders or actions of the Government are challenged,

(b) to the District Officer or the Head of the Department as the case may be, in cases in which any action of the District Officer or the Head of the Department is challenged, and

(c) to the subordinate officer, in cases in which his action is challenged.

Provided that in cases where no substantial question challenging Government Orders or actions or requiring Government attention is involved copies of such original petitions may be forwarded to the Head of the Department, District Officer, or Subordinate Officer, as the case may be, even if Government is also implicated as a formal party.

(2) The Administrative Department shall prepare a draft statement of facts in consultation with the concerned subordinates answering paragraph by paragraph all averments in the petition and forward the same to the Suit Section of the Law Department within four weeks from the date of receipt of the papers by the Administrative Department.

(3) The Suit Section shall scrutinise the draft statement of facts with reference to the records forwarded by the Administrative Department and make such modifications as may be necessary or call for additional particulars that may be

required and after finalisation of the Statement of facts by the Suit Section, it shall be forwarded to the concerned Administrative Department, which in turn, shall send the same to the Advocate General. All the relevant records and documents should also be send to the Advocate General along with the statement of facts. The Advocate General should not be requested to return the records and documents until the case is over, except in exceptional circumstances.

(4) The Advocate General or any other Government Law Officer acting on behalf of the Government may if necessary, require the services of an officer of the Suit Section for finalising the counter affidavit or statement of defence and for deciding upon the strategy of defence in important and complicated cases.

* (4A) The Head of the Department, District Officer or Subordinate Officer, as the case may be, to whom copies have been forwarded by the Advocate General under sub-rule (1) shall within four weeks from the date of receipt of the papers, prepare a draft statement of facts answering paragraph by paragraph all the averments in the petition and forward the same to the Advocate General. All the relevant records and documents should also be send to the Advocate General along with the statement of facts. The Advocate General should not be requested to return the records and documents until the case is over, except in exceptional circumstances.

Provided that in cases in which Government is also impleaded as a formal party, the Head of the Department, District Officer or Subordinate Officer, as the case may be, shall forward a copy of the statement of facts simultaneously to the Government also. If, on request of a copy of the statement of facts the Government consider that the counter affidavit in the case should await clearance of the Government, they shall so inform the Advocate General and the Head of the Department/District Officer/Subordinate Officer concerned, and also whether the Government intends to file a counter affidavit. If the Advocate General or the Government Pleader dealing with the case at the High Court feels that any aspect of the case calls for the attention of the Government, he shall also take it up with the Government.

(5) The counter affidavits or statement of defence prepared in the case shall be send to the Administrative Department, Head of the Department, District Officer or Subordinate Officer, as the case may be, for being sworn to or signed.

Provided that the procedure stated above is not applicable in the case of interlocutory matters on which the Liaison Officer is authorised to swear to affidavits on behalf of the Government or Departmental Officers on the basis of

the information available from the files in particular cases. In such cases it would be enough, if the Government or the Head of the Department or the District Officer or Subordinate Officer, as the case may be, furnished to the Liaison Officer direct necessary facts and materials to prepare counter affidavit and statement of defence.

(6) Copies of judgements, decrees and orders passed in every proceeding of a civil nature in which the Government are a party shall promptly be forwarded to the Administrative Department along with all relevant records by the Advocate General. He shall also simultaneously forward his opinion as to the desirability or otherwise of the decision being challenged in appropriate proceedings before a higher forum. The Administrative Department shall thereupon consult the Suit Section in the Law Department regarding the further action to be taken.

(7) The Suit Section of the Law Department shall then examine the matter and decide whether it is necessary to have the decision challenged and intimate the decision to the Administrative Department.

(8) If at any stage of any proceedings, instructions or assistance of an officer of the Government is deemed necessary by the Government Law Officer in charge of the proceedings, intimation shall be given thereof to the concerned Administrative Department with copy to the Suit Section.

(9) Satisfaction of the decrees passed against, or other liabilities imposed upon, the state shall not be undertaken by the Administrative Department without consulting the Suit Section in the Law Department.

61 *Conduct of State cases in the Supreme Court* - (1) One of the Government Law Officers in the High Court shall be in charge of co-ordinating the State litigation in the Supreme Court, under the direct control and supervision of the Advocate General.

(2) The Standing Counsel shall, as soon as it becomes necessary under the Supreme Court Rules to file in the Supreme Court a counter affidavit, statement of case or other statement, contact simultaneously the Advocate General's Office and the concerned Administrative Department and shall also forward to the Administrative Department a copy of the writ petition, memorandum of appeal or stay petition, as the case may be, in cases where the Standing Counsel is served with a copy.

(3) On getting the affidavit either from the Supreme Court or from the Standing Counsel, the Administrative Department shall arrange to take a few copies of the affidavit and furnish one to the Law Department and another to the

Advocate General The statement of facts shall be called for by the Administrative Department without any loss of time On getting the statement of facts copies of the same shall be taken and supplied to the Law Department and the Advocate General concerned simultaneously

(4) The Law Department shall communicate their views and suggestion to the Advocate General and the latter shall finalise the counter affidavit or statement, subject to any formal modifications which may be left to be made by the Standing Council in the Supreme Court to suit the prevalent practice and rules of the Supreme Court If any more facts are necessary either the Law Department or the Advocate General shall inform the Administrative Department, then the Administrative Department shall obtain the same and furnish to the Law Department or the Advocate General, as the case may be

(5) Normally it is the duty of the Advocate General to represent Government before the Supreme Court in cases in which the State Government are a party In cases in which it does not become possible for the Advocate General to appear, one of the State Counsel in the panel may be engaged

62 *Procedure in respect of suits etc. in courts subordinate to the High Court* (1) The Suit Section of the Law Department shall be consulted by the Administrative Department regarding the feasibility or otherwise of filing suits civil appeals or other civil proceedings on behalf of Government or defending such suits, appeals, etc., against the Government in courts subordinate to the High Court

(2) The Administrative Department shall forward to the Suit Section all relevant records while seeking advice on the feasibility or otherwise of filing suits, appeals, etc. and this shall be done much ahead of the expiry of the period of limitation in every case In the case of suit appeal or other proceedings filed against Government, the records shall be accompanied by a statement of facts answering paragraph by paragraph all averments in the plaint, memorandum of appeal or application as the case may be

(3) If it is decided to file a suit or appeal etc., the Administrative Department shall prepare a draft statement of facts and forward the same to the Suit Section for scrutiny along with the relevant records, and the Suit Section shall finalise the statement of facts with such modifications, as may be necessary and forward the same to the Administrative Department for being transmitted to the concerned Government Law Officer with copy to the Collector for preparing the plaint or memorandum of appeal, as the case may be In the case of a suit,

appeal or other proceedings against the Government, the statement of facts approved by the Suit Section after scrutiny will be returned to the Administrative Department, which shall, in turn, send it to the Government Law Officer with copy to the Collector for preparation of the written statement or memorandum of objection, as the case may be

(4) It shall not be necessary for a Government Law Officer to forward the plaints, memoranda of appeal, written statements, memoranda of objections etc., prepared by him to the Government again for further approval by the Suit Section in cases where such plaints, etc., were prepared by him conforming in material particulars to the statement of facts already approved by the Suit Section. The Government Law Officer shall, however, forward the plaints, etc., prepared by him deviating in material particulars from the statement of facts already approved by Suit Section, to the Government for further scrutiny and approved by the Suit Section. The Inspection Wing of the Law Department shall, during their inspection of the offices of Government Law Officers, particularly verify whether all plaints, etc., prepared by the Government Law Officers, deviating in material particulars from the statement of facts approved by the Suit Section have been sent by them again to the Government for further scrutiny and approval by the Suit Section.

(5) Statutory notices like those under section 80 of the C P C received on behalf of Government shall be forwarded by the concerned authorities to the Suit Section of Law Department within a period of six weeks of the receipt of the same with the draft reply and relevant records and the Suit Section shall return the draft reply, after scrutiny, to the concerned Department within a week of its receipts in that section.

63 *Conduct of state cases in other States/Union Territories* - Whenever any case in which the Government are a party has to be conducted on behalf of the State in a State Specified below, the Collector of the concerned District in the concerned State may be requested to instruct the concerned Government Law Officer of that State in the concerned court centre to conduct that case on behalf of this State. If due to any reason it does not become possible for the concerned Government Law Officer in such court centre to undertake such work on behalf of this State in any particular case, suitable lawyers will be engaged by the District Collector in the concerned other State through the Government Law Officer in the concerned court centre on payment of such rates of fees as would be payable if the case were to be conducted by the Government Law Officer of the concerned Court Centre.

Names of States/Union Territories—

- 1 Andhra Pradesh
- 2 Pondicherry
- 3 Mizoram
- 4 Tripura
- 5 Haryana
- 6 Andaman and Nicobar Administration
- 7 Dadra and Nagar Haveli
- 8 Manipur
- 9 Assam
- 10 Bihar
- 11 Tamil Nadu

(2) As regards cases in any court in the states of Meghalaya, Gujarat or Karnataka the concerned Collector of the concerned State may be requested to instruct the concerned Government Law Officer of that State in the concerned Court centre to conduct the case on behalf of this State. In case no Government Law Officer in the concerned Court Centre is able to undertake the conduct of the case, suitable alternative arrangements may be made by the Government or the District Collector, as the case may be, by engaging a lawyer in the concerned court centre otherwise.

(3) In the case of the remaining States, the Law Secretary of the concerned State may be requested to arrange with the Government Pleaders attached to the concerned court to conduct the case on behalf of this State.

64 *Conduct of cases on behalf of other States* —Whenever any request for conducting any case in any court in Kerala on behalf of any other State referred to in rule 63 is received the Government or the Collector, as the case may be, shall make such reciprocal arrangements for conducting such case, as well correspond to the arrangements that such State will, under rule 63 make in relation to cases of this State in courts in such State.

65 *Conduct of Arbitration cases* —(1) The Government pleader for Arbitration Proceedings shall be responsible for the conduct of arbitration proceedings before the Government Arbitrator for Engineering Contracts. The proceedings shall be conducted by him in consultation with the concerned Departmental Officers and the Law Officer in the Public Works Department. The counter statements and other documents to be filed in arbitration proceedings shall be prepared by the concerned Departmental Officer, scrutinised by the Law Officer in the Public Works Department and then finalised and filed by the Government Pleader for Arbitration Proceedings. He shall thereafter

attend to the proceedings at all stages, and effectively safeguard Government interests in consultation with the Law Officer in the Public Works Department. The concerned Departmental Officer shall render all assistance to the Law Officer and the Government Pleader at all stages.

(2) As soon as an award is passed the Government Pleader for Arbitration proceedings shall obtain a copy thereof and advise the department whether the award may be accepted or challenged. As soon as a copy of the award is received the concerned Departmental Officer shall examine its correctness regarding the factual and technical aspects with special reference to the provisions in the agreement. He shall send a report to his senior officers, the Chief Engineer, the Government and the Law Officer regarding the correctness of the award. If the award is totally favourable to Government he shall in consultation with the Law Officer immediately move the local Government Pleader to cause the award to be filed in Court under sub-section (2) of section 14 of the Arbitration Act, 1940. According to Article 119 of the Limitation Act, 1963, the application for the filing of the award in Court has to be made within 30 days of the date of receipt of the notice of the making of the award. If the award is not totally favourable to Government, he shall take the legal advice of the Law Officer regarding the further action to be taken. For this purpose he shall send to the Law Officer copies of (i) the award (ii) the contractor's claim petition before the Arbitrator (iii) the counter statements filed by the Department (iv) the contract agreement (v) the technical report of the Engineer on the award and (vi) the advice of the Government Pleader for arbitration proceedings regarding the action to be taken on the award. Simultaneously, he shall also send to the Chief Engineer and also to the Superintending Engineer, if the sender is an Executive Engineer, a report on the award and also a copy of the report of the Government Pleader for Arbitration proceedings regarding the further action to be taken. The contractor, who stands to benefit by the award, will generally be moving the court to pass judgement and decree in terms of the award. On receipt of notice from court the local Government Pleader shall, within 30 days from the date of receipt of such notice, file the objections and also move the court either to remit the award under section 16 or to set aside the award under section 30 of the Arbitration Act, 1940. In cases where the court is moved to set aside the award, the application shall be accompanied by the requisite court fee (maximum Rs 250). It is generally desirable to move the court to set aside the award whenever the circumstances permits since this has the added advantage that in case the application is rejected by the Court, Government will get a remedy by way of appeal under section 39 of the Act, which is not available, if an application to remit an award is rejected.

(3) As soon as the local Government Pleader receives notice from the Court under section 14 (2) of the Arbitration Act, 1940, he shall take immediate steps to safeguard Government interests and to file objections/application within 30 days. The Government Pleader shall immediately intimate the concerned Engineer and also the Law Officer, PWD the date within which the objections/application shall be filed. As this date depends on the date of receipt of the notice from the court, it is imperative that the Government Pleader shall record on the notice the date of receipt of the same by him and he shall give immediate intimation to the Engineer and the Law Officer and also send them copies of the petitions filed by the contractor in court. The Engineer shall then consult the Law Officer and decide on the objection/application to be filed in court and give necessary instructions to the Government Pleader sufficiently in advance to enable the Government Pleader to file the objections/application in time. The Engineer shall also report to the Chief Engineer and the Government the action taken. The Government Pleader shall keep the Engineer and the Law Officer informed of the postings of the case in the court and also of the action, if any, to be taken and the documents, if any, to be produced by the Engineer for the proper conduct of the case. It shall be the duty of the Government Pleader to arrange for the proper and efficient conduct of the case and it shall be the duty of the Engineer to comply promptly with all the requests of the Government Pleader regarding the conduct of the case.

(4) As soon as the case is disposed of by the court, the Government Law Officer shall report the result thereof to the Departmental Officer, with copies to the Government and the Law Officer in the Public Works Department with his recommendations regarding the further action to be taken. He shall also obtain and forward to the Departmental Officer a certified copy of the judgement and decree in the case. The Law Officer in the Public Works Department shall examine the judgement, consider the report of the Government Law Officer and advise the Chief Engineer regarding the further action to be taken. The Chief Engineer may take a decision by himself in cases where the subject matter of the case does not exceed Rs 1 lakh. In other cases he shall seek orders of Government.

66 *Conduct of cases on behalf of Central Government* - The Government of India Ministry of Law Department of Legal Affairs have by Notification No. SR 1412 dated 25-12-1960 authorised the District Government Pleader of every District to appear on behalf of the Central Government in any suit by or against them or against a Public Officer in the service of that Government in any court subordinate to the High Court in such District. The Government or the

District Collector may, therefore, direct the concerned District Government Pleader to appear in any such case on behalf of the Government of India or an officer of that Government. As regards any such case in the High Court, the Government may direct the Advocate General to himself appear in that case or to engage any Government Law Officer in the High Court.

67 *Conduct of cases on behalf of Hindu Religious and Charitable Endowments (Administration) Department, Corporations etc* - (1) The Collector may direct any Government Law Officer in his district to appear on behalf of the Hindu Religious and Charitable Endowments (Administration) Department or any Corporation, Board, Government Commercial Concern or Local Authority on the same terms and conditions as in State cases whenever request in that behalf are received by him from the Hindu Religious and Charitable Endowments Department or any Corporation, Board, Commercial Concern or Local Authority as the case may be provided he is satisfied that no Government interests will be adversely affected by such appearance. As regards any such case in the High Court, the Advocate General may direct any Government Law Officer in the High Court, to appear in such case on behalf of the Hindu Religious and Charitable Endowments (Administration) Department, Corporation, Board, Commercial Concern or Local Authority as the case may be provided the Advocate General is satisfied that no Government interests will be adversely affected by such appearance. The fee payable to Government Law Officers in courts other than the High Court for their appearance in such cases shall be the same as in similar State cases and the said fee may be paid to them by the Hindu Religious and Charitable Endowments (Administration) Department, Corporation, Board Commercial Concern or Local Authority as the case may be, through the Collector. As regards such cases in the High Court, payment of fee shall be regulated as provided in rule 68.

68 *Payment of fees etc, in respect of cases conducted on behalf of Hindu Religious and Charitable Endowments (Administration) Department etc* - (1) The commissioner of Hindu Religious and Charitable Endowments (Administration) Department or a Corporation, Board, Commercial Concern or Local Authority, shall pay the regulation fee in full for cases conducted by the Government Law Officers in the High Court, District Courts and Sub Courts on his or its behalf. The clerical work with regard to such cases shall be attended to by the staff of the Office of the Government Law Officer and no remuneration shall be given to them in this regard. The expenditure under stationery etc, shall also be met by the office of the Government Law Officer. However the expenditure towards court fees shall be met by the Commissioner Hindu Religious and Charitable Endowments (Administration) Department, Corporation, Board Commercial Concern or Local Authority, as the case may be.

(2) The law charges on account of Hindu Religious and Charitable Endowments (Administration) Department may be initially met by the Collector concerned or by the Advocate General, as the case may be

(3) The law charges incurred by Government for the conduct of cases on behalf of Hindu Religious and Charitable Endowments (Administration) Department shall be recovered from that department annually in the following manners -

- (i) whenever the Collector incurs any expenditure under law charges on behalf of the Hindu Religious and Charitable Endowments (Administration) Department he should intimate the details of the same to the Commissioner and the Advocate General,
- (ii) the Advocate General shall intimate the Commissioner the expenditure incurred by him,
- (iii) the Advocate General shall maintain a special Ledger Account in his office for the Hindu Religious and Charitable Endowments (Administration) Department in which the charges incurred by him as well as by the Collectors shall be entered promptly,
- (iv) by the 15th of April each year the Advocate General shall prepare a detailed statement showing the expenditure incurred on behalf of Hindu Religious and Charitable Endowments (Administration) Department for the previous year and send it to the Accountant General for adjustment under intimation to the Inspection Wing of the Law Department and the Commissioner,
- (v) if any discrepancy is noticed by the Commissioner in the statement furnished by the Advocate General, he shall take up the matter with the Advocate General, who shall make necessary adjustment in the accounts for the succeeding year and the fact shall be reported to the Inspection Wing of the Law Department by the Advocate General under intimation to the Accountant General
- (vi) in order to minimise discrepancies and to ensure early settlement of those noted, the Advocate General shall send quarterly statements to the Commissioner

(4) No amounts from Government account shall be incurred in respect of any case relating to a Corporation, Board, Commercial Concern or Local Authority, and amounts, if any, required shall be obtained by the Government Law Officer from the Corporation, etc, as and when required

(5) In the case of Government Law Officers in the High Court, half of the regulation fee shall be given to them, and the other half shall be credited to Government. In other cases full regulation fee shall be given to Government Law Officers. The Advocate General or the Collector, as the case may be, shall get the fee from the concerned Corporation, Board, Commercial Concern or Local Authority, as the case may be, for disbursement to the concerned Government Law Officers.

CHAPTER VIII

CRIMINAL MATTERS

69 *Procedure in criminal cases* -- (1) Government Law Officers in courts other than the High Court shall deal with the Collector of the district concerned in regard to criminal cases. The Collector of the district concerned shall ensure that the District Superintendent of Police arranges for necessary instructions to be given to the concerned Government Law Officer for the conduct of criminal cases at all stages. In addition to the Investigating Officer, some other responsible officer fully acquainted with the case, should be deputed to instruct and assist the Government Law Officer for the conduct of the case.

(2) The concerned Government Law Officer shall report the result of every case to the Collector and the District Superintendent of Police soon after judgment is pronounced. He shall simultaneously apply for and obtain certified copies of the judgment in each case irrespective of the nature of its disposal and furnish his opinion regarding the scope of filing an appeal or revision. He shall also apply for and obtain carbon copies of judgments in appropriate cases. Whenever, further action by way of appeal or revision is considered necessary, he shall also apply for and obtain certified copies of depositions of witnesses and forward copies of the judgment and the depositions to the District Superintendent of Police with his recommendations about the further action, to be taken.

(3) In cases of acquittal, if the concerned Government Law Officer and the District Superintendent of Police concerned agree that an appeal should be filed, either of them may make a report to the Advocate General direct with connected records. A copy of the report shall also be sent to the District Collector concerned by the reporting officer. The Advocate General shall

thereupon send his opinion to the Government in the Home Department and await their instructions in the matter Whenever Government consider it necessary to file an appeal in any case instituted otherwise than on Police report, a Government order as contemplated under section 377 (1) of the Criminal Procedure Code, 1973 shall also be sent to the Advocate General along with the request to file an appeal so that any possible objections of incompetency may be avoided

(4) In case the concerned Government Law Officer and the District Superintendent of Police do not agree that an appeal should be filed, the Government Law Officer or the District Superintendent of Police concerned, whoever considers that an appeal should be filed, may make a report to the Collector

(5) If the Collector on receipt of the report mentioned in sub-rule (4), and in case the report is made by the District Superintendent of Police, after obtaining the advice of the concerned Government Law Officer also, considers that an appeal should be filed, he may send a report to the Government in the Home Department at the same time sending a copy of his report with records to the Advocate General, and the Advocate General shall thereupon send his opinion to the Government in the Home Department and await their instructions in the matter

(6) In all cases of acquittal in murder cases, the concerned Government Law Officer shall send to the Advocate General as expeditiously as possible complete records of the case with certified copies of judgments and depositions of witnesses, his opinion and the opinion of the District Superintendent of Police regarding the advisability or otherwise of filing appeals.

(7) Since appeals against acquittals have to be filed within 3 months, the report of the Collector under sub-rule (5) should reach the Government within 45 days of the judgement

(8) The Collector in consultation with the Advocate General or the Government Law Officer, as the case may be, may arrange for revisions to be filed in the High Court or the Sessions Court in appropriate cases

(9) In cases where the Collector decides that no appeal or revision need be filed, he shall immediately inform the District Superintendent of Police or other Departmental officer accordingly, and in fit cases it will be open to the Inspector General of Police or the Head of the Department concerned to move Government in the matter with a detailed report explaining the need to prefer an appeal or revision in the ends of justice

PART IV

Offices of Government Law Officers

(Special instructions and inspection)

CHAPTER IX

OFFICES OF GOVERNMENT LAW OFFICERS

70 *Provision of accommodation etc*—It shall be the duty of the Collector to provide suitable Government accommodation for the Offices of the Government Law Officers at District Court, Additional District Court and Sub Court centres. He shall also provide necessary articles of furniture and stationery required by the Offices.

71 *Service copying sheets etc*—Service copying sheets, stamps, etc., required in the office of a Government Law Officers shall be supplied by the concerned Collector. Requisitions in this behalf shall be made by the Government Law Officer sufficiently in advance so as to avoid any difficulty on account of their shortage or absence. Proper and correct accounts of all sheets and stamps received and expended shall be kept in a register maintained for the purpose. The Government Law Officer shall scrutinise the register daily and certify the correctness of the entries therein.

72 *Permanent Advance*—The Office of a District Government Pleader and Public Prosecutor at a District Court Centre or an Additional Government Pleader and Additional Public Prosecutor at an Additional District Court or Sub Court Centre may be sanctioned a Permanent Advance of such amount not exceeding Rs 300 as may be decided by the Government for meeting unforeseen and miscellaneous expenditure in connection with the conduct of Government Cases. All amounts expended from the Permanent Advance shall be got reimburse at frequent intervals so as to ensure the availability of money at all times in the fund. A Permanent Advance Disbursement Register should be maintained in the form prescribed by the financial and Account Code for the time being in force and the rules laid down in those Codes in respect of the advances should be observed.

73 *Cash Book, Ledger and Receipt Book*—(1) A Government Law Officer, other than a Special Government Pleader or Special Public Prosecutor, shall maintain a Cash Book, Ledger and Receipt Book.

(2) *Cash Book* -- The cash book should be maintained in the prescribed form with pages consecutively numbered. All receipts and disbursements in connection with suits and execution proceedings should be entered in it chronologically. Contingent expenditure as well as salaries and allowances should not be shown in the cash book.

(3) The left (debit) side of the book should show in detail all receipts and the right (credit) side all disbursements. These disbursements will mainly be payments in to the treasury of sums received by the Government Law Officer from the courts or from the parties to suits or execution proceedings.

(4) The entries in the cash book should be made on the day which the transactions occur. The total of the debits and credits as well as the balance should be struck at the close of each day, after verifying from the counterfoils of the receipt book that each item of receipt has been brought on to the cash book and after examining that each item of credit in the cash book is supported by the Treasury or other receipts.

(5) *Ledger* -- The Ledger should be maintained in respect of suits or execution proceeding in the prescribed form. The pages of the ledger should be consecutively numbered. All receipts and disbursements relating to a particular suit or proceedings should be entered in the page reserved for that suit or proceedings. Thus all entries in the cash book will be reproduced daily in the ledger under the appropriate item.

(6) All entries in the left (debit) side of the cash book should be posted on the right (credit) side of the ledger. Entries on the right side of the cash book should be posted on the left side of the ledger.

(7) As each posting is made, the number of the page in the ledger should be noted against the corresponding entry in the cash book in column (2) and the number of the page in the cash book should, in like manner, be entered in column (2) of the ledger.

(8) on the last day of each month, the balance according to the ledger should be compared with the balance according to the cash book and a certificate that such comparison has been made together with the result thereof should be recorded on the abstract for the month to be sent to the Collector or the Revenue Officer, under rule 76.

(9) The book balance as noted in the monthly abstract sent to the Collector or the Revenue Divisional Officer, as the case may be, should be verified with the actual balance on hand and the fact of such agreement should be recorded on the abstract itself.

(10) At the end of each financial year, i.e., on the 31st March, the amounts on the debit and credit sides should be totalled and the balance struck. The balance according to the ledger should be compared with the balance according to the cash book and any discrepancies noticed should be reconciled.

(11) After the closing of the ledger, the balance should be carried over to the ledger of the following year as the opening balance on the debit or credit side, as the case may be, noting there in the number of the page of the previous ledger.

(12) *Receipt book* -- The receipt books should be maintained in the prescribed form with pages consecutively numbered.

(13) A Government Law Officer should issue receipts for all Government moneys received by him from parties to suits or execution proceedings or from the courts and enter the particulars in the counterfoils.

(14) All payments into the treasury shall be made by means of triplicate chalangas.

74 *Accounts of Government moneys to be separate from other accounts* -- The accounts prescribed by the foregoing rules in regard to Government moneys should be maintained separately from the accounts for other moneys, if any, maintained by the Government Law Officer concerned.

75 *Checking of accounts* -- The accounts of each financial year shall be checked before the first day of June of the succeeding year, by the Collector in the case of a Government Law Officer, other than a Pleader appointed to do Government work in Munsiff's Courts, Special Government Pleaders and Special Public Prosecutors, and by the Revenue Divisional Officer in the case of a Pleader appointed to do Government work in Munsiff's Court.

76 *Furnishing of abstracts* -- An abstract in the prescribed form should be sent to the collector or the Revenue Divisional Officer, as the case may be on the 10th day of the month succeeding that to which the abstract relates. The abstract sent to the Collector or Revenue Divisional Officer, as the case may be, shall be preserved for a period of three years.

77 *Other Registers* --(1) The following registers also shall be kept in the office of a Government Law Officer and maintained up-to-date

- (i) Stationery Register
- (ii) Library Register
- (iii) Periodical Register
- (iv) Furniture Register

- (v) Trunk Call Register (where telephone is provided)
- (vi) Suits Register
- (vii) Service Copying Sheet Register
- (viii) Such other Registers as may be prescribed by the Government from time to time

(2) The Stationery Register, Library Register, Periodical Register, Furniture Register and Trunk call Register shall be maintained in accordance with the rules and instructions in that behalf applicable to Government Offices. Separate Suits Registers may be maintained for different categories of cases. The suits register, copy application register and other registers shall be maintained in such form as may be prescribed by the Governments from time to time. All payments towards telephone charges shall be met by the Collector.

78 *Handing over and assumption of charge* -- When a Government Law Officer vacates office he shall handover to his successor in office --

- (a) any balance of moneys, copying sheets, stamps, stationery articles etc., as per the concerned registers, together with the registers,
- (b) all items of furniture, if any provided to the office, together with the Furniture Register
- (c) all books and periodicals together with the Library Register,
- (d) all files, pending as well as disposed, together with a list of such files

A charge report also shall be prepared and signed by the both outgoing and incoming Government Law Officers. In the case of a Court Centre where there are two or more Government Law Officers the relinquishment and assumption of charge shall be made in the presence of the District Government Pleader and Public Prosecutor (where he himself is not the outgoing Government Law Officer) or the senior most Additional Government Pleader and Public Prosecutor or the remaining Additional Government Pleader and Additional Public Prosecutor, as the case may be and shall also be signed by him. A copy of such report shall immediately, be forwarded to the District Collector and the Inspection Wing of Law Department.

79 *Manual of Office Procedure to be followed* -- (1) The staff attached to the office of Government Law Officers shall, except as regards court work, follow as far as may be, the procedure prescribed in the Manual of Office Procedure, they shall in particular, keep and maintain a Tappal Register, Personal

Register, Stock Register, Postage Stamp (Service Stamp) Account Register and Despatch Register Every paper received in the office shall be duly accounted in the concerned register

(2) The District Government Pleader in the case of District Court Centres, the senior most Additional Government Pleader at Court Centre where there are two or more Additional Government Pleaders, and the Additional Government Pleader at other centres shall verify the registers at prescribed intervals and ensure that the procedure prescribed in the Manual of Office Procedure is observed in the office, that all papers are duly accounted and timely action is taken in respect of all papers and other matters requiring action, that suitable instructions are given to the staff regarding court work and that those instructions are duly complied with by them

(3) All papers shall be received at District Court Centres, by the District Government Pleader and Public Prosecutor, at centres where there are two or more Additional Government Pleaders and Additional Public Prosecutor by the senior most additional Government Pleader and Additional Public Prosecutor, and at other centres by the Additional Government Pleader and Additional Public Prosecutor All papers so received shall be initialed by the Government Law Officer with date and then handed over to the staff also indicating thereon the nature of the action to be taken in respect of them The office staff shall immediately enter them in the appropriate registers in the order of their receipt Any papers, passed on by the Government Law Officer to the Office without his initials shall be placed before him again for his initials and instructions, if any Papers if any directly received by the office staff shall also be similarly placed by the office before the Government Law Officer for his perusal initials and instructions

(4) All records received in the office shall be returned to the officer from whom they were received as soon as their purpose is over All files which are ripe for destruction shall be destroyed in accordance with the provisions in the Kerala Destruction of Records (Revenue Officers) Rules, 1964 Copies of Gazettes shall, at frequent intervals, be sent to the Collectorate for disposal according to rules

80 *Distribution of case work among Government Law Officers*—(1) At centres where there are two or more Government Law Officers, case work shall be equally distributed among them, as far as possible For this purpose separate registers for civil cases including land acquisition cases, criminal appeals, sessions cases, execution petitions, etc, shall be maintained As soon as a case is received in the office it shall be entered in the appropriate register and given a

consecutive serial number At District Court Centres and Centres where there are only two Government Law Officers cases with odd serial numbers shall go to the District Government Pleader and Public Prosecutor or the senior most Additional Government Pleader and Additional Public Prosecutor, as the case may be, and those with even serial numbers shall be allotted to the other Government Law Officers If at a court centre there are more than two Government Law Officers the first number shall go to the District Government Pleader and Public Prosecutor or senior most Additional Government Pleader and Additional Public Prosecutor, as the case may be, the second to the next senior most Additional Government Pleader and Additional Public Prosecutor, the third to the Additional Government Pleader and Additional Public Prosecutor next in seniority and so on

*Provided that, in land acquisition references, those cases relating to portions of the same property, or which raise common questions of fact or law shall, as far as possible, be dealt with by the same Law Officer,

Note - The odd number and even number referred to in this rule are the odd number and even number according to the serial numbers given to the cases in the appropriate register maintained, and not the numbers given by courts

(2) A Government Law Officer to whom particular cases have been allotted in accordance with the principle laid down in sub-rule (1) shall be in exclusive charge of those cases at all stages till legal opinion is furnished after obtaining certified copies of the Judgements, decrees or orders in those cases and shall also be solely responsible for taking necessary action at every such stage This will not, however, effect the over all responsibility of the District Government Pleader and Public Prosecutor at District Court Centres and the senior most Additional Government Pleader and Additional Public Prosecutor at other Centres, where there are two or more Government Law Officers, for the general conduct of the State cases at such centre

(3) Notwithstanding anything contained in sub-rule (2), if cases allotted to the same Government Law Office are posted in two or more courts on the same date, the District Government Pleader and Public Prosecutor, or the senior most Additional Government Pleader and Additional Public Prosecutor, as the case may be, shall make such adjustments and arrangements as may be necessary in relation to such cases on such date Such adjustments or arrangements, if any made, shall not, however, take away the responsibility of the Government Law Officer to whom the cases were originally allotted, at subsequent stages

*Inserted as per G O (P)No 1/82/Law dated 5-1-1982 published as S R O No 90/82 and has effect from 23-2-1981

(4) A departure from the principles laid down in sub-rule (2) may also be made by the Collector, if he is of opinion that a particular case shall for reasons like the complicated nature of the questions or the magnitude of the stake involved in the case, be handled or should not be handled by a particular Government Law Officer

(5) Notwithstanding anything contained in this rule, a Government Law Officer shall not conduct any case in which he is personally interested or any case, which if conducted by him, would amount to professional misconduct. Such cases, if any, shall be reallocated to another Government Law Officer or the other Government Law Officer, as the case may be, in exchange for cases of comparable valuation or remuneration

(6) Notices in Sessions cases and criminal appeals should be handed over by the office staff in accordance with the principles laid down in sub rule (2), to the concerned Government Law Officers, as soon as they are registered in the appropriate registers so as to enable the concerned Government Law Officers to take up the matter with the concerned police officers right from that stage

(7) The principles laid down in this rule shall also apply to title scrutiny

(8) It shall be the duty of the Collector to ensure that this rule is strictly followed in his District

81 *Maintenance of files*—All files in the office shall be kept complete and self-contained and shall also be arranged properly and systematically. All references received in connection with a case and the office copies of all communications issued from the office should be available in the concerned file in the proper order of sequence

82 *Docket sheets of Case files*—All case files should be provided with docket sheets. The progress of each case shall be noted by making timely and appropriate entries on the docket sheet at every stage. The entries on the docket sheet in respect of a case should be made, in such a way as to show at a glance the action in respect of that case, the stage of the case and the further action if any, remaining to be taken. Details of all action taken right from the stage of filing the memo of appearance or filing of the suit, as the case may be, up to and including the stage of furnishing of legal opinion after obtaining certified copy of the judgement and decree should find a place on the Docket Sheet. The Government Law Officer in charge of a case shall be responsible for the making of proper and timely entries on the Docket Sheet relating to that case and it shall not be a satisfactory explanation to say that the entries were made by some other person or that the duty of making the entries was entrusted to some other person

83 *Financial matters* -- (1) All amounts received by a Government Law Officer on behalf of Government shall immediately be entered in the case book and remitted into the Treasury as soon as possible. He shall issue receipts for all amounts received by him and obtain and keep vouchers for all amount expended or paid by him. All amount required by way of court fee, etc., which are not to be met from the Permanent advance should be obtained from the Collector.

(2) A Government Law Officer shall send to the Collector the following bills in the forms given in Appendix III & IV

- (i) bill for expenses in civil cases,
- (ii) bill for expenses in criminal cases,

(3) The bill shall be accompanied by necessary court certificates. For this purpose, bills in duplicate shall be presented in court, one copy to be retained by the court and the other copy to be returned to the Government Law Officer along with the certificate for submission to the Collector. The Collector shall after satisfying himself that the claims in the bills are genuine sanction reimbursement of the expenses.

(4) He shall obtain and furnish to the District Collector/Department the following documents in respect of all amounts remitted into Treasury/deposited in Court for satisfying decrees and orders of court,—

- (a) in a case where no execution petition has been filed and where any amount is remitted into Treasury through chalan obtained from court, a certified copy of the endorsement by the Court on the memo filed by him along with the chalan to the effect that the amount has been remitted into the Treasury as per the chalan,
- (b) in a case where an execution petition has been filed, a certified copy of the order entering satisfaction, and
- (c) receipts issued by Court for all amounts directly deposited in court whether any execution petition has been filed or not.

84 *Staff under administrative control of Collector*—(1) The member of the staff in the offices of Government Law Officers shall, as long as they form additions to the respective cadres in the establishment of the Collector be under his administrative control. They shall act under the supervision and guidance of the Government Law Officer and comply with and carry out the instructions given by the Government Law Officer from time to time. The Government Law Officers shall intimate to the Collector any case of inaction, inefficiency, disobedience of instructions and the like for appropriate action.

(2) While making postings of staff in the offices of Government Law Officers the Collector shall have due regard to the special nature of the work in those offices and shall post only experienced hands who, in his opinion, are capable of carrying out their duties properly and efficiently. Frequent transfers shall, as far as possible, be avoided. The transfer should be reported to the Inspection Wing of the Law Department promptly.

85 The rules in this Chapter shall not apply to the Office of the Advocate General.

CHAPTER X

SPECIAL INSTRUCTIONS

86 *Special instructions to Government Law Officers*—(1) All Government Law Officers should be alert in opposing petitions for stay or injunctions against the Government and they should press for directions from the Court to furnish security in appropriate cases where loss to Government revenue is apprehended.

(2) The necessity of making applications for adjournments should, as far as possible, be avoided and such applications on behalf of the opposite party should, unless they are made for sufficient reasons, be opposed as tending to prolong the litigation and to give opportunities to the opposite party for the fabrication of false evidence.

(3) No instructions should be issued to the Officers by the Government Law Officers by giving their own interpretation or clarifications of the orders or directions contained in judgements, communications regarding judgements and order of courts should normally be restricted to conveying orders or directions to the concerned officers. If the officers have any doubt in implementing the orders or directions they should seek clarification from the Government, and it would be for the Government to seek advice of the Law Department or the Advocate General.

(4) The Government Law Officers shall take prompt and effective action in consultation with the concerned District Collector or Departmental Officers whenever notices of execution petition are received and the Government will take serious notice of failure on the part of any Government Law Officers.

(5) All cases of delay, inaction or lack of Co-operation on the part of any Department or Officer shall be promptly reported to the Inspection Wing of the Law Department

(6) He shall not concede any point or give any assurance to court on behalf of the Government unless he has been expressly authorised in each case to do so

*(7) All Government Law Officers in the District Court and Additional District Court Centres and the Government Pleader appointed under rule 11 A shall ensure that the details and up-to-date status of the cases conducted by them are reported daily to the Office of the District Government Pleader for enabling data entry with regard to the up-to-date case status through On-line Monitoring System "

87 *Special instructions to Departments of the Secretariat, etc*—(1) The Head of the Department to which a suit relates shall see that the Government Law Officers is thoroughly acquainted with the facts of the case and with the evidence to be adduced on behalf of Government and that the necessary evidence, whether oral or documentary, is ready by the proper time

(2) The documents and information required by a Government Law Officer in connection with the conduct of cases should be forwarded to him promptly

(3) The Departments concerned, should be meticulously careful in the preparation of counter affidavits, statements of facts and similar other papers to be filed in court and there should not be any delay in the preparation of these documents

(4) The Heads of departments, who require the advice of the Advocate General shall address the Government in the Administrative Department concerned and the Government shall decide whether the advice of the Advocate General should be sought or not

(5) The Government Officers in the various Departments who may make request to the Liaison Officer for vacating stay orders of injunction orders issued by the High Court in writ petitions, shall furnish him with copy of the writ petitions and interlocutory applications and also the necessary facts to disclose prima facie the falsity of the allegations in the writ petitions and the irreparable loss or injury caused to Government exchequer by the orders issued by the High Court. The Officers shall directly correspond with the Liaison Officer, Advocate General's Office, in this regard

(6) All matters relating to suits, appeals and other proceedings are to be treated by the Collectors, Head of Departments and all officers as urgent at all stages

(7) All Department Officers shall see that necessary instructions along with certified copies of judgements for filing appeals against adverse judgements in writ petitions reach the Advocate General within ten days before the date of expiry of the period of limitation for filing such appeal

(8) The land acquisition officers shall send copy of the reference made to the court to the Government Law Officer concerned along with a copy of the award including the Note to the Award, etc., and evidence in support of the amount of compensation, simultaneously with the making of the reference so as to enable the Government Law Officer to readily find out the basis on which the compensation has been arrived at well in time

(9) The directions given by the High Court while disposing of writ petitions should be complied with by the Heads of Departments and other officers within the stipulated time and in cases, where it is found not possible to do so due to any reason, the matter should be taken up with the Advocate General. The concerned officers should instead of sending letters, personally go over to the office of the Advocate General to prepare affidavits, detailing the circumstances under which directions of the court should not be complied with within the stipulated time so that High Court can be moved for further extension of time before the time already granted expires

(10) Affidavits for extension of time should be filed as far as possible, at least a week before the time already granted expires

(11) If there is a difference of opinion between the concerned Government Law Officer and the Collector as to the manner of conducting a case in any court subordinate to the High Court, a reference shall forthwith be made to Government in order to obtain the instructions of Government as to the manner in which the case is to be conducted

(12) If the Officers have any doubt in implementing orders or directions of High Court they shall seek clarifications from the concerned Administrative Department in the Secretariat and it would be for the Administrative Department to seek the advice of the Law Department or the Advocate General as may be deemed necessary

(13) The District Collectors and other officers concerned shall simultaneously with the deposit of amounts cheques in court for satisfying decrees or orders of court inform the concerned Government Law Officer the fact of such deposit

(14) The District Collectors and the Departments sending amounts to Government Law Officers or directly making payments into courts in satisfaction of the decrees and orders of courts shall ensure that proper receipts/certificates as required in rule 83(4) are obtained from courts through the Government Law Officers

(15) As soon as the certified copy of the judgement and letter from the Advocate General indicating the date of expiry of the period of limitation are received in the Department, it should examine the matter and decide whether appeal should be filed or not

(16) Heads of departments and officers shall ensure that notice of deposit of amounts is given to the parties by the concerned Government Law Officers and bring to the notice of the Inspection Wing in the Law Department failure, if any, on the part of the Government Law Officers in this respect

(17) A register of suit notices shall be maintained in Appendix V by the Departments of the Secretariat, District Collectors and all Departmental Heads. As soon as a suit notice under section 80 of the C P C is received, the details of the same shall immediately be entered in columns (1) to (5) of the Register. The remaining columns also shall be filled up as and when a reply is sent or a suit is instituted, as the case may be. The maintenance of the register is intended to verify whether, in respect of a suit filed against the Government, previous notice, as required by section 80 of the C P C was sent by the plaintiff to the Government. A similar register shall be maintained by them for ensuring the efficient and timely supervision of the progress of all suits, O P s appeals and other proceedings instituted by or against the Government and its officers. The register shall be maintained in the form given in Appendix VI. The progress of each case shall be noted by duly filling up the appropriate columns, at the appropriate time. The register shall be periodically checked for ensuring that the entries are up-to-date and further action, if any, at the remaining stages is taken in time.

CHAPTER XI

INSPECTION

88 *Inspection of the Offices of the Advocate General and of the Administrator General and Official Trustee*—(1) The Offices of the Advocate General and of the Administrator General and Official Trustee shall be inspected by the Advocate General himself once in a year and report submitted to Government

(2) The Law Secretary or one of the Additional Law Secretaries authorised by him shall also inspect the offices of the Advocate General and of the Administrator General and Official Trustee once in a year. The Law Secretary or Additional Law Secretary, as the case may be, may utilise the service of the Joint Secretary of the P&AR Department to prepare notes on the Administrative side before his personal inspection is carried out.

89 *Inspection of the Offices of the Government Law Officers at District Court, Additional District Court and Sub Court Centres*—(1) The Inspection Wing in the Law Department will watch the conduct of Government cases by the various Government Law Officers and Departments with a view to ensuring their efficient conduct. For this purpose, the Inspection Wing shall inspect the offices of the Government Law Officers at District Court, Additional District Court and Sub-court Centres every half year and go through the records to find out whether timely action has been taken by the Government Law Officers/Departments in respect of cases or whether there has been any delay, inaction or inefficiency on their part. The Inspection Wing may also conduct surprise inspections, whenever considered necessary. Follow-up action on the basis of the result of the inspection shall also be taken by giving suitable instruction to and initiating appropriate action against the concerned officers.

(2) The Collectors and the Departments shall report to the Inspection Wing any case of delay, inaction or inefficiency on the part of a Government Law Officer noticed by them at any stage during the conduct of cases. A Government Law Officer also may similarly report to the Inspection Wing any case of delay, inaction lack of proper co-operation, etc., on the part of any Department. In such cases the Inspection Wing will take up the matter with the concerned Government Law Officer/Department with a view to ensuring timely and efficient action and effective Co-operation.

90 *Inspection of the Offices of Pleaders to do Government work, etc*—(1) The Collector may at any time inspect any office of a Pleader appointed to do Government work in Munsiff's Court for verifying whether timely and effective action is taken by such Pleader in the conduct of Government cases by him.

(2) The Inspection Wing of the Law Department may at any time inspect the office of the Government Pleader for Arbitration proceedings and may also take such follow-up action, as may be considered necessary, in the light of the result of the inspection.

Appendix I

[Omitted by G O (P) 111/79/Law dated 5-10-1979]

Appendix II

[See Rule 44 (4)]

REGISTER SHOWING DETAILS FOR CALCULATING FEES TO GOVERNMENT LAW OFFICERS

<i>Sl No</i>	<i>Name of the Government Law Officer</i>	<i>No and year of the suit</i>	<i>Valuation of the suit</i>	<i>Date of disposal</i>	<i>Admissible regulation by Court</i>	<i>Fee allowed</i>	<i>Remarks</i>
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Appendix III

[See Rules 46 and 83]

Statement showing the particulars of fees claimed by
 Shri _____ (Here enter the name and address
 of the Government Law Officer) for conducting sessions cases and opposing
 criminal appeals

<i>Sl No</i>	<i>No of the case</i>	<i>Date and duration of hearing</i>	<i>Amount Rs P</i>	<i>Remarks</i>
(1)	(2)	(3)	(4)	(5)

Place _____

Date _____

(Signature, name and address of the
 Government Law Officer)

(Court Certificate)

(Signature of the Presiding
 Officer of the Court)

Appendix IV

[See Rules 46 and 83]

Statement showing the particulars of fees claimed by
 Shri _____ (Here enter the name and address of the
 Government Law Officer) for conducting/defending _____ civil
 suits, appeals, etc. in the month of _____ 20 _____

<i>Sl No</i>	<i>Name of the case</i>	<i>Date of hearing</i>	<i>Stages attended</i>	<i>Amount Rs P</i>	<i>Remarks</i>
(1)	(2)	(3)	(4)	(5)	(6)

Place

Date

(Signature, name and address of
 the Government Law Officer)

Appendix V

[See Rule 87 (17)]

REGISTER OF SUIT NOTICES

<i>Sl No</i>	<i>Date of issue</i>	<i>Date of receipt</i>	<i>Petitioners name and address (in- cluding the name and address of the Advocate)</i>	<i>Particulars of claim or cause of action</i>	<i>Date of reply</i>	<i>Summary of reply</i>	<i>Number and date of the suit, if instituted</i>	<i>Remarks</i>
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
<hr/>								

Appendix VI
[See Rule 87 (17)]

REGISTER SHOWING THE PROGRESS IN THE DISPOSAL OF PENDING SUITS AND APPEALS
DISTRICT

Serial number	Number and year of suit or appeal	Court in which pending	Position of Government in the case	Name of the Advocate or Government Pleader conducting the case	Nature of the case	Progress of work (noting the details and action taken during each month with the date of action)	Result of the suit or appeal and the date of decision	Date of application for copies of Judgement, decree or order	Date of receipt of copies of Judgement or decree	Last date for filing appeal (if the decision is against Government)	No and date of the order according sanction to prefer appeal	Amount awarded (if any)		Date of satisfaction of decree where it is adverse to Government	Date of application for execution of decree where it is favourable to Government	Date	Details of collection			Date and No of order sanctioning write off	Remark		
												In favour of Government	Against Government				Amount collected	Head of account to which credited	Amount written off				
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2																							
3																							
4																							
5																							
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By order of the Governor,

M SEKHARAN,
Law Secretary

Explanatory Note

(This does not form part of the Notification but is intended to indicate the general purport)

The Rules regulating the conditions of Service, duties, remuneration, etc., of Law Officers in the State are contained in various non-statutory rules, orders, circulars, etc., issued by Government from time to time from 1956 onwards. Those who are administering the rules find it very difficult to search out all these orders, circulars, etc., issued by Government during the last two decades and find out the correct position in a particular issue. Besides, the Government have realised the necessity to add certain provisions in the rules to ensure that the State cases are conducted effectively and efficiently by Law Officers. Hence the Government consider it necessary to codify and revise the rules and to issue them under the provisions of the Kerala Public Services Act, 1968.

The notification is intended to achieve the above object

II RULES REGULATING THE CONDITIONS OF SERVICE, DUTIES, REMUNERATION, ETC., OF THE ADVOCATE GENERAL AND ADDITIONAL ADVOCATE GENERAL, KERALA

NOTIFICATION

No. LD (A) 1-3006/56/Law

1st November, 1956

In pursuance of the powers conferred by clauses (2) and (3) of Article 165 of the Constitution, the Governor hereby makes the following rules regarding the duties, remuneration, etc., of the Advocate General and Additional Advocate General for the State of Kerala

PART I

1 *Interpretation* --In these rules, unless the context otherwise requires, "Government", shall include any Officer of Government who is a party to any proceeding before any Court, Tribunal or authority in his official capacity

2 *Duties and functions of Advocate General* - The duties and functions of the Advocate General are the following --

(i) to advise on legislative measures and rules and bye-laws of the State and on Bills of the Union, sent to him for opinion,

(ii) to advise Government whenever required and the Board of Revenue or the Collectors in respect of appeals to the High Court in cases where the Board of Revenue or the Collector has been authorised to sanction the filing of such appeals

Note - Subject to the above, Heads of Departments who require the advice of the Advocate General should address the Government in the Secretariat Department concerned and Government will decide whether the advice of the Advocate General should be sought or not,

(iii) to prepare briefs for use of counsel engaged to represent Government in all proceedings, civil and criminal, original or appellate, before the Supreme Court to which Government is a party,

(iv) to represent Government in the Supreme Court in cases to which Government is a party or in which the Supreme Court has directed notice to the Advocate General and in any other case under special instructions from Government,

(v) to arrange to represent Government in the High Court in all proceedings civil or criminal, original, or appellate, in which Government is a party,

(vi) to represent Government in the High Court in proceedings, of importance, civil or criminal, original or appellate, in which Government is a party when specially directed by the Government,

Note - The Advocate General will ordinarily be instructed by a Government Pleader or Public prosecutor,

(vii) to assist the High Court in cases of special importance or difficulty in which the Advocate General's appearance is required by the High Court,

(viii) to represent Government in proceedings, civil or criminal, original or appellate, in which the Government is a party, in Courts subordinate to the High Court when specially directed

Note - The Advocate General will ordinarily be instructed by a Government Pleader or Public prosecutor,

(ix) to represent Government in any proceedings before any Tribunal or authority when specially directed,

(x) to take generally on behalf of Government all such proceedings as may be taken by the Attorney General for India,

(xi) to give advice to the Law Officers attached to the High Court in all difficult cases handled by them and on which they may consult him and conversely to call upon them when necessary to assist him in cases in which he appears and also to supervise and control their work,

(xii) to report to Government periodically about the progress of the proceedings in which Government is a party in the High Court or the Supreme Court and in such proceedings where the Advocate General has been directed specially to appear under items (viii) and (ix),

(xiii) to report to Government the results of all proceedings mentioned in items (iv) to (ix) promptly,

(xiv) in particular, in the said proceedings whenever a decision adverse to Government has been rendered, to report to Government immediately and advise Government about the further action to be taken, to apply on the very date of the decision for a copy thereof, to obtain the same expeditiously and to forward the copy to Government with this further advice,

(xv) to report to Government about the advisability of pursuing the matter further by way of appeal or otherwise in such cases where decisions have been rendered against Government and in such other cases where he considers it necessary to do so,

(xvi) to procure copies of any judgement or order passed by the High Court which may be required by Government or may contain comments on any action taken by Government or may contain any finding or comments which in his opinion, should be brought to the notice of Government,

(xvii) to attend and take part in the proceedings of the Legislative Assembly when required to do so by Government,

(xviii) to perform such other duties of a legal character as may, from time to time, be referred or assigned to him by the Governor,

(xix) to discharge the functions conferred on him by or under the constitution or any other law for the time being in force

3 *Duties and functions of the Additional Advocate General —*

(1) Additional Advocate General shall perform the same duties and functions as are assigned to the Advocate General in items (i) to (xviii) (both inclusive) or rule 2, subject to the allocation of work by the Advocate General except the power to supervise and control the work of the Law Officers attached to the High Court referred to in item (xi) of that rule,

(2) The functions conferred on the Advocate General by or under the Constitution or any other law for the time being in force may be discharged by the Additional Advocate General also

PART II

RI MUNI RAJON OF THE ADVOCATE GENERAL

"1 *Retainer fee.*—The Advocate General shall be paid a retainer fee of *Rs. 7,500 (Rupees Seven Thousand Five Hundred only) per mensem"

** 2 *Other remuneration and allowances* —The Advocate General shall be allowed fees as detailed below, namely —

(i) In civil suits and appeals and other proceedings in the High Court, he will be allowed fees not exceeding the amount allowable on party and party taxation as may be marked

(ii) In other cases,—

(a) for effective appearance in final hearing of cases disposed of on merits after contest (Writ Petitions, Writ Appeals and Civil Cases) in High Court and Subordinate Courts,—

- | | |
|--|---------------------------------|
| (1) before Division Bench | Rs 3,000 per day of appearance, |
| (2) before the Single Bench in the High Court and Subordinate Courts and Tribunals | Rs 2,000 per day of appearance, |
| (3) petitions and interlocutory matters before Division Bench and Single Bench | Rs 1,500 per day of appearance, |

(b) for effective appearance in final hearing of criminal cases disposed of on merits after contest in High Court and Subordinate Courts,—

- | | |
|--|---------------------------------|
| (1) before Division Bench | Rs 3,000 per day of appearance, |
| (2) before Single Bench and before Subordinate Courts | Rs 1,500 per day of appearance, |
| (3) petitions and interlocutory matters before Division Bench and Single Bench | Rs 1,500 per day of appearance |
| (iii) for effective appearance in Supreme Court | Rs 7,500 per day of appearance |

*Substituted by G O (P) No 596/2000/Law Dated 17-11-2000 published as S R O No 1067/2000

**Substituted by G O, (P) No 596/2000/Law Dated 17-11-2000 published as S R O No 1067/2000

Provided that when more than one case is conducted or argued in one day in any one or more courts, only one day's fee at the highest rate payable shall be paid irrespective of the number of courts in which appearance made or the number of cases conducted or argued on that day

(iv) When the Advocate General is absent from the headquarters on any day including holidays for the purpose of any conference connected with his official duty, an amount equal to his appearance fee in the High Court, namely, Rs 1,500 (Rupees One thousand five hundred only) per day shall be paid to him"

"2A *Special Allowance* — The Advocate General shall be paid a special allowance of Rs 5,000 (Rupees Five thousand only) per mensem for providing a Driver and a Confidential Assistant of his own choice at his residence"

3 The Advocate General will be entitled to travelling allowance and daily allowance admissible to officers of the 1st class of the State. He shall not be entitled to claim daily allowance on days when he claims his day fee for actual appearance in Courts

4 The Advocate General is not entitled to any remuneration for preliminary work done in connection with the conduct of case, enquiry or other matter

Provided that the Government may, in any special case having regard to the arduous nature of the work involved in such case, enquiry or other matter, or the time spent in the preliminary work, or for any other sufficient reason of a like nature, allow payment of such remuneration as may be fixed by them

PART III

1 *Disabilities* — (1) The Advocate General is debarred from accepting a brief from any private person in any criminal case in any court

(2) He may accept a brief from a private person in any civil case in any court

Provided that (i) such acceptance does not interfere with his duties under these rules, and (ii) it is not a case in which Government or the Court of Wards is a party

(3) He is debarred from accepting a brief on behalf of a legal practitioner or an advocate in proceedings taken against him under the Legal Practitioners Act, 1879 (XVIII of 1879) or under the Indian Bar Councils Act, 1926 (XXXVIII of 1926)

(4) He shall not accept appointments as a Director or as an Adviser in any company without the sanction of Government

(5) He shall not give legal advice to private persons on matters in which the interests of those persons are adverse to Government

(6) He shall not give advice in any case to private persons if, in his opinion he is likely to be called upon to advise Government in the same case

(7) He shall not accept a brief from any person, whether a petitioner or a respondent, in proceedings initiated by an election petition in connection with an election to a local authority or the State Legislative Assembly or Parliament

2 *Withdrawal from Prosecution* — The Advocate General may not withdraw from a prosecution which he has been directed by Government to originate without first consulting the Department of Government which directed him to originate it nor may he withdraw from a prosecution originated by him *suo motu* without first consulting Government in the Law Department

*PART IV

ABSENCE FROM HEADQUARTERS DURING VACATION OF HIGH COURT

1 During the vacation of the High Court, the Advocate General may be absent from headquarters for short periods anywhere within the State. For such short periods he may also be away from the State but with the previous sanction of the Government. In either case he should be available for consultation as well as discussion and to attend to any case under orders of Government. He will be entitled to leave only from the headquarters

LEAVE

2 The Advocate General is eligible for leave not exceeding that admissible to a fulltime temporary or officiating Government servant subject to the condition that the grant does not involve extra cost to the Government

PART V

In part II, III and IV of these rules, the expression Advocate General shall include the Additional Advocate General also

* Inserted by notification No. LD(a)1-3006/56/Law dated 6th May, 1956

III CIRCULARS ISSUED BY THE LAW DEPARTMENT
GOVERNMENT OF KERALA

Law (Inspection Wing) Department

CIRCULAR

No 18362/B3/80/Law

Dated, Thiruvananthapuram, 30th January, 1980

Sub -- Acts relating to pending cases —Furnishing of—Instructions issued

The Advocate General, Trivandrum, has brought to the notice of the Government an instance where the concerned Government Pleader had been put in a bad predicament before the court due to wrong information given by the Government to his office. He has also pointed out that this is not the solitary instance where such unhappy situation happened before.

All the Departments of the Secretariat, including Finance Department and all the Heads of Departments are therefore requested to ensure that all facts which have direct bearing with the cases pending in the High Court are intimated to the office of the Advocate General promptly in order to avoid such instance in future.

By order of the Governor,

S APPUKUTIAN NAIR,
Deputy Secretary

GOVERNMENT OF KERALA

Law (Inspection Wing) Department

CIRCULAR

No 8118/B3/83/Law

Dated, Trivandrum, 2nd July, 1983

Sub -- Arbitration cases —Delay in intimating the notice of filing awards in courts— Avoidance of—Instructions issued

It has come to the notice of Government that Government Law Officers are not giving timely intimation regarding the notice of filing of awards in court to the Chief Engineer, Public Works Department and on that account in certain cases the opportunity to challenge the award is being deprived resulting in loss to Government.

All the Government Law Officers are therefore directed to give intimation of the filing of awards in court to the Chief Engineer, Public Works Department on the very day on which they receive notice

Failure to follow the above instructions will be viewed as grave dereliction of duty

G SRIDHARAN NAIR,
Law Secretary

GOVERNMENT OF KERALA
Law (Inspection Wing) Department

CIRCULAR

No 14703/B3/83/Law

Dated, Trivandrum, 29th September, 1983

Sub Shortcomings in the conduct of Criminal cases due to the delay in furnishing of records--Instructions issued

Ref- Letter of, the Director of Public Prosecutions and State Prosecutor Kerala dated 3-9-1983

It has been brought to the notice of the Government that serious difficulties are being faced in the conduct of Criminal cases in the High Court due to the delay in furnishing the relevant records in time. In spite of repeated requests from the Office of the Advocate General the District Collectors, Superintendents of Police and the Public Prosecutors of the Districts are not furnishing the relevant records relating to appeals or revisions filed by the accused. It is reported that even the printed copies of the Judgments given from the lower Courts free of cost are not forwarded to the Office of the Advocate General. There is also the complaint that in majority of the cases where appeal is to be filed against acquittal the depositions of witnesses are invariably not sent and that the records for filing the appeal are made available to the Office of the Advocate General only two or three days before limitation sets in or after limitation has set in. Due to the non-availability of the relevant records the proper time the Government Pleaders in the High Court are stated to be not in a position to prepare appeals and counters satisfactorily and to conduct the cases properly.

2 The attention of all the District Government Pleaders and Public Prosecutors, District Collectors and Superintendents of Police is invited to rule 69 of the Kerala Government Law Officers (Appointment and Conditions of Service) and Conduct of Cases Rules, 1978, and they are hereby directed to comply with the instructions in the aforesaid rules strictly. They are also instructed that relevant records for filing appeal should be sent at least 30 days before the expiry of the period of limitation so as to prepare the appeal in time. District Collectors, Superintendents of Police and the Public Prosecutors of the Districts should strictly follow the above instructions and take steps promptly in the matter in order to protect the interest of the Government.

K. VISWANATHAN NAIR,
Law Secretary,

GOVERNMENT OF KERALA

Law (Inspection Wing) Department

CIRCULAR

No 20335/133/83/Law

Dated, Trivandrum, 16th January, 1984

Sub - Chief Secretary's meeting with Advocate General and Secretaries to Government held on 24-9-1983 -Minutes follow up action---Reg

In criminal cases where there are scope for filing criminal appeals, the question of reducing delay in filing such appeals has been engaged the attention of Government as the High Court does not look favourably upon request for condonation of delay. With a view to reduce the delay in the matter it is decided that the Director of Public Prosecution shall also examine the scope for filing criminal appeals as soon as the judgment is pronounced. Hence all the

District Government Pleaders and Public Prosecutors are hereby directed to send a carbon copy of the judgment in criminal cases to the Director of Public Prosecution as soon as judgment is pronounced in such cases for examining simultaneously the scope of appeal in that office also

K NARAYANAN,
Deputy Secretary

GOVERNMENT OF KERALA
Law (Inspection Wing) Department

CIRCULAR

No 8060/133/84/Law

Dated, Trivandrum, 18th May, 1984

Sub - Conduct of cases by District Government Pleaders and Additional Government Pleaders—Instructions issued

The case work of a District Government Pleader is confined to a District Court Centre only. He can attend to the works in all the courts at that District Court Centre. He can also conduct cases in other District Court Centre, Additional District Court Centre or Sub Court Centre only if he is specifically authorised for the purpose by the Government. An Additional Government Pleader will be attached to the District Court Centre, Additional District Court Centre or Sub Court Centre to which he is specifically appointed. If a Government Pleader attached to one centre takes up the case work in another centre, the work in the former centre will suffer due to his absence. Hence all District Government Pleaders and Additional Government Pleaders are instructed that they shall not take up the case work in any centre other than the centre to which they are attached without specific orders of the Government in the Law Department. If any such work has already been taken up, it shall be continued only after obtaining clear instructions from the Law Department.

K SREEDHARAN,
Law Secretary

GOVERNMENT OF KERALA
Law (Inspection Wing) Department
CIRCULAR

No 7280/B33/83/1 aw

Dated, Trivandrum, 10th June, 1983

Sub Delay in getting copies of Judgement and Decrees from the Courts by the Government Pleaders--Allegation--Reg

Instances of laxity on the part of Government Law Officers in the discharge of their duties have come to the notice of Government. In a case in the District Court, Trichur, for want of timely action by the Government Pleader to obtain certified copy of the judgement, appeal could not be filed with the result that Government had to sustain financial loss.

2 Government views with serious concern such lapses on the part of Government Law Officers, who are expected to know the consequences of such inaction in matters relating to legal proceedings.

3 Attention of all Government Law Officers is invited to sub-rule (1) of rule 22 of the Kerala Government Law Officers (Appointment and Conditions of Service) and Conduct of Cases Rules, 1978, particularly clauses (xix) and (xx) thereof, as well as sub-rule (1) of rule 58, and sub-rule (2) of rule 69.

4 The Government Law Officers are hereby directed to comply with the instructions in the aforesaid rules strictly and to take steps promptly in order to protect the interests of Government. Any lapse on the part of Government Law Officers in this matter will be dealt with seriously.

G SRLEDHARAN NAIR,
Law Secretary

GOVERNMENT OF KERALA

Law (Inspection Wing) Department

CIRCULAR

No 14580/33/84/Law

Dated, Trivandrum, 11th September, 1984

Sub - Notice, plaints and other documents received by District Collectors, etc, from courts—Original to be forwarded to Law Officers—Instructions issued

It has come to the notice of Government that notices, plaints, affidavits, petitions, etc, received by District Collectors and Heads of Departments from courts are not seen forwarded in several cases to the Law Officers for taking necessary action. The original copy of the notice, etc, is retained with the Heads of Departments or Collectors and only copies taken in their offices are being sent to Law Officers. There has been complaints from the Law Officers that mistakes are often crept in such copies which ultimately operate against the interests of the Government in those cases.

2. All the Departments in the Secretariat, the District Collectors and the Heads of Departments are therefore directed that the originals of the notices, plaints, etc, received by them from courts shall necessarily be forwarded to the Government Law Officers for taking appropriate action and they shall keep only copies of the same as found necessary.

K. SRIJIDHARAN,
Law Secretary

GOVERNMENT OF KERALA

Law (Inspection Wing) Department

CIRCULAR

No 14456/33/84/Law

Dated, Trivandrum, 29th September, 1984

Sub Follow up action on the recommendation of the Annual Collectors' Conference held in October 1983 --Getting stay orders in Revenue Recovery Proceeding vacated -Instructions issued

In the Annual Collectors Conference held in October 1983, the District Collectors had pointed out that the Government Pleaders were not co-operating to the extent desirable in getting the Stay Orders on the Revenue

Recovery Proceedings vacated and consequently many cases of Revenue Recovery action are pending for the last 30 years. The District Collectors also wanted the Government Pleaders to be made accountable to them for their lapses in getting the Stay Orders vacated in time.

Government views with serious concern such lapses on the part of Government Law Officers in conducting Government cases. Attention of all Government Law Officers is invited to the special instructions contained in sub-rules (1) & (2) of Rule 86 of the Law Officers Rules, 1978 wherein it has been specifically laid down that the Law Officers should be alert in opposing petitions for stay or injunctions against the Government and they should press for direction from the court to furnish security where loss to Government revenue is apprehended.

All Government Law Officers are hereby directed to follow the Special instructions in the above rules strictly and to take timely actions to get the Stay Orders against Government on Revenue Recovery Proceedings vacated and they should be co-operative with District Collectors in such matters. Any failure to comply with the above instructions will be dealt with seriously.

K SREEDHARAN,
Law Secretary

GOVERNMENT OF KERALA

Law (Inspection Wing) Department

CIRCULAR

No 17951/B2/87/Law

Dated, Trivandrum, 28th November, 1987

*Sub - Arbitration Cases—Scope for appeal—Judgement and decree—
Forwarding of— Regarding*

It has come to the notice of the Government that in almost all Arbitration Cases, Government Law Officers are forwarding copies of Judgement and decree to the District Collector along with their opinion regarding scope of appeal, instead of forwarding them to the concerned Departmental Officers. It is not only an irregular practice but will also entail delay in taking up the matter to the High Court.

All Government Law Officers are therefore directed to report the result thereof to the Departmental Officer, with copies to the Government and Law Officer Public Works Department on the very same day on which the case is disposed of by the Court and to forward the certified copies of judgement and decree to the Departmental officer as required under rule 22 (1) (xix) and 65 (4) of the Kerala Government Law Officers (Appointment and Conditions of Service) and conduct of cases Rules, 1978. Any lapse on the part of Government Law Officers in the matter will be dealt with seriously.

J. GIRAID,
Deputy Secretary

GOVERNMENT OF KERALA
Law (Inspection Wing) Department

CIRCULAR

No 5142/134/90/Law

Dated, Thiruvananthapuram, 19th May, 1990

Sub --Arbitration Cases--Deposit of decretal amount--Order from the Court--Regarding

It has been brought to the notice of Government that Government Departments are experiencing much difficulties to dispose of arbitration cases, decreed even after the deposit of decretal amount in the Court, for want of an order from the court to the effect that the Court has recorded full satisfaction of the decree and judgement. Also, that the Government Pleaders are not taking much interest to get such an order passed by the court as a result of which much delay is caused to close the case finally.

2. In the circumstances, all Government Law Officers are directed to see that the court passes an order regarding full satisfaction of the decree as and when the entire decretal amount is deposited in court and on obtaining a copy of such order from court to forward the same to the concerned Departmental Officers of the Public Works Department as expeditiously as possible so as to enable them to close the cases in time. Any laxity in this regard shall be viewed seriously.

G. SASIDHARAN
Law Secretary

GOVERNMENT OF KERALA

CIRCULAR

No 534/33/91/Law

Dated, Thiruvananthapuram, 15th July, 1991

Sub —Petitions before Consumer Dispute Redressal Forum—Appearance on behalf of State—Directions issued

The question of representing the interest of State before the various Consumer Dispute Redressal Forums was taken up by various Heads of Departments and they requested Government that necessary direction may be given to the Government Pleaders to appear before such forums on behalf of the State

Government have examined the matter in detail and hereby direct all Government Pleaders to appear on behalf of the State before the Consumer Dispute Redressal Forums subject to the provisions contained in the Kerala Government Law Officers (Appointment and Conditions of Service) and Conduct of Cases Rules, 1978

G. SASIDHARAN,
Law Secretary

GOVERNMENT OF KERALA

Law (Inspection Wing) Department

CIRCULAR

No 18517/33/91/Law

Dated, Thiruvananthapuram, 27th November, 1991

Sub — Execution of Counter affidavit before High Court—Instructions issued
Ref Leter No SS 74/91 dated 14-11-1991 from the Advocate General, Kerala

The Hon'ble High Court of Kerala has commented adversely on the swearing of counter affidavits by low level functionaries. All Departments in the Secretariat are directed to ensure that only officers of and above the rank of Under Secretaries to Government swear to Counter affidavits on behalf of the Government

S. PADMAKUMAR,
Chief Secretary

GOVERNMENT OF KERALA

Law (Inspection Wing) Department.

CIRCULAR

No 20370/B3/91/Law

Dated, Thiruvananthapuram, 31st January, 1992

Sub —Judgments decrees and awards under which amount are payable by the State—Obtaining and forwarding carbon copies—Instruction issued—Regarding

Several Instances have come to the notice of the Government that the inordinate delay in getting the certified copies of the decrees/award/Judgement especially in LAR and MACT cases causes heavy loss to Government by way of interest for the satisfaction of the Court Orders

With a view to avoid such heavy loss to Government all Government Law Officers are directed to strictly comply with the directions under proviso (XX) of sub-rule (1) of rule 22 of the Kerala Government Law Officers (Appointment and Conditions of Service) and Conduct of Cases Rules, 1978 and to apply for and obtain carbon copies of judgements/decrees/awards without any loss of time and to forward the same to the concerned departments for early satisfaction of the Court Orders. The Government Law Officers are also directed to bring to the notice of the Presiding Officers of the delay if any, in obtaining certified copies of the judgements/award/decrees of the court

A M SIVADAS,
Law Secretary

GOVERNMENT OF KERALA

Law (Inspection Wing) Department

CIRCULAR

No 6355/B3/92/Law

Dated, Thiruvananthapuram 13th July, 1992

Sub —Government Law Officers—Office of the District Government Pleader and Public Prosecutor, Thrissur—Streamlining of Office Administration and Conduct of Cases—Regarding

Ref —D O Letter No SSI 49301/92/(1) dated 5-4-1992 from the District Collector, Thrissur

In the reference cited it has been proposed by the District Collector to evolve an effective monitoring system especially with regard to Land Acquisition

and Revenue Recovery Cases where the Government are bound to lose heavily due to mishandling, delay etc and requested Government to issue a positive note to all Law Officers regarding distribution of case files, change of hands, follow up action etc

(i) All Government Law Officers are directed to strictly follow the instruction given under Rule 80 of the Kerala Government Law Officers (Appointment and Conditions of Service) and Conduct of Cases Rules, 1978 in regard to the distribution of case work and any deviations from the said principles shall be made only in exceptional cases and according to rules. There are already specific instructions on all these matters. However all the Government Law Officers are once again instructed to comply with the following instructions strictly and any lapse on their part will be viewed seriously.

(ii) The movement of the case files should be recorded in the office properly with proper acknowledgement

(iii) The District Government Pleader should ensure that strict secrecy should be maintained in official records and that no outsiders should have access to the Government files

(iv) The Law Officers should apply for certified copy of judgement immediately on pronouncement of the judgement and obtain the same as expeditiously as possible and furnish copy of the same to the concerned departments with their legal opinion. The Law Officers should immediately bring to the notice of the District Collector all matters relating to execution petitions

(v) The scope of appeals should be explained with sufficient reasons in all cases so that timely administrative decisions on filing of appeals can be taken by the appropriate authority. Interim orders passed by the Court should be brought to the notice of the concerned authority without fail

A M SIVADAS,
Law Secretary

GOVERNMENT OF KERALA
Law (Inspection Wing) Department
CIRCULAR

No 17071/B33/92/Law

Dated, Thiruvananthapuram 22nd December, 1992

Sub --Delay in complying with Court Orders--Instructions Regarding

Instances have come to the notice of Government that delay in complying with court directions resulted in contempt petitions and in certain cases court

directions to the Chief Secretary and Secretaries to Government for personal appearance before the Court. As such instances badly reflect on the Government, the following instructions are issued to all Departments for strict compliance.

Directions of the Courts should be strictly complied with by the Heads of Departments and other officers concerned within the stipulated time. Unless such decisions are taken on appeal/review in appropriate proceedings before the appropriate forum and stay order obtained. In cases where extension of time is found essential for its implementation, urgent steps should be taken to move for such extension of time well before the expiry of the permissible time limit. No officer should delay the implementation of the court directions on any account. If there is any difficulty or doubt in its implementation the matter should be brought to the notice of the Heads of Departments or Secretaries to Government who will then be personally responsible to ensure that prompt action is taken to comply with court orders. Where there is any instance of delay in complying with court orders resulting in contempt petitions, the Secretary to Government concerned should personally enquire into the matter, fix responsibility for the delay and take disciplinary action against those responsible.

K. V. RABINDRAN NAIR,
Chief Secretary

GOVERNMENT OF KERALA

Law (Inspection Wing) Department

CIRCULAR

No 1486/B3/93/Law

Dated, Thiruvananthapuram, 16th March, 1993

Sub —Eviction of on Road Porambokes Road margins and footpaths—
Instructions issued

Government desires to remove all encroachment on the road porambokes, road margins, and foot paths urgently as it has become a menacing problem in view of the compelling demands for the expansion of roads to meet the heavy traffic and for the proper protection of the road system.

Hence all Government Law Officers are requested to render all necessary assistances and help to the Public Works Department officials who take such action on Public Interest.

A. M. SIVADAS,
Law Secretary

GOVERNMENT OF KERALA
Law (Inspection Wing) Department

CIRCULAR

No 7654/B3/93/Law *Dated, Thiruvananthapuram, 13th July, 1993*

Sub —Filing of appeals in the High Court—Instructions—Issued

Ref—Note No 29689/F1/93/Home dated 10-5-1993 from the Commissioner and Secretary, Home Department

It has come to the notice of the Government that, at present Public Prosecutors are just sending a copy of the Judgment in Sessions Cases to the Director General of Prosecutions with a request to file an appeal in the High Court, without forwarding the copies of depositions of witnesses and other connected records. This procedure is quite unsatisfactory and causes delay and inconveniences in the matter of filing appeals. Hence all Public Prosecutors are directed to send to the Director General of Prosecution as expeditiously as possible complete records of the case with certified copies of judgments and depositions of witnesses specifying the points in the judgement that would warrant the filing of appeals before the High Court.

A. M. SIVADAS,
Law Secretary

GOVERNMENT OF KERALA
Law (Inspection Wing) Department

CIRCULAR

No 9448/B3/93/Law *Dated, Thiruvananthapuram 29th July, 1993*

Sub —Delay in complying Court Orders—Contempt of Court Cases—Further Instructions—Regarding

Ref— Government Circular No. 17071/B3/92/Law dated 22-12-1992

It has been brought to the notice of Government that the number of contempt of Court Cases in the High Court alleging violation of Court Orders is increasing. Instances where extension of time is sought after filing of contempt of Court case have also been noticed.

The main reason for the increase in the number of such cases, is the delay on the part of the officers in taking action on court directions within the stipulated time.

Since such instances badly reflect on the Government, in the circular cited, instructions were given to observe strictly the time limit in taking action on Court directions. In continuation, the following instructions are also issued for strict compliance

1 Once the order of the court has become final, the officer concerned should implement it within the stipulated time

2 In cases where it is found not possible to do so due to any reason a responsible officer should go over to the Advocate General's Office to file affidavit and petition for extension of time at least a week before the time limit expires

3 In order to watch the implementation of the court direction in every section of the Office/Department a separate register should be maintained showing the following details —

- (a) Number of the OPs and gist of Court Order to be implemented
- (b) Date of receipt of the order
- (c) Date on which time limit expires
- (d) Date on which petition for extension of time filed
- (e) Date on which extension of time, if any granted, expires
- (f) Date on which the order of the court implemented
- (g) No and date of the appeal/review/revision if any filed, and gist of the order
- (h) Date of receipt of the final order of the Court
- (i) Date of expiry of the time limit in the final order
- (j) Whether moved for further extension of time, if so, date on which affidavit filed
- (k) Whether extension of time granted, if so date on which time limit expires
- (l) Date on which final orders of the court are implemented The Supervisory Officer designated by the Head of the office shall verify this register frequently, at least once in a fortnight, and shall satisfy himself that prompt action is taken with regard to the order of the court and any possibility of contempt of court proceedings is avoided

Failure to comply with the above instructions will be viewed seriously

K V RABINDRAN NAIR,
Chief Secretary

GOVERNMENT OF KERALA
Law (Inspection Wing) Department
CIRCULAR

No 14028/B33/93/Law *Dated, Thiruvananthapuram, 24th September, 1993*

Sub —Conference convened at the initiative of the Director General of Prosecution—Participation by District Public Prosecutors and Additional Public Prosecutors—Instructions—Issued

It has come to the notice of the Government that District Public Prosecutors and Additional Public Prosecutors have refused to attend the conference convened at the initiative of the Director General of Prosecution, High Court, Kerala, as they are not under the administrative or disciplinary control of the Director General of Prosecution as per rules

Though the rules do not give disciplinary or administrative powers to the Director General of Prosecution over the District Public Prosecutors and Additional Public Prosecutors, they are hereby directed to attend the Conference convened by the Director General of Prosecution as such Conference will be of invaluable professional help to them

A. M. SIVADAS,
Law Secretary

GOVERNMENT OF KERALA
Law (H) Department
CIRCULAR

No 5329/113/94/Law *Dated, Thiruvananthapuram, 7th April, 1994*

Sub —Distribution of cases under rule 80 of the Kerala Government Law Officers (Appointment and Conditions of Service) and Conduct of Cases Rules—Bail application—Distribution—Reg

It has come to the notice of the Government that at present bail applications are not being distributed among the Additional Government Pleaders and Additional Public Prosecutors in certain District Court Centres. So all District Government Pleaders and Public Prosecutors and Additional Government Pleaders and Additional Public Prosecutors in charge of the Additional District Court Centres and Sub Court Centres are directed to distribute bail application among Additional Government Pleaders and Additional Public Prosecutors in the

respective court centres, as far as possible as the term case works under Rule 80 of the Kerala Government Law Officers (Appointment and Conditions of Service) and Conduct of Cases Rules includes bail application also

K. BALAKRISHNA PILLAI,
Deputy Secretary

GOVERNMENT OF KERALA

Law (Inspections Wing) Department

CIRCULAR

No 13987/B3/94/Law *Dated, Thiruvananthapuram, 30th November, 1994*

Sub -- Filing of appeal in LAR cases before High Court -- Certified copy of Judgement and Decree -- Forwarding to Advocate General's Office in time -- Instruction -- issued

Ref -- Letter No 224/87/LAR dated 4-8-1994 from the Advocate General, Kerala, Ernakulam

The Advocate General, Kerala in the reference cited has informed Government that an appeal was filed in the High Court against the decree in LAR 224/87 of Sub Court, Thiruvananthapuram along with a copy of the judgment. The copy of the decree was filed subsequently. When the appeal was taken up, the court was of the view that the appeal is barred by limitation when the time is calculated on the basis of the dates noted in the certified copy of the judgment. Under order 41 Rule I of the CPC, the certified copy of the decree is mandatorily required to be produced, though time can be granted by the court for producing the copy of the judgment. As a result the court held that there is delay in presenting the appeal and an application had to be filed to get the delay condoned.

With a view to avoid such contingencies in future, all Government Pleaders are directed to see that whenever the Advocate General is addressed for filing appeal in the High Court, certified copies of the decree and judgment shall be forwarded to him in time in all cases without fail. They are also directed to take prompt action to obtain copies of judgment and decree as soon as the order is passed by the court. Any laches in this regard will be viewed seriously.

A. M. SIVADAS,
Law Secretary

GOVERNMENT OF KERALA
Law (Inspections Wing) Department

CIRCULAR

No 18897/133/94/Law *Dated, Thiruvananthapuram, 16th January, 1995*

Sub - OP(MV) Cases - Instructions - Reg

Read - 1 Ins 1 st A3/42000/94 dated 16-8-1994 of the Director of Insurance

2 Circular No 5146/33/93/Law dated 26-7-1993

The Director of Insurance has brought to the notice of the Government that Government Pleaders are not paying attention to safeguard the interest of the Government/Departments before MACIs, WC Courts etc inspite of repeated requests through District Collectors. As a result instances are very common that court passed awards ex-parte which causes heavy loss to Government. It is also very common that the concerned departments come to know about the award only on receipt of notice from the execution court.

All Government Pleaders are therefore directed to be vigilant in conducting cases effectively before the MACT, WC Courts etc and take steps to obtain the copy of the award and forward the same to the officers concerned with his legal opinion sufficiently early before the appeal period.

K BALAKRISHNA PILLAI,
Deputy Secretary

GOVERNMENT OF KERALA
Law (Inspection Wing) Department

CIRCULAR

No 3529/133/95/Law *Dated, Thiruvananthapuram, 19th April 1995*

*Sub - Filing of Land Acquisition appeals before the High Court -
Instructions issued*

Ref - Letter No D2-145/94/REVN dated 8-2-1995 from the Advocate General, Kerala, Emakulam

The Advocate General, Kerala vide his letter cited has informed Government that the High Court of Kerala in LAA 904, 953 and 971 of 1994, has specifically stated that the jurisdiction to hear a LA appeal in the High Court under the LA Act could be determined on the basis of the amount claimed in the first

instance by the claimant in the Sub Court and not on the basis of the amount of enhancement claimed in the appeal filed before the High Court

In view of the above order it has become necessary that for filing appeal against the judgement of the Sub Court, copy of Land acquisition reference filed before the Sub Court also has to be referred to. Usually these documents are not sent forwarded to the Advocate General for examining the scope of appeal in Land Acquisition

Hence all District Collectors, while making request to the Advocate General to prefer appeal in LA cases, should ensure that the same is supported by all the essential documents like petition for reference, Reference letter, Award Valuation Statement, Objection Statement filed by the State and Party before the Sub Court and Land Acquisition Officer along with the certified copies of decree and judgement and appeal proposal

All Government Pleaders are also requested to make available to the District Collectors, the above mentioned records sufficiently within the appeal periods. Any laxity in the matter will be viewed seriously by the Government

C KHAIID,
Law Secretary

GOVERNMENT OF KERALA
Law (Inspection Wing) Department

CIRCULAR

No 5161/133/95/Law

Dated, Thiruvananthapuram, 24th April, 1995

Sub - Government Law Officer-- Kerala Law Times --Keeping of--
Instructions--Issued

Kerala Law Times is being supplied directly to Government Law Officers, from January, 1995 onwards. All Government Law Officers are requested to follow strictly the following instructions regarding the up keep of the Part/Volumes of Kerala Law Times

1 If any issue of the Kerala Law Times is not received in time the concerned Government Law Officer shall take up the matter directly to Manager, Kerala Law Times, Ernakulam under intimation to this Department. If the missing part is not supplied in spite of such request, the matter may be intimated to this Department

2 A register showing the volume, number, date of publications and date of receipt of each part of Kerala Law Times received should be maintained regularly and the same may be produced at the time of inspection of the office by this Department

3 When all parts of a volume are received it shall be bound and kept under the safe custody of the Government Law Officer

4 The bound volume must be numbered and registered in the Library Register

5 A Government Law Officer handing over charge to another should make sure that the bound volumes of Kerala Law Times under his custody and handed over to the new Government Law Officer after obtaining proper acknowledgement

6 The list of bound volumes of Kerala Law Times handed over to the successor Government Law Officer should be sent to this Department immediately

C KHALID,
Law Secretary

GOVERNMENT OF KERALA
Law (Inspection Wing) Department

CIRCULAR

No 5980/133/95/Law

Dated, Thiruvananthapuram, 24th April, 1995

Sub - Govt Law Officers—Conduct of Cases furnishing of yearly Statement—Reg

There are all round complaints about the Conduct of Cases by Government Law Officers. Even the Government Law Officers in High Court and Standing Counsels in the Supreme Court are no exception. One of the drawbacks of the present system is that there is no assessment of performance of Government Law Officers. There is also no systematic approach to verify how many cases have been attended by a particular Government Law Officer, in how many cases ex-parte decisions were rendered due to the laches on the part of the concerned Government Law Officer, in how many cases there have been decisions adverse to Government and the reasons thereof.

In order to get at least a statistics it is proposed to collect data on this matter in a perform a attached to this circular. All Government Law Officers including those at High Court are requested to fill up the perform a and forward to the Law Department before 15th January, every year.

C KHALID,
Law secretary

PRO FORMA

Statement showing details of cases attended to by Sri/Smt
Government Law Officer, during the Year

Total No of cases entrusted with the Govt Law Officer during the year under review	No of cases in which decisions were favourable to Govt	No of cases in which decisions were adverse to Govt	No of cases in which adverse decisions cause financial liability to State	No of exparte decisions rendered with case Nos & reasons for exparte decision (If needed, add separate sheet)	No of long pending cases	No of cases transferred/ remanded	No of cases in which there is delay in communicating court order to concerned /with reasons	Remarks
1	2	3	4	5	6	7	8	9
Place Date							Signature of the Government Law Officer	

GOVERNMENT OF KERALA

Law (Inspection Wing) Department

CIRCULAR

No 8014/B3/95/Law

Dated, Thiruvananthapuram, 15th September, 1995

Sub - OP(MV) Cases-- Awards passed by the MACI--Delay in satisfying the awards --Furnishing of copy of the awards to the concerned Administrative Department --Instructions issued

It has come to the notice of the Government that in most of the MACT cases wherein awards are passed against Government Government is liable to pay heavy rate of interest due to the delay in satisfying the awards passed by the courts. In most cases delay is occurred due to non-receipt of the decrees by the concerned Administrative Department in time

2 In order to avoid payment of heavy interest and delay in the satisfaction of the decree/award, all the Government Law Officers attached to the MACI's are directed to obtain the copies of the decree/award from the court without any loss of time and to forward the same to the concerned Administrative Departments with copy to the Commissioner and Secretary, Public Works and Transport Department. The practice is that in the case of decrees and awards passed against Government the Public Works Department is taking action to satisfy the awards on receipt of formal proposals from the concerned Administrative Departments

C KHALID,
Law Secretary

GOVERNMENT OF KERALA

Law (Inspection Wing) Department

CIRCULAR

No 10473/33/95/Law *Dated, Thiruvananthapuram, 6th November, 1995*

Sub — Filing of appeals within limitation time and competency of the officer filing affidavit before the court

Ref — Letter No C1-54/93/LAA dated 5-7-1995 from Advocate General, Kerala, Ernakulam

The Hon'ble High Court of Kerala, while disposing of the LAA 54/93 filed by the state against the decision in LAR 328/87 of the Sub Court, Thiruvananthapuram has observed that a responsible officer has to file affidavit in support of the application to condone delay and that officer who can take up the responsibility of the averments in the affidavit to be filed in support of the application and who has got the correct information how the delay was occasioned, should file the affidavit. The court has severely criticised the Government for deputing an U D Clerk of the Collectorate, Thiruvananthapuram for filing affidavit in support of the application for the condonation of delay. The court has also observed that large number of appeals are filed before the court with application to condone the delay in filing appeals and also criticised this unhealthy practice and reminded that Government should consider that the statute of limitation is in all force applicable to Government also. In the light of the observation made by the Hon'ble High Court, the following instructions are issued for the strict compliance by the Government Officials and Government Law Officers

1 The Government Law Officers conducting Government cases should timely report the result of the case to the concerned Department and the concerned District Collector with their legal opinion. If appeal has to be filed they should also mention the last date for filing the appeal along with their legal opinion.

2 The District Collector concerned should take immediate follow up action to file appeals on receipt of the report from the Law Officers.

3 The Heads of Departments should also request the District Collectors concerned to file appeals in cases where States interest are affected soon on intimation of the results of the cases from any source and furnish the required details to the District Collector as well as the Government Law Officer in charge of the case forthwith. The Government Officers/District Collectors and the Heads of Departments concerned will see that the delay in getting copies of the Decrees/Judgements etc, by them shall not be a reason for the delay in filing appeal.

4 When the delay in filing appeal is due to unavoidable reasons a responsible officer well conversant with the facts of the case, who can take responsibility of the averments the affidavit to be filed in support of the application shall be authorised to file the affidavit and in no case lower level officers shall be entrusted with the responsibility of filing the affidavit

5 The laxity in filing appeals in time should be viewed seriously and action taken against the delinquents for any lapses found on their part

C KHALID,
Law Secretary

GOVERNMENT OF KERALA

Law (Inspection Wing)-Department

CIRCULAR

No 9403/B3/96/Law *Dated, Thiruvananthapuram, 18th November, 1996*

Sub—SLP (C) No 15749/90 filed by the State of Kerala—Dismissed due to delay—Instructions issued

It has come to the notice of Government that Government Law Officers are not taking timely action to file appeal or revision against impugned court orders affecting State's interest and in taking remedial measures to safeguard the interest of the State. In several cases, the State was held liable to pay huge damages and compensation to the parties due to the clear negligence, on the part of the Law Officers

Recently the Supreme Court while dismissing the SLP (C) 15749/90 observed that there was a delay of 1593 days for filing SLP due to the lack of care on the part of the Standing Counsel

In the above circumstances, all the Law Officers including Standing Counsel in the Supreme Court are informed that any loss caused to the State due to the lapses on the part of the Law Officer will be viewed seriously and the loss will be recovered from such erring Law Officers, as provided under rule 18 of the Kerala Government Law Officers (Appointment and Conditions of Service) and Conduct of Cases Rules, 1978.

C KHALID,
Law Secretary

GOVERNMENT OF KERALA

Law (Inspection Wing) Department

CIRCULAR

No 9172/133/93/Law

Dated, Thiruvananthapuram, 9th January, 1997

Sub — Conduct of Government cases—Cases decreed against Government—Instructions issued.

In a recent review concluded by Government about the cases which were decreed against the State, it is seen that large number of cases are decreed against the State due to the failure of non-filing of objections/counter affidavits before the Court in time. Another reason which is evident from the study is the lack of interest shown by the concerned Department officials in the conduct of the cases. Government Law Officers are, therefore, to ensure that objections and counter statements are filed before the Court in time to protect the interest of the State. They may also point out to the Heads of Department/Government about the lapses noticed on the part of Government officials in making available the materials required for the proper conduct of the cases. If cases are disposed against State due to non-filing of objections before the Court, the Law Officer in charge of the case should send a separate report to the Heads of Department/Government pinpointing the officers who are responsible for the lapses, immediately after the pronouncement of the judgement and for this purpose the Law Officers need not wait for the receipt of judgement copies. Undue delay in reporting the lapses in time will only help the delinquent officers from escaping from disciplinary actions. The Law Officers and the Head of Departments shall strictly follow the instructions and take appropriate timely action in this regard.

C KHALID,
Law Secretary

GOVERNMENT OF KERALA

Law (Inspection Wing) Department

CIRCULAR

No 10252/133/96/Law

Dated, Thiruvananthapuram, 6th February, 1997

Sub—Atrocities against the Scheduled Castes and the Scheduled Tribes—
Improper conduct of cases—Instructions issued.

Government have specified the Principal District Courts in the State to be Special Courts to try the offences under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Central Act 33 of 1989) vide Notification issued as S R O No 104/90 dated 29-1-1990 in the Extraordinary Gazette No 95 dated 30th January, 1990 Government have also specified the District Govt Pleaders in the state to be Special Public Prosecutors for the conduct of cases under the said Act in the said Courts vide Notification issued as S R O. No 105/90 dated 29-1-1990 in the Extraordinary Gazette No 95 dated 30th January, 1990 But there have been complaints that cases under the said Act are usually conducted by juniors to District Government Pleaders and consequently such cases are lost by Government some such instances have come to the notice of Government.

In view of the above circumstances, all Dist. Government Pleaders are strictly instructed that they themselves shall conduct cases of atrocities against the Scheduled Castes and Scheduled Tribes Non-compliance of this instruction will be viewed seriously and action will be taken against those responsible for such non-compliance.

C KHALID,
Law Secretary

GOVERNMENT OF KERALA

Law (H) Department

CIRCULAR

No 8457/H3/97/Law

Dated, Thiruvananthapuram, 26th June, 1997

Sub — Streamlining of the procedure for the conduct of State Government's Cases before the Supreme Court—New setup in the office of the Resident Commissioner, New Delhi—Instructions—Regarding

Ref—1 G. O (Ms) 6/96/GAD dated 6-1-1996

2. G. O (Rt) 1221/96/Law dated 20-12-1996

As per the G Os cited, Government have established a new set up in the office of the Resident Commissioner at New Delhi to handle the State Government's cases coming up before the Supreme Court. Shri P Bhanuvikraman, Under Secretary to Government, Law Department has been posted in the new set up at New Delhi and he will work under the control of the State Law Secretary. It was also ordered that all cases of the State Government will be handled only through the new setup under intimation to the Advocate General and after obtaining the Advocate General's advice whenever required. The Law Wing in the office of the Resident Commissioner, New Delhi came into being on 25-4-1997. The following instructions are therefore issued to handle effectively all Government cases and for the smooth and efficient functioning of the Law Wing in the office of the Resident Commissioner, New Delhi:

All the Government Secretaries, Heads of Departments shall.—

- (i) furnish immediately a list of pending cases before the Honourable Supreme Court in respect of each Department where the State Government is a party to the Law Officer, Law Wing, Office of the Resident Commissioner, Kerala House, 3, Jantar Mantar Road, New Delhi-110 001
- (ii) forward affidavits/counter affidavits/statement of facts or any another details concerning the Government cases, which are duly authenticated by the officers concerned within the time frame as directed by the Supreme Court to the Law Wing at New Delhi, so as to transmit them to the respective Standing Counsel and to watch the progress of the case.
- (iii) contact the Law Wing at New Delhi on all matters relating to the conduct of State Government's cases coming up before the Honourable Supreme Court

C KHALID,
Law Secretary

GOVERNMENT OF KERALA
Law (Inspection wing) Department

CIRCULAR

No 11367-A/B3/99/Law

Dated, Thiruvananthapuram, 9th July, 1999 .

Sub — Delay in complying court Directions in time—contempt of court cases—Further instructions—Regarding

It has come to the notice of Government that delay in complying with court directions resulted in contempt petitions and in certain cases court directs to the Chief Secretary and Secretaries to Government for personal appearance before the Court Since such instances bedly reflect on the Government, the following instructions are issued to all Departments for strict compliance

Whenever courts fix time for carrying out or complying with any direction, the officers concerned should take all steps to ensure that the orders/directions are complied with within the time granted. If for any reason it is not possible to comply with the direction within the time granted, it would be known to the officer concerned fairly in advance Under such circumstances competent officials should be deputed to the office of the Advocate General at least a week before the time granted expires, with details and cogent reasons necessitating extension of time It should be noted that grant of extension of time is not a matter of course and unless the court is satisfied about the reasons for non-compliance within the time originally granted the applications for extension of time run the risk of being dismissed, leading to complications and embarrassment for the Government

In order to watch the implementation of the court direction in every section of the Office/Department a separate Register should be maintained showing the following details —

- (a) Number of the OP and gist of Court order to be implemented in that OP
- (b) Date of receipt of the order.
- (c) Date on which time limit expires.
- (d) Date on which petition for extension of time filed.
- (e) Date on which extension of time, if any granted, expires
- (f) Date on which the order of the Court implemented

The supervisory Officer designated by the Heads of Office shall verify this register regularly at least once in a fortnight and shall satisfy himself that prompt action is taken with regard to the order of the court and any possibility of contempt of Court proceedings is avoided.

Failure to comply with the above instructions will be viewed seriously and the concerned Officer would be liable to face contempt proceedings and other consequence.

M. MOHAN KUMAR,
Chief Secretary

GOVERNMENT OF KERALA

Law (Inspection wing) Department

CIRCULAR

No 14248/B3/99/Law.

Dated, Thiruvananthapuram, 30th August, 1999

Sub:— Conduct of Supreme Court cases—Standing counsels leaving the Headquarters—Instructions—Regarding

It has been brought to the notice of the Government that the Standing Counsels while leaving the headquarters are not making alternate arrangements to represent the State Cases before the Supreme Court.

In the Circumstances the Standing Counsels are hereby directed that they should not leave the headquarters without prior intimation to the Law Officer, New Delhi and without making alternate arrangements for the conduct of State Cases

M. A NISSAR,
Law Secretary

GOVERNMENT OF KERALA

Law (B) Department

CIRCULAR

No 14344/B3/99/Law

Dated, Thiruvananthapuram, 31st August, 1999

Sub — Government—Law Officers—Conduct of Cases—Obtaining carbon copy of Order or Judgment of the Courts—Regarding.

Several instances have come to the notice of the Government that inordinate delay in getting the certified copies of the Decree/Award/Judgment causes great inconvenience and heavy loss to Government. With a view to avoid such delay all the Government Law Officers are hereby directed to follow the following instruction strictly

(1) The Government Law Officer concerned should apply for carbon copies of the Order/Award/Judgment of the Court (Whether Government succeed or fails) on the same day of the Order/Award/Judgment so as to take further steps after perusal of such order or Judgment

(2) The Office of the Government Pleader will verify from the 'A' Diary of the concerned court the next posting date of the case or of the nature of disposal of the case and to bring this to the notice of the concerned Government Pleader for consequent action. This is to be done by the Liason Officers

(3) Government Law Officers are directed to file restoration application urgently in case of the Government cases dismissed for default, or file expidiently application for setting aside ex parte order or decree in case the suit has already been decreed ex parte against the Government. In such cases an application is to be filed for restoration on the next working day itself stating the reasons for non-appearance.

(4) Government Law Officers are not generally sending statements in Form No III&IV as prescribed in Kerala Government Law Officers (Appointment and Conditions of Service) and Conduct of Cases Rules 1978 to the District Collectors with necessary Certificate of Court in Criminal cases, Henceforth this should invariably been done.

(4) Hereafter, the inspecting staff of this Department as well as the legal cell of the District Collector will check and report whether the above directions are complied by Government Law Officers.

M. A. NISSAR,
Law Secretary

GOVERNMENT OF KERALA

Law (Inspection wing) Department

CIRCULAR

No 14718/B3/99/Law

Dated, Thiruvananthapuram, 18th October, 1999

*Sub:—*Filing of affidavits along with SLP—Condonation of delay
petition—Contempt of Court proceedings—Regarding

It has come to the notice of the Government that in many number of cases, the Supreme Court made several strictures/passed adverse orders/took contempt proceedings against the officers/Secretaries/Government Pleaders who failed to file appeal/SLP in time before the Supreme Court. In many cases the Court awarded exemplary cost. In the light of this, the following instructions are issued for the strict compliance by the Government Officials and Government Law Officers

1 When a decision is taken to file appeal/SLP in the Supreme Court, there must be proper explanation as to the question of law involved which must be briefly stated in the supporting affidavit. If there is any delay in filing appeal, there must be proper explanation in the affidavit in support of the petition to condone delay as to why the delay was caused to take a decision to file appeal.

2 All the Officers/Secretaries/Heads of Department/Government Pleaders concerned should take timely action and thereto avoid contempt proceedings in the Supreme Court.

(Sd)

Chief Secretary

GOVERNMENT OF KERALA
Law (Inspection wing) Department
CIRCULAR

No 17738/B3/99/Law.

Dated, Thiruvananthapuram, 24th January, 2000

Sub — Chief Secretary's meeting with Secretaries—Minutes—Follow up action—Reg.

In the meeting of the Chief Secretary with Secretaries held on 15-11-1999 it was noticed that sometimes Heads of Departments/Offices do not consult Law Department before filing appeals in Supreme Court. It was also pointed out that there is inordinate delay in obtaining copies of judgment/orders from the High Court by the Government Law Officer and thereby causes delay in taking decision as to the scope for appeal in consultation with Law Department.

Based on the decision taken in the meeting the following instructions are issued for strict compliance

1 All Heads of Departments/Administrative Departments should invariably consult Law Department before filing SLPS/Appeals in Supreme Court. However in exceptional cases which require immediate action may be dealt with according to the emergency of those cases

2 The Administrative Departments, when decided to file appeals/SLPS in the Supreme Court, should issue orders for the same in each case and a copy of such orders issued should simultaneously be communicated to Law Department Wing, Kerala House, New Delhi for follow up action

3 The Government Law Officer in the High Court should take prompt action in obtaining certified copies of Judgment/Orders of High Court. They should apply for the same without any delay and at the meantime they should also obtain a photocopy of the Judgment/orders and forward the same to the Departments concerned with their remarks to enable the Departments to take decision regarding the scope for appeals if any. If this is done the Administration Department will get sufficient time to examine the scope for appeal in consultation with Law Department. The Government Law Officers are directed to follow the above instruction without fail

M A NISSAR,
Law Secretary

GOVERNMENT OF KERALA

Law (B) Department

CIRCULAR

No. 12518/B3/99/Law.

Dated, Thiruvananthapuram, 24th January, 2000

Sub—Filing of affidavit in the Supreme Court on behalf of State of Kerala and its officers—Authorization of Law Officer, Kerala House, New Delhi—Instruction issued—Regarding.

Ref— Letter No S/MISC 2/99 dated 15-7-1999 from Advocate General, Kerala.

The Advocate General of Kerala as per his letter under reference has brought to the notice of Government that the Supreme Court Registry has changed its procedure regarding acceptance of special leave petitions and other documents in Supreme Court which involve filing of affidavits by a competent officer of the State Government along with such petition filed in the Supreme Court by state and its officers. Government noticed that if the officers of various departments under Government is deputed for this purpose it may cause delay for filing the affidavits in time and a huge amount towards travel expenses would involve for this purpose.

In view of the above to avoid delay in filing such affidavits and also to save huge amount of money involved for the journey to be performed by such officers, in future the Law Officer attached to the office of the Resident Commissioner, Kerala House, New Delhi is authorized to file such affidavits on behalf of the State and its Officers.

M. MOHAN KUMAR,

Chief Secretary

GOVERNMENT OF KERALA
Law (Inspection Wing) Department
CIRCULAR

No 1269/B3/2000/Law

Dated, Thiruvananthapuram, 2nd March, 2000

Sub —Defence of Suits against State represented by Chief Secretary—
Regarding

It has come to the notice of the Government that a good number of Suits in which Chief Secretary is one of the defendants, are being filed in courts at Thiruvananthapuram centre taking advantage of the provisions to institute it at the place where defendant is available. In such cases, the usual practice in the Secretariat is to forward the Original Summons/Plaint/Petition etc to the concerned district office, instructing them to give statement of facts to the concerned Government Pleader. But by the time it routs through the channel and reaches to the Government Pleader, the case would come to a close.

In the circumstances all Departments in the Secretariat are directed that the Original Summons, Plaints, Petitions etc received by them in suits filed in courts at Thiruvananthapuram in which Chief Secretary is one of the defendants shall directly forward it to the Government Pleader, Thiruvananthapuram and copies of the same with instructions need only be forwarded to the district office of the concerned Department.

M A NISSAR,
Law Secretary

GOVERNMENT OF KERALA
Law (Inspection Wing) Department
CIRCULAR

No 4344/B3/2000/Law

Dated, Thiruvananthapuram, 3rd April, 2000

Sub —Streamlining of the Procedure for the conduct of State cases before the Hon'ble Supreme Court—Set up in the office of the Resident Commissioner, New Delhi— Instructions issued—Regarding

The Joint Secretary/Law Officer, Office of the Resident Commissioner, Kerala House, New Delhi in his letter No 190/RC Law/99 dated 31-1-2000 has pointed out the difficulty for the Law Wing at New Delhi as well as the Standing

Counsels in the Supreme Court to trace out the referred matters from those related Government Secretaries, Head of Departments etc when the cause title of Civil Appeals, SLP numbers is partially furnished

In this circumstance the following details should invariably be furnished in all the referred cases in future:

- (i) Cause title of the case in the Supreme Court
- (ii) Number of the SLP/CA/TP, etc. or date of judgment of the High Court along with number of the case in High Court and cause title of the case

M. A. NISSAR,
Law Secretary

GOVERNMENT OF KERALA
Law (Inspection Wing) Department

CIRCULAR

No 5366/B3/2000/Law

Dated, Thiruvananthapuram, 17th May, 2000

Sub—Attachment of Government properties in executions of decrees due to delay in settlement of claim in LAR cases— Instructions issued— Regarding

The Revenue Authorities and the Government Law Officers of District and Sub Court centres are expected to handle the land acquisition cases timely and with most care to avoid attachment of Government properties etc But it is noticed by Government that inspite of repeated instructions in the matter there are instances in which Government is facing embarassing situation consequent on the attachment orders of court in settlement of LAR cases Recently one instance was brought to the notice of the Government where the Sub Court, Kottarakkara has ordered to attach Rs 60964/43p from the safe custody of the Sub Treasury, Kottarakkara to settle a claim allowed in one LAR case Several other instances are also noticed by Government in which the courts have ordered attachment of Government properties Only the timely action on the part of Revenue Authorities and Law Officers alone can avoid such situation

All Government Law Officers and District Collectors are, therefore directed to be more vigilant in settling the claims which are ripe for payment Any laxity in this regard will be viewed seriously

M A NISSAR,
Law Secretary

GOVERNMENT OF KERALA

Law (H) Department

CIRCULAR

No 8779/H3/2000/Law.

Dated, Thiruvananthapuram, 24th October, 2000.

Sub.—Delay in filing Appeal before the High Court—Implementation of suggestions made in the Joint Conference of District Collectors and Government Law Officers held on 14-6-2000—Instructions issued

In the Joint Conference of the Government Law Officers and District Collectors held on 14-6-2000 in the presence of Chief Secretary, Advocate General, Law Secretary, Revenue Secretary and Commissioner for Land Revenue, certain important recommendations were made to ensure the filing of appeal by State and its Officers in the High Court and Subordinate Courts without delay. Based on the recommendations, the following instructions are issued to the Departmental Liaison Officers. All the Departmental Liaison Officers should follow the instructions strictly to ensure the conducting of Government Cases properly.

The working of Departmental Liaison Officers have to be intensified making it obligatory on their part to furnish instructions to their respective departments and Government regarding the filing of cases, i.e., original petitions, writ appeals, civil and criminal appeals and other proceedings in the High Court concerning their departments or in which such departments are interested and also obtain necessary instructions in the case from the departments including the Government and furnish them to the Government Pleader who deals with the case. They should keep a complete list of cases and proceedings relating to their department and be in constant touch with the Government Pleader. When the Government Pleader calls for instructions from the Government or Departmental Officials or requires him to get such instructions, he should immediately contact the concerned authorities and ensure that the necessary details are furnished in time. He should keep a record of the postings of the cases and the necessary steps to be taken at each stage thereof and ensure that no delay occurs at any stage on the part of any authority. Directions issued by the High Court must be brought to the notice of the authorities and the Government as the case may be, and any delay or omission to implement the same on their part must be brought to the notice of the Advocate General, the concerned Government Pleader, the departmental hierarchy concerned and the Government. They should also furnish all the details stated above to the Regional Revenue Liaison Officers in case such proceedings involve matters which were subject matter of civil or criminal

cases or proceedings or in which the District Administration has its involvement or is interested in. They should ensure that certified copies are received without any waste of time. Any laxity on the part of the Officers in this regard must be brought to the notice of the Advocate General and the concerned Government Pleader. Likewise, they should remind the Government Pleaders of any oversight on their part in giving opinion as to the scope of appeal and should intimate the authority concerned to depute competent Officers in time with necessary materials and documents for swearing to affidavits that are to accompany the memoranda of appeals. Immediately on getting certified copy of the Judgement and the legal opinion regarding the scope for appeal he should take necessary follow up actions and ensure that they have been transmitted to the appropriate authority.

V RAMKUMAR,
Law Secretary

GOVERNMENT OF KERALA

Law (Inspection Wing) Department

CIRCULAR

No 18153/B3/2000/Law *Dated, Thiruvananthapuram, 8th December, 2000*

Sub.—Chief Secretary's meeting with Advocate General and Secretaries to Government and Heads of Department held on 5-12-2000—Follow up actions—Reg

Government have issued several circulars for dealing with matters relating to Court cases effectively. In spite of those directions, it has been brought to the notice of the Government that there is delay in filing statement of facts and counter affidavits and also in making available necessary documents for the conduct of State Cases, effectively.

2. In order to watch the progress of the cases instructions have already been issued for the maintenance of Suit Register by all the Secretariat Department/Heads of Departments/other Officers. Had this Register been maintained and the progress of the cases watched, the serious lapses in the conduct of Government cases would not have occurred.

3 All the sections of Secretariat dealing with court cases are, therefore directed to maintain the Suit Register, as prescribed in the Kerala Secretariat Office Manual without fail. The Section Officer and the immediate senior officer in the section will be responsible for the maintenance of the Register. If any lapse in the maintenance of the Register is noticed, the said officers shall be held responsible and disciplinary action shall be initiated against them. Periodical inspection of the Register shall be conducted by senior level officers. This should also be discussed at the monthly meetings held by the Secretary to Government.

4 Secretaries to Government will issue necessary instructions to all Heads of Departments and Offices under their administrative control for the maintenance of suit registers for the purpose of watching the progress of Government case in those Departments/Offices. They may entrust some middle level officer with the responsibility of watching the prompt maintenance of this register and fix responsibility on the person concerned if any lapse is noticed in this regard.

5 All the Secretaries to Government/Heads of Departments/Officers are hereby directed to comply with the above instructions scrupulously. Any failure in this regard will result in stringent disciplinary action being taken against the concerned officers.

M. MOHANKUMAR,
Chief Secretary

GOVERNMENT OF KERALA

Law (Inspection Wing) Department

CIRCULAR

No 18696/B4/2000/Law Dated, Thiruvananthapuram, 31st January, 2001

Sub — District Government Pleaders and Additional Government Pleaders—
Payment of monthly remuneration—Instructions issued

As per G O (P) No 521/2000/Law dated 3rd October, 2000 issued under S R O No 907/2000 published in Kerala Gazette Extraordinary No 1781 dated the 3rd October, 2000, Government have introduced consolidated monthly remuneration to the District Government Pleaders and Additional Government Pleaders instead of the fees being paid for each case.

In order to implement the new system the following instructions are issued

- (i) The District Collector shall be the drawing and disbursing officer of the monthly remuneration of the District Government Pleaders and Additional Government Pleaders of the District concerned. The expenses towards this shall be met from the Head of Account in which the fund is now provided for fees viz., 2014-00-114-LA&C-98-33. As in the case of the fees the fund for this purpose shall be provided by the Advocate General on request from the Collector concerned.
- (ii) All District Government Pleaders and Public Prosecutors and all Additional Government Pleaders and Additional Public Prosecutors shall prepare and submit a detailed statement in the pro forma appended showing the details of cases they have conducted along with a request for monthly remuneration on or before 5th of the succeeding month to the District Collector concerned.
- (iii) The District Collector shall process such claims and record the admissibility of the claim. In case of claim for part of a month proportionate amount may be paid.
- (iv) On being convinced about the eligibility of the claim the District Collector may draw and disburse such amount admissible to the District Government Pleaders and Additional Government Pleaders concerned through Contingent Bills by incurring amount from the Head of Account "2014-00-114-LA&C-98-33"— under proper acquittance.
- (v) The required financial allotment may be obtained by the District Collectors from the Advocate General during every financial year sufficiently early.

V RAMKUMAR,
Law Secretary

കേരള സർക്കാർ

നിയമ (ബി) വകുപ്പ്

സർക്കുലർ

നമ്പർ 14570/ബി3/03/നിയമം

തീരുവനത്തപുരം, 2003 ഒക്ടോബർ 22

വിഷയം — പാട്ടനിരക്ക് സംബന്ധിച്ച് കേസ്സുകൾ പരമാവധി വേഗത്തിൽ തീർപ്പാക്കുന്നതിന് ആവശ്യമായ നടപടികൾ കൈക്കൊള്ളുന്നത് സംബന്ധിച്ച്

എസ്റ്റിമേറ്റ് കമ്മിറ്റി (1998-2001)-യുടെ 31-ാമത് റിപ്പോർട്ടിലെ 25-ാം ഖണ്ഡികയിൽ പാട്ടനിരക്ക് സംബന്ധിച്ച് കേസ്സുകളിൽ തീരുമാനമെടുക്കുന്നതിലുണ്ടാകുന്ന കാലതാമസംമൂലം സർക്കാരിന്റെ റവന്യൂ വരുമാനത്തിൽ വൻനഷ്ടമാണ് നേരിടുന്നതെന്നും ആയതിനാൽ പാട്ടനിരക്ക് സംബന്ധിച്ച് കേസ്സുകൾ പരമാവധി വേഗത്തിൽ തീർപ്പാക്കുന്നതിന് സഹായകരമായ നടപടികൾ സ്വീകരിക്കുന്നതിന് റവന്യൂ വകുപ്പ് ഉദ്യോഗസ്ഥരും സർക്കാർ കേസ്സുകൾ കൈകാര്യം ചെയ്യുന്ന വക്കീലന്മാരും കൂടുതൽ ശുഷ്കാന്തി കാണിക്കണമെന്നും നിർദ്ദേശിക്കുന്നു

മേൽ പരാമർശിച്ച കേസ്സുകളുടെ നടത്തിപ്പിൽ, കേസ്സുകൾ ഫലപ്രദമായും വേഗത്തിൽ തീർപ്പായിരിക്കുന്നതിനും സഹായകരമായ നിലപാട് സർക്കാർ വക്കീലന്മാരുടെ ഭാഗത്തു നിന്നും ഉണ്ടാകേണ്ടതാണ് സർക്കാർ താൽപര്യത്തിന് വിരുദ്ധമായും ദോഷകരമായും പ്രവർത്തിക്കുകയോ കേസ്സുകൾ ഫലപ്രദമായി നടത്തുന്നതിൽ അലംഭാവം കാണിക്കുകയോ ചെയ്യുന്നതായി ശ്രദ്ധയിൽപ്പെടുന്നപക്ഷം പ്രസ്തുത വിവരം ബന്ധപ്പെട്ട് ജില്ലാ കളക്ടർമാരും വകുപ്പ് മേധാവികളും സർക്കാരിന്റെ ശ്രദ്ധയിൽ കൊണ്ടുവരേണ്ടതാണ്

വി രാഘവൻ,
നിയമ വകുപ്പ് സെക്രട്ടറി

GOVERNMENT OF KERALA
Law (Inspection Wing) Department
CIRCULAR

No 9240/B3/04/Law

Dated, Thiruvananthapuram, 8th February, 2005

Sub.—Furnishing of bi-monthly progress report relating to pending cases by the District Government Pleaders to the concerned District Collectors—Reg

Ref.—Note No 4599/04/Law dated 14-5-2004 and U O Note of even number dated 15-9-2004 from the Law (Monitoring Cell) Department

The Law (Monitoring Cell) Department has reported that during the course of inspection in the office of the District Collector, Kozhikode a commendable thing noted was the monthly progress report furnished by the District Government Pleader, Kozhikode to the District Collector, Kozhikode in respect of the cases conducted by him and other Government Pleaders in the Court Centre. The monthly progress report contains the details as to (1) the number of suits pending at the end of the previous month (2) suits received during the month (3) total number of cases disposed of during the month (4) whether the interest of Government is adversely affected by the outcome of the suits (5) number of suits pending at the end of the month (6) the date of copy application. The Law (Monitoring Cell) Department has requested to issue direction to all other District Government Pleaders to adopt this procedure in their offices also.

2. It is also informed that the District Collector, Kozhikode has requested to issue necessary instructions to the Government Pleaders to defend Revenue Recovery Cases and to take necessary steps to vacate stay orders especially in those cases where huge amount are involved and Counter Affidavit filed.

3. In the above circumstances, all District Government Pleaders are instructed to furnish bi-monthly report relating to the pending cases in their offices containing the above details to the District Collectors concerned and also to take necessary steps for vacating stay order in Revenue Recovery Cases where huge amounts are involved and Counter Affidavits are filed.

MARY LOPEZ,
Special Secretary (Law)

GOVERNMENT OF KERALA

Law (B) Department

CIRCULAR

No 689/B4/2001/Law

Dated, Thiruvananthapuram, 25th May, 2005

Sub --Government Law Officers--Conduct of Cases--Delay in obtaining copy of Award/Judgment and Decree and forwarding the same with legal opinion to the concerned authority--Instructions issued--Regarding

Ref--1 Circular No 7280/B3/83/Law, dated 10-6-1983

2 Circular No 14344/B3/99/Law, dated 31-8-1999

Several instances have come to the notice of the Government that inordinate delay in getting the certified copies of Award/Judgment and Decree resulting in considerable inconvenience and heavy loss to the Government. With a view to avoid such delays all the Government Law Officers are hereby directed to follow the following instructions strictly --

1 The Government Law Officer concerned shall, on the same day on which, the Judgment on a case is pronounced apply for a certified copy of Award/Judgment and Decree, obtain the same as expeditiously as possible and send them to the Collectorate or the Head of Department or the Superintendent of Police, as the case may be, with his recommendations regarding the further action to be taken in the light of the Judgment. He shall also inform the concerned authority the amount, if any, required to be deposited for satisfying the Decree in cases where there is no scope for further action by way of revision or appeal.

2 The Government Law Officers concerned shall, on the same day on which, the award/judgment, in a case is pronounced, apply for and obtain carbon copies of award/judgment immediately and forward the same to the concerned authority with his recommendation regarding scope for appeal or revision.

PALANI MOHAN DAS,
Chief Secretary

GOVERNMENT OF KERALA

Law (Inspection Wing) Department

CIRCULAR

No 11128/B3/06/Law

*Dated, Thiruvananthapuram, 15th June, 2006**Sub*—Directions to defend petitions filed by P S C Rank holders—Reg*Ref*—D O letter No 17610/CEC2/GAD dated 31-5-2006 of the Principal Secretary, General Administration Department

It has come to the notice of the Government that large number of Orders are received from the Hon'ble High Court directing various Heads of Departments to report the vacancies to the Public Service Commission on the basis of the petitions filed by P S C rank holders. Such orders issued by the Court ultimately result in delay in giving posting orders to the applicants under Compassionate Employment Scheme. Government wishes to avoid such situations in future.

Hence you are directed to strongly defend all such petitions for and on behalf of the Government in future without waiting for the timely directions from the Government. It may also ensure that no occasion created in future to get such orders from the court in these types of petitions in the absence of the arguments from the part of the Government. These instructions are to be strictly adhered to in future.

S SAINUDEEN,
Law Secretary

GOVERNMENT OF KERALA
Law (Inspection Wing) Department
CIRCULAR

No 12878/B3/06/Law

Dated, Thiruvananthapuram, 6th July, 2006

Sub —Avoiding Contempt of Court cases—Further instructions—Reg

Ref— 1 Circular No 17071/B3/92/Law dated 22-12-1992

2 Circular No 9448/B3/93/Law dated 29-7-1993

In the references cited, instructions were issued to Law Officers and Government Departments to comply with Court Orders without delay for avoiding Contempt of Court cases. But it has come to the notice of the Government that a large number of such cases are in the Courts alleging violation of Court Orders, which badly reflect on the Government, Government wishes to avoid such situation in future.

Hence all the Government Pleaders are directed to properly present Government cases without any lapses in future. If there is any possibility of a Contempt of Court cases resulting from delay in implementing any court order it should be brought to the notice of Government well in advance for taking further steps. These instructions are strictly adhered to in future.

S. SAINUDEEN,
Law Secretary

GOVERNMENT OF KERALA
Law (Inspection-B) Department

CIRCULAR

No 5522/B1/07/Law

Dated, Thiruvananthapuram, 21st June, 2007

Sub —Payment of fees to Senior Lawyers for conducting Government cases in the Supreme Court—Instructions issued

Ref—1 Letter No OA (HQ) IV/III/12-93/06-07/727, dated 27-2-2007 of the Principal Accountant General (Audit), Kerala

2 Letter No A4-CB No 12/06-07 dated 2-5-2007 of the Advocate General, Ernakulam

The Advocate General vide letter 2nd cited has informed that the Accountant General (Audit), Kerala in his Inspection Report on the accounts and registers of the Advocate General's office for the period from 1-1-2006 to 31-1-2007

observed the following important irregularity that though the Rules provides for sanction of fees at a higher rate in Special circumstances, the Special circumstances were not explained in the recommendation letter sent to the Advocate General by the concerned section or in the Government Order sanctioning the payment. It is also observed that the Government had not fixed the maximum fees payable in Special circumstances and hence the claim raised by the counsels were sanctioned as such.

It may be noted that the Government Order appointing the Senior Advocates in the Supreme Court are issued by the concerned Administrative Departments. In the said Government Order the Special Circumstances leading to the appointment of the Senior Advocates are not often explained. Considering the importance, stake and gravity of cases Government is often compelled to pay fees at a higher rate invoking the 2nd proviso to rule 42 of the Kerala Government Law Officers (Appointment and Conditions of Service) and Conduct of Cases Rules, 1978 since other senior counsels are not willing to appear for the State in the Supreme Court for lesser rate of fees.

In view of the observation made by the Accountant General (Audit) all Department/Section in the Secretariat, while appointing Senior Advocates in the Supreme Court for conducting Government cases should explain the Special circumstances which lead to the appointment of Senior Advocates, their fees, etc in the Government Order appointing them. The Special circumstances which necessitated for payment of higher rate of fees are also to be explained in the recommendation letter to the Advocate General by the concerned Section/Departments. All Departments should strictly comply with the directions contained in this Circular in order to avoid any irregularity in future.

P S GOPINATHAN,
Law Secretary

GOVERNMENT OF KERALA
Law (Inspection Wing) Department
 CIRCULAR

No 19266/B3/08/Law

Dated, Thiruvananthapuram, 29th November, 2008

Sub —Legal opinion sought for by Subordinate Officers of Government from the Advocate General indiscriminately without following the Kerala Government Law Officers Rules—Instructions issued

5 It has come to the notice of Government that many officers of Government are not following the proper procedure in seeking advice from the Advocate General

4 As per rule 87 (4) of the Kerala Government Law Officers (Appointment and Conditions of Service) and Conduct of Cases Rules, 1978, "the Heads of Departments, who require the advice of the Advocate General shall address the Government in the Administrative Department concerned and the Government shall decide whether the advice of the Advocate General should be sought or not"

4 As per rule 2 (ii) of the Rules Regulating the Conditions of Service, Duties, Remunerations etc. of the Advocate General and Additional Advocate General, the duty of the Advocate General is "to advise Government whenever required and the Board of Revenue or the Collectors in respect of appeals to the High Court in cases where the Board of Revenue or the Collector has been authorised to sanction the filing of such appeals"

4 The Note below the said rule says, "Subject to the above, Heads of Departments who require the advice of the Advocate General should address the Government in the Secretariat Department concerned and Government will decide whether the advice of the Advocate General should be sought or not"

Hence all departments of the Secretariat are hereby instructed to direct the Subordinate Officers to follow the procedure in accordance with the above Rules in the matter of seeking advices from the Advocate General

P J. THOMAS,
Chief Secretary

GOVERNMENT OF KERALA

Law (Monitoring Cell) Department

CIRCULAR

No 25255/MC/07/Law

Dated, Thiruvananthapuram, 4th December, 2008

Sub —Law Secretary's meeting with Law Officers working in Government Departments held on 6-2-2008—Follow up actions—Reg

- Ref* —1 Report of Comptroller and Auditor General of India for the year 1989 No IV (Civil)
- 2 Guidelines issued from the Law Department in 1987
- 3 Circular No 2984/Adm (1)/93/Law dated 2-3-1993
- 4 62nd Report of the Committee on Public Accounts (1991-93)
- 5 Circular No 442/Adm-1/98/Law dated 25-3-1998

Guidelines regarding the functioning of the Law Officers attached to various Department of Government were issued from Law Department in 1987. The Guidelines provide that, the Law Officers shall keep a register in the prescribed pro forma in respect of the pending Court cases and the register shall be submitted to the Law Secretary once in every 3 months for inspection on 29-3-1990 a reminder was issued to the Law Officers in this regard.

2 In 2-3-1993 vide No. 2984/Adm-I (1)/93/Law, a Circular was issued to the Law Officers, on the basis of the reports of the Comptroller and Auditor General of India and Public Accounts Committee instructing them to submit the registers to the Law Secretary for inspection once in every 3 months. Again on 25-3-1998, vide No 442/Adm-1/98/Law another Circular was issued reiterating the contents of the above Circular and directed the Law Officers to submit the registers to the Law Secretary for inspection.

3 But it is seen that the direction in the above mentioned guidelines and circulars are not complied with effectively. A 'Monitoring Cell' has been constituted in this Department on the basis of the above-mentioned report of the Public Accounts Committee to monitor the conduct of cases in the Departments/Collectorates.

4 In the circumstances a meeting of Law Secretary with Law Officers working in various Government Departments was held on 6-2-2008 and based on the decisions taken in the meeting, the following instructions are issued for strict compliance.

Suit Section

5 A Suit Section shall be constituted in the Head Office under the supervision of the Law officer with sufficient staff and infrastructure facilities like computer etc for conducting the Court cases more effectively and shall keenly watch the progress of the cases. The Suit Section should co-ordinate the work relating to case files which are being dealt with by the different sections of the Head Office/Sub Offices, and by the office of the District Government Pleader/ Advocate General.

6 All sections of the Head Office and other Sub Offices should furnish Section/Seat wise details of pending cases and its progress to the Suit Section as quarterly statements (on the last week of March, June, Septemeb, December of every year) in the prescribed pro forma. The Suit Section will update the Suit Register based on the statement.

7 The Suit Section shall review every case periodically. The Suit Section shall ensure that the cases are being well presented in the Courts by the Pleaders and the interest of the State is protected.

8 The subordinate officers shall be directed to furnish to the Suit Section the details of every case in which they were made as defendants/respondents. The Suit Section should enter such details in the register. Action taken in the disposed case shall be entered in the Suit Register.

Suit Register

9 A Consolidated Register of Suits, OPs, Appeal etc shall be kept in the Suit Section separately so as to ascertain the present position of the case without referring the case files. A Suit register should be maintained in the prescribed pro forma by each section clerk in the Head Office/Sub Offices with proper up to date details so as to ensure efficient and timely supervision of the progress of all Suits, OPs, Appeals etc.

10 The date of every adjournment in all pending Court cases shall be collected and entered in the Suit Register. Each and every case filed by or against the Department/Government shall be registered in the Suit-Register immediately.

11 A Register of Suit notices as shown in Appendix-V at the KGLO rules, 1978 should be maintained.

12 A contempt of Court Cases/Court Order implementation register should be maintained in the Suit Section in order to watch the implementation of Court directions.

13 Such registers shall be periodically checked by the Law officer/ Supervisory Officials concerned compulsorily and they may be entrusted with the responsibility of watching the prompt maintenance of register and to take disciplinary action if any lapse is noticed in this regard

Law Officers

14. The Head of Department shall provide all facilities including necessary staff and infrastructure for the effective functioning of the Law Officer Necessary Law Books/Journals shall also be made available

15 The Law Officer shall submit the Suit Register once in every year, for the inspection by the Law Secretary, through the Law (Monitoring Cell) Department

16 Law Officer is bound to give advice in all legal matters referred to him by the Head of Department All currents in respect of the legal matters including Suit Notice/Summons should invariably routed through the Law Officer

17 Legal question specifying the point/points on which advice of Law Officer is required must be formulated before submitting files to him Legal advice of Law Officer may not be sought for on hypothetical issues and on decisions to be taken on administration level For eg , Information as per the Right to Information Act, 2005

18 The draft Statement of Facts received from the Sub offices shall be examined by the officers concerned in an administrative point of view before submitting them to the Law Officer for vetting

Inspection

19 The Law Officer shall conduct periodical inspection in the Subordinate offices and the report of inspection shall be submitted to the Head of Department for further action

20 The Head of Department shall conduct a periodical Suit Conference (at least once in three months viz , March, June, September, December of every year) for the proper evaluation of pending Court cases and to ensure timely intervention

Follow up Action

21 Timely follow up action at each stage of the case is very essential On receipt of copy of a case urgent action should be taken to forward Statement of facts before the posting date of the case After furnishing Statement of Facts,

Advocate General/District Government Pleader shall be contacted to file Counter Affidavit/Written Statement without delay Regular follow up action may be taken in all pending cases and the stage of the case may be ascertained by contacting the Government Pleader concerned or Advocate General

22 Direction shall be issued to the concerned to maintain the files dealing with Court cases properly with utmost care Copies of all relevant records such as copy of OS, OP, Appeal, SOF etc should be attached in the file concerned

23 It is essential to take a regular and effective follow up action in the cases, which involves realisation of huge amount of revenue due to Government A separate list of such cases may be kept monitored at the level of Law Officer/a Senior Officer

24 Un disposed cases, certified copy of the judgment shall be collected and the scope for the appeal shall be discussed with the Government Pleader/ Advocate General In such cases if the opinion of Government Pleader/ Advocate General is not found satisfactory, the same shall be reported to Government for second opinion If there is no scope for appeal necessary action shall be taken to comply the judgment if required

25 If the Head of the Department is not satisfied with the advice given by the Law Officer, he should obtain instruction from the Government or refer the said matter to the Law Department through the Administrative Department concerned

26 A consolidated list of pending cases may be prepared with utmost care in the prescribed Pro forma and shall be forwarded to the Law (Monitoring Cell) Department in every six months i.e. as on 30th June and 31st December every year

27 The delay and laches in the conduct of cases by Government Law Officers and office of the Advocate General may be brought to the notice of the Law Secretary in time The dereliction of duties and violation of the rules by them may also be informed to the Law Secretary in time for taking necessary action

28 The above instructions are in addition to the existing guidelines *Particular attention of the Head of Department is invited to the Circular and he may personally look into the matter to see whether the suggestions put forth in the Circular are complied with* A Compliance Report shall be forwarded to this Department within one month Non-compliance of these instructions will be viewed very seriously

29 The receipt of the Circular shall be acknowledged

P S GOPINATHAN,
Law Secretary

GOVERNMENT OF KERALA
Law (Inspection-B) Department

CIRCULAR

No 22921/B3/08/Law

Dated, Thiruvananthapuram 23rd December, 2008

Sub —Conduct of Government Cases in general and MACT Cases in particular—filing of copy application and furnishing of legal opinion on the scope for appeal—Further guidelines issued—Reg

Read —Circular Nos 1 7280/B3/83/Law, dated 10-6-1983
2 6355/B3/92/Law, dated 22-12-1992
3. 18897/B3/94 dated 16-1-1995
4. 8014/B3/95/Law, dated 15-9-1995

Government vide circulars read above, have issued certain guidelines regarding the filing of copy application and furnishing of legal opinion on the scope for appeal by the Government Law Officers in the Districts. The circulars read as 1st and 2nd papers above are concerned with Government cases in general and the rest with M A C T cases in particular

In spite of the guidelines issued, it has come to the notice of Government that in almost all cases including M A C T cases Government pleaders often furnish their legal opinion regarding the scope for appeal in printed form and in a mechanical way without Stating the reasons for their opinion and that too belatedly

Hence all Government Pleaders in the Districts are hereby directed to comply with the guidelines contained in the above circulars, without fail in the matter of filing of copy application and furnishing of legal opinion on the scope for appeal. They are further directed not to furnish their legal opinion in printed form and in a mechanical way. Their opinion shall disclose the reasons therefor. Any failure to comply with the above guidelines will be viewed very seriously.

P S GOPINATHAN,

Law Secretary

കേരള സർക്കാർ

നിയമ (ബി) വകുപ്പ്

സർക്കുലർ

നം 1817/ബി3/09/നിയമം

തിരുവനന്തപുരം, 2009 ജൂൺ 22

വിഷയം — കാലാകാലങ്ങളിൽ പ്രാബല്യത്തിലുള്ള സുപ്രീംകോടതി വിധിയുടേയും ഹൈക്കോടതി വിധിയുടേയും അന്തസ്സാർജ്ജ്വര ഉൾക്കൊണ്ടുകൊണ്ട് സ്റ്റേറ്റ്മെന്റ് ഓഫ് ഫാക്റ്റ്സും കൗണ്ടർ അഫീഡവിറ്റും സ്റ്റേറ്റ് മെന്റ് ഓഫ് അക്കൗണ്ട്സും തയ്യാറാക്കുന്നതിനുള്ള പൊതു മാർഗ്ഗനിർദ്ദേശങ്ങൾ സംബന്ധിച്ച്

സർക്കാർ കക്ഷിയായ കേസുകളിൽ പ്രത്യേകിച്ച് ലാന്റ് അക്വിസിഷൻ റഫറൻസ് കേസുകളിൽ വിധി തുകയും പലിശയും എങ്ങനെ കണക്കാക്കണമെന്നതിനെപ്പറ്റി ബന്ധപ്പെട്ട ഉദ്യോഗസ്ഥർക്ക് പലപ്പോഴും വ്യക്തമായ ധാരണയില്ലാത്തതുകാരണം തെറ്റായ രീതിയിൽ സ്റ്റേറ്റ്മെന്റ് ഓഫ് അക്കൗണ്ട്സ് തയ്യാറാക്കി കോടതിയിൽ സമർപ്പിക്കുകയും അത് കോടതി അംഗീകരിച്ച് വൻ തുക വിധി തുകയായും പലിശയായും സർക്കാരിന് നൽകേണ്ടി വരുന്ന സന്ദർഭങ്ങൾ സർക്കാരിന്റെ ശ്രദ്ധയിൽപ്പെട്ടിട്ടുണ്ട് കോടതിയിൽ കെട്ടിവയ്ക്കേണ്ട വിധി തുകയും പലിശയും മറ്റും ശരിയായ വിധത്തിൽ കണക്കാക്കാത്ത തുമുലം എൽ എ ആർ വിധി നടത്ത് ഹർജികളിൽ ഗവൺമെന്റിന് വിധി തുകയേക്കാൾ കൂടുതൽ ചിലിശയിനത്തിൽ മാത്രം കെട്ടിവെക്കേണ്ടി വരുന്നുണ്ട് ആകയാൽ കേസുകൾ പ്രത്യേകിച്ച് വിധി നടത്തു കേസുകൾ സർക്കാരിന് വേണ്ടി നടത്തുമ്പോൾ അവ പരമാവധി രേഗത്തിൽ തീർപ്പാക്കുന്നതിനും സർക്കാരിന്റെ സാമ്പത്തികബാധ്യത പരമാവധി കുറയ്ക്കുന്നതിനും പൊതുപണം ദുർവ്യയം ചെയ്യാതിരിക്കുന്നതിനും വേണ്ടി അടിയന്തിരനടപടികൾ സ്വീകരിക്കണമെന്നും ബന്ധപ്പെട്ട ഉദ്യോഗസ്ഥന്മാരും സർക്കാർ കേസുകൾ കൈകാര്യം ചെയ്യുന്ന വക്കീലന്മാരും കേസു നടത്തുന്ന കാര്യത്തിൽ കൂടുതൽ ശൃഷ്കാന്തി കാണിക്കണമെന്നും ഇതിനാൽ നിർദ്ദേശിക്കുന്നു

(2) കൂടാതെ സർക്കാരിനുവേണ്ടി സ്റ്റേറ്റ്മെന്റ് ഓഫ് ഫാക്റ്റ്സും കൗണ്ടർ അഫീഡവിറ്റും സ്റ്റേറ്റ്മെന്റ് ഓഫ് അക്കൗണ്ട്സും മറ്റും തയ്യാറാക്കി കോടതിയിൽ ഹാജരാക്കുമ്പോൾ താഴെപ്പറയുന്ന കാര്യങ്ങൾകൂടി കണക്കിലെടുക്കണമെന്നും നിർദ്ദേശിക്കുന്നു

(1) സ്റ്റേറ്റ്മെന്റ് ഓഫ് ഫാക്റ്റ്സും കൗണ്ടർ അഫീഡവിറ്റും സ്റ്റേറ്റ്മെന്റ് ഓഫ് അക്കൗണ്ട്സും മറ്റും തയ്യാറാക്കുന്ന ഉദ്യോഗസ്ഥർ ആയതിന്റെ കരട് ബന്ധപ്പെട്ട സർക്കാർ വക്കീലിന് അയച്ചുകോടുത്ത് അംഗീകാരം വാങ്ങേണ്ടതും അതിൽ എന്തെങ്കിലും മാറ്റങ്ങൾ നിർദ്ദേശിക്കുന്നപക്ഷം, പ്രസ്തുത മാറ്റങ്ങൾ

വരുത്തി, പുതിയ കരട് അംഗീകാരത്തിനുവേണ്ടി വീണ്ടും സമർപ്പിക്കേണ്ടതുമാകുന്നു. ഇപ്രകാരം സർക്കാർ വക്കീലന്മാർ അംഗീകരിക്കാത്ത യാതൊരു സ്റ്റേറ്റ്സ്മെന്റുകളോ കൗണ്ടർ അഫീഡവിറ്റുകളോ സ്റ്റേറ്റ്സ്മെന്റ് ഓഫ് അക്കൗണ്ടിംഗുകളോ കോടതിയിൽ സമർപ്പിക്കാൻ പാടുള്ളതല്ല.

(II) കാലാകാലങ്ങളിൽ പ്രാബല്യത്തിലുള്ള സുപ്രീംകോടതി വിധിയുടെയും ഹൈക്കോടതി വിധിയുടെയും അന്തസ്സത്ത ഉൾക്കൊണ്ടും സുദൃഢമായ നിയമ തത്വങ്ങൾ അനുസരിച്ചും വേണം സ്റ്റേറ്റ്സ്മെന്റ് ഓഫ് ഫാക്റ്റ്സും കൗണ്ടർ അഫീഡവിറ്റും സ്റ്റേറ്റ്സ്മെന്റ് ഓഫ് അക്കൗണ്ടിംഗും ബന്ധപ്പെട്ട ഉദ്യോഗസ്ഥർ തയ്യാറാക്കേണ്ടത് ഇതുമായി ബന്ധപ്പെട്ട ഏറ്റവും പുതിയ സുപ്രീംകോടതി-ഹൈക്കോടതി വിധികളുടെയും നിയമ തത്വങ്ങളുടെയും അടിസ്ഥാനത്തിലായിരിക്കണം ബന്ധപ്പെട്ട സർക്കാർ വക്കീലന്മാർ ഇവ അംഗീകരിക്കേണ്ടത്.

(III) ബന്ധപ്പെട്ട സർക്കാർ വക്കീലന്മാരുടെ നിർദ്ദേശങ്ങൾ പ്രസ്തുത വകുപ്പിന് സ്വീകാര്യമല്ലെങ്കിൽ വ്യക്തമായ നിയമനിർദ്ദേശത്തിന് സർക്കാരിനെ സമീപിക്കാവുന്നതാകുന്നു.

(IV) എല്ലാ ഗവൺമെന്റ് പ്ലീഡർ ഓഫീസുകളിലും ഏറ്റവും പുതിയ പ്രധാനപ്പെട്ട ഉന്നത കോടതികളുടെ വിധി ന്യായങ്ങൾ അടങ്ങുന്ന കെ എൽ റ്റി തുടങ്ങിയ നിയമ ജേണലുകൾ ഇപ്പോൾ തന്നെ അയച്ചു കൊടുക്കുന്നുണ്ട്. ഇതു മുടങ്ങാതെ ലഭിക്കുന്നതിനും ലഭിക്കുന്നവ ബൈൻഡ് ചെയ്ത് സൂക്ഷിക്കുന്നതിനുള്ള നടപടികൾ ബന്ധപ്പെട്ട സർക്കാർ വക്കീലന്മാർ സ്വീകരിക്കേണ്ടതാകുന്നു.

(V) കേസുകൾ ഫലപ്രദമായും വേഗത്തിലും തീർപ്പാക്കുന്നതിനു സഹായകരമായ നിലപാട് ബന്ധപ്പെട്ട സർക്കാർ വക്കീലന്മാരുടെയും ഉദ്യോഗസ്ഥന്മാരുടെയും ഭാഗത്തുനിന്നും ഉണ്ടാകേണ്ടതാകുന്നു. സർക്കാർ താല്പര്യത്തിന് വിരുദ്ധമായും ദോഷകരമായും പ്രവർത്തിക്കുകയോ കേസുകൾ ഫലപ്രദമായി നടത്തുന്നതിൽ അലംഭാവം കാണിക്കുകയോ ഈ സർക്കുലറിലെ നിർദ്ദേശങ്ങൾക്ക് വിരുദ്ധമായി പ്രവർത്തിക്കുന്നതായോ ശ്രദ്ധയിൽപ്പെടുന്നപക്ഷം ബന്ധപ്പെട്ട കളക്ടർമാരും വകുപ്പു മേധാവികളും സർക്കാർ വക്കീലന്മാരും ഇത് സർക്കാരിന്റെ ശ്രദ്ധയിൽ കൊണ്ട് വരേണ്ടതും ഇത് സംബന്ധിച്ച് സർക്കാരിനുണ്ടാകുന്ന നഷ്ടം ബന്ധപ്പെട്ട കക്ഷികളിൽ നിന്നും ഈടാക്കുന്നതിന് പബ്ലിക് അക്കൗണ്ടന്റ് ആക്ട് 1963-ൽ നിർദ്ദേശിക്കും പ്രകാരമുള്ള നടപടികൾ ആരംഭിക്കേണ്ടതുമാകുന്നു.

കെ ശശിധരൻ നായർ,
നിയമവകുപ്പു സെക്രട്ടറി

GOVERNMENT OF KERALA

Law (Inspection-B) Department

CIRCULAR

No 22148/B3/09/Law

Dated, Thiruvananthapuram, 15th January, 2010

Sub —Order dated 15-12-2009 of the Hon'ble Supreme Court in S L P(C) No 35328/2009—Delay in filing appeal and Special Leave Petitions—Direction to the Chief Secretary—Further guidelines regarding the conduct of Government Cases issued in compliance thereof—Reg

Read — 1 Fax message dated 17-12-2009 of G. Prakash Standing Counsel for the State of Kerala, New Delhi

The Hon'ble Supreme Court by its order dated 15-12-2009 dismissed S L P (C) No 35328/2009 filed by the State on the ground of delay and directed the Chief Secretary to ensure that similar lapses may not occur in future. In compliance of the above direction of the Hon'ble Supreme Court, following guidelines are issued for strict compliance by the concerned in the matter of filing appeal, revision and special leave petition

(1) The Government Law Officers and the concerned officials should always be on the alert for filing appeal, revision and special leave petition within the period of limitation prescribed therefore

(2) When the delay in filing appeal, revision and special leave petition is due to unavoidable reasons, a responsible officer well conversant with the facts of the case shall be authorised to file the affidavit in support of the petition for condonation of delay and satisfactory explanation for the delay shall be furnished

(3) All public prosecutors shall sent to the Director General of Prosecution as expeditiously as possible complete records of the case with certified copies of judgements and depositions of witness specifying the points in the Judgement that would warrant the filing of appeals before the High Court

(4) All Government Pleaders shall see that whenever the Advocate General is addressed for filing appeal in High Court, certified copies of the decree

and judgement shall be forwarded to him in time without fail

(5) All District Collectors while making request, to the Advocate General to prefer appeal in L A Cases should ensure that the same is supported by all documents essential for filing appeal

(6) Government Law Officers shall report as expeditiously as possible the result of the case to the concerned Department and the concerned District Collector with their legal opinion mentioning the last date for filing appeal, if appeal has to be filed

(7) All the Government Law Officers including Standing Counsel in the Supreme Court will be liable to any loss caused to the State due to their lapses and the loss will be recoverable from them, as provided under rule 18 of the Kerala Government Law Officers (Appointment and Conditions of Service) and Conduct of Cases Rules, 1978

(8) Failure to comply with above guidelines will be viewed seriously and stringent action will be taken against the delinquents

NEELA GANGADHARAN,
Chief Secretary

GOVERNMENT OF KERALA
Law (Inspection-B) Department

CIRCULAR

No 192/B3/2010/Law

Dated, Thiruvananthapuram 24th April, 2010

Sub —Order dated 30-10-2009 of the Hon'ble Supreme Court in S L P (C) No 2852/2009—Increase of frivolous and unjust litigation by Governments and Statutory authorities—Strict Compliance—Reg

Read —Letter No 03/(06)/2009/Judl dated 22-12-2009 of the Additional Legal Adviser to the Government of India, Ministry of Law and Justice

The Hon'ble Supreme Court in its order dated 30-10-2009 S L P (C) No 29852/2009 titled Urban Improvement Trust, Bikaner Vs Mohan Lal has expressed concern on the increase of frivolous and unjust litigation by Government and Statutory Authorities. The Supreme Court has observed as

follows —

“ It is a matter of concern that such frivolous and unjust litigation by Governments and statutory authorities are on the increase. Statutory Authorities exist to discharge statutory functions in public interest. They should be responsible litigants. They cannot raise frivolous and unjust objections, nor act in a callous and high handed manner. They cannot behave like some private litigants with profiteering motives. Nor can they resort to unjust enrichment. They are expected to show remorse or regret when their officers act negligently or in an overbearing manner. When glaring wrong acts by their officers is brought to their notice, for which there is no explanation or excuse, the least that is expected is restitution/restoration to the extent possible with appropriate compensation. Their harsh attitude in regard to genuine grievances of the public and their indulgences in unwarranted litigation requires to be corrected .

The reluctance to take decisions, or tendency to challenge all orders against them, is not the policy of the Governments or Statutory authorities, but is attributable to some officers who are responsible for taking decisions and/or officers in charge of litigation. Their reluctance arises from an instinctive tendency to protect themselves against any future accusations of wrong decision making, or worse, of improper motives for any decision making. Unless their insecurity and fear is addressed, officers will continue to pass on the responsibility of decision making to Courts and Tribunals .. Vexatious and unnecessary litigation have been clogging the wheels of justice, for too long making it difficult for Courts and Tribunal to provide easy and speedy access to justice to bona fide and needy litigants”

The above observation of the Hon'ble Supreme Court are brought to the notice of all Departments of the Secretariat, District Collectors and Heads of Departments and they are directed to comply with the order of the Hon'ble Supreme Court strictly and ensure to avoid such frivolous and unjust litigations. Any laxity in this regard will be viewed seriously.

Dr. P PRABAKARAN,
Chief Secretary (I/C)

GOVERNMENT OF KERALA

General Administration (Co-ordination) Department

CIRCULAR

No 38566/Cdn 2/10/GAD

Dated, Thiruvananthapuram, 2nd June, 2010

Sub —General Administration Department—Court Cases—High Court direction—Filing of Appeal by Government Departments—Delay—Condonation—Instructions issued—Regarding

Ref—1 Order dated 17-5-2010 in WA No 670/10 of Hon High Court

2 Fax Message No WA No 670/10 dated 28-5-2010 from
T B Remani, Sr Govt Pleader, Advocate General's Office
Emakulam

While considering the delay condonation petition along with the writ petition of the Government against the judgment of a Learned Single Judge of Hon High Court of Kerala in W P (C) No 34008/2008 filed by Sheeja Mukundan, Full-time Sanskrit Teacher, Karippal S V U P School, Karippal, Chapparappadu, Kannur, the Division Bench of Hon High Court has given following directions on 17-5-2010

“We are disturbed on the conduct of various Government Departments in filing most of the Government cases with inordinate delay with stock explanation that it is administrative delay that led to non-filing of cases in time. In our view administrative delay can only mean inefficiency in the administration. The settled position in law is that unless the delay is meticulously explained, delay should not be condoned. Therefore, a general explanation of administrative delay is unacceptable in Court for admitting a case filed belatedly

However, we are not inclined to treat the Government as an ordinary litigant whose cause in Court should get defeated on account of delay on the part of one or some of the officers of the Government. Government represents the public and any legitimate cause of the Government not considered by Court on merit on account of somebody's delay in filing the case on behalf of the Government will affect public interest. We therefore feel in every case filed before Court with a delay, an enquiry should be conducted by the Head of the Department

identifying the person or persons who have caused the delay in filing the cases and such person or persons should file affidavit explaining how and why delay was caused on his part. It should also be explained whether the Head of the Department who conducted the enquiry is satisfied whether disciplinary action is called for against the person or persons who caused the delay. Besides disciplinary action to be taken at the Department level, identification of the person concerned who caused delay in filing the case would also help the Court to impose personal cost on such person which under no circumstances should be borne by the Government i.e., the public."

The Division Bench of Hon. High Court has further ordered in the judgment as given below

"We direct the Chief Secretary to Government to issue instructions to all the Departments to file delay condonation petition only after conducting an enquiry and after identifying the officer and with an affidavit by the officer or persons concerned who caused the delay. A report of compliance should be filed by the Chief Secretary within 3 weeks from the date of receipt of a copy of this order and only thereafter this Court will consider the delay condonation petition in this case"

In view of these directions of the Hon. High Court of Kerala, following instructions are issued to all concerned for strict compliance —

- (1) The Government authorities responsible for filing cases/appeal or various kind of petitions before the Courts should make all efforts to finalize their decision in this regard within the time frame and should take all possible action for filing the same within the time limit prescribed.
- (2) In every case to be filed before the Court with a delay, an enquiry should be conducted by the Head of the Department identifying the person or persons who have caused the delay in filing the cases and such person or persons should file affidavit explaining how and why delay was caused on his/their part. It should also be explained whether the Head of the Department who conducted the enquiry is satisfied whether disciplinary action is called for against the person or persons who caused the delay.

DR. P. PRABAKARAN,
Chief Secretary

കേരള സർക്കാർ

നിയമ (ഇൻസ്പെക്ഷൻ വിംഗ്) വകുപ്പ്

സർക്കുലർ

നം 22213/ബി3/09/നിയമം

തീരുവനതപുരം 2010 ജൂലൈ 14

വിഷയം—നിയമവകുപ്പ്—ജില്ലാ കളക്ടറേറ്റിൽ പ്രതിമാസം വിളിച്ചുചേർക്കേണ്ട സ്യൂട്ട് കോൺഫറൻസിനെ സംബന്ധിച്ച നടപടിക്രമങ്ങളും പങ്കെടുക്കാത്തവരുടെമേൽ സ്വീകരിക്കേണ്ട നടപടികളും—മാർഗ്ഗനിർദ്ദേശങ്ങൾ—സംബന്ധിച്ച്

സംസ്ഥാനത്ത് പല ജില്ലകളിലും സർക്കാർ കേസുകളുടെ നടത്തിപ്പ് അവലോകനം ചെയ്യുവാൻ ജില്ലാ കളക്ടർമാർ വിളിച്ചുചേർക്കുന്ന സ്യൂട്ട് കോൺഫറൻസുകളിൽ ബന്ധപ്പെട്ട ഉദ്യോഗസ്ഥരും സർക്കാർ അഭിഭാഷകരും കാരണം കൂടാതെയും മുൻകൂർ അനുവാദമില്ലാതെയും പലപ്പോഴും പങ്കെടുക്കാതിരിക്കുന്ന സംഭവങ്ങൾ ബന്ധപ്പെട്ട ജില്ലാ കളക്ടർമാർ സർക്കാരിന്റെ ശ്രദ്ധയിൽ കൊണ്ടുവന്നിട്ടുണ്ട് വളരെ അടിയന്തിരശ്രദ്ധ പതിയേണ്ട ഇത്തരം കോൺഫറൻസുകളിൽ സർക്കാർ അഭിഭാഷകരുടെയും ബന്ധപ്പെട്ട ഉദ്യോഗസ്ഥരുടെയും കാരണം കൂടാതെയുള്ള അസാന്നിദ്ധ്യം സർക്കാർ വളരെ ഗൗരവത്തോടെയാണ് വീക്ഷിക്കുന്നത്

മാത്രമല്ല സ്യൂട്ട് കോൺഫറൻസുകൾ വിളിച്ചുചേർക്കുന്നതിന് വ്യക്തമായ നടപടി ക്രമങ്ങൾ പാലിക്കുന്നതായി കാണുന്നില്ല ഇതു സംബന്ധിച്ച നടപടിക്രമങ്ങളെപ്പറ്റിയുള്ള മാർഗ്ഗനിർദ്ദേശങ്ങളുടെ അഭാവം ബന്ധപ്പെട്ടവരിൽ ആശയക്കുഴപ്പം സൃഷ്ടിച്ചിട്ടുണ്ടെന്ന തിനാൽ, സർക്കാർ കേസ് നടത്തിപ്പ് സംവിധാനം കാര്യക്ഷമമാക്കുന്നതിന് വേണ്ടി താഴെ പറയുന്ന മാർഗ്ഗനിർദ്ദേശങ്ങൾ സംസ്ഥാനത്തെ എല്ലാ ജില്ലാ ഭരണകൂടങ്ങളും സർക്കാർ ലാ ഓഫീസർമാരും കർശനമായി പാലിക്കുവാൻ ഇതിനാൽ നൽകികൊള്ളുന്നു

(1) എല്ലാ ജില്ലകളിലും ഓരോ മാസത്തിലേയും അവസാനത്തെ ശനിയാഴ്ച വൈകുന്നേരം 3 മണിക്ക് കൃത്യമായി സ്യൂട്ട് കോൺഫറൻസ് വിളിച്ചു ചേർക്കേണ്ടതാണ്

(2) സ്യൂട്ട് കോൺഫറൻസ് വിളിച്ചു ചേർക്കുന്നതിന് മുന്നോടിയായി സ്യൂട്ട് സെൽ മേധാവി ജില്ലയിലെ എല്ലാ ഗവൺമെന്റ് ലാ ഓഫീസർമാരിൽ നിന്നും മുൻസിഫ് കോടതിയിലെ സർക്കാർ അഭിഭാഷകരിൽ നിന്നും എല്ലാ മാസവും 16-ാം തീയതിയിൽ മുന്പായി ഈ സർക്കുലറിന്റെ അനുബന്ധമായി കാണിച്ചിരിക്കുന്ന മാതൃകയിൽ സ്റ്റേറ്റുമെന്റ് തയ്യാറാക്കി വാങ്ങേണ്ടതും, അവയെ ഏകീകരിച്ച് ഒരു സംക്ഷിപ്ത സ്റ്റേറ്റുമെന്റാക്കി, ഗവൺമെന്റ് ലാ ഓഫീസർമാരുടെ കേസ് നടത്തിപ്പിനെപ്പറ്റിയുള്ള തന്റെ അഭിപ്രായത്തോടുകൂടി സ്യൂട്ട് കോൺഫറൻസുകളിൽ അവതരിപ്പിക്കേണ്ടതും, ടി സംക്ഷിപ്ത സ്റ്റേറ്റുമെന്റും അഭിപ്രായവും മിനിറ്റ്സിനോടൊപ്പം നിയമ (മോണിറ്ററിംഗ് സെൽ) വകുപ്പിന്റെ മേധാവിക്ക് എല്ലാമാസവും 25-ാം തീയതിക്കകം അയച്ചുകൊടുക്കേണ്ടതുമാണ്

(3) ഓരോ സ്വുട്ട് കോൺഫറൻസ് കൂടുമ്പോഴും മുൻ കൂടിയ കോൺഫറൻസിന്റെ മിനിട്ട്സിൽ സമയബന്ധിതമായോ അല്ലാതെയോ നടപ്പിലാക്കാൻ എടുത്ത തീരുമാനം നടപ്പിലാക്കുന്നതിന്റെ പുരോഗതി വിലയിരുത്തി റിപ്പോർട്ട് ചെയ്യേണ്ടതാണ്

(4) സർക്കാർ കക്ഷിയായിട്ടുള്ള സിവിൽ, ക്രിമിനൽ കേസുകളുടെ അവലോകനത്തിന് ബന്ധപ്പെട്ട ഉദ്യോഗസ്ഥരും, ജില്ലയിലെ പോലീസ് സൂപ്രണ്ടും കൂടുതലായി പങ്കെടുക്കേണ്ടതാണ് പങ്കെടുക്കാൻ സാധിക്കാത്തവർ ജില്ലാ കളക്ടറിൽ നിന്നും മുൻകൂർ അനുവാദം വാങ്ങേണ്ടതാണ്

(5) സ്വുട്ട് കോൺഫറൻസ് വിളിച്ചുചേർക്കേണ്ട തീയതിക്ക് കുറഞ്ഞത് ഏഴ് ദിവസം മുൻ ബന്ധപ്പെട്ട എല്ലാവരെയും സ്വുട്ട് കോൺഫറൻസ് വിളിച്ചു ചേർക്കുന്ന വിവരം രേഖാമൂലം അറിയിക്കേണ്ടതും അവരുടെ അക്നോളജ്മെന്റ് വാങ്ങേണ്ടതുമാണ് ഓരോ സ്വുട്ട് കോൺഫറൻസുകളിലും പങ്കെടുക്കുന്നവരുടെ പേരുവിവരം അടങ്ങുന്ന ഹാജർ പുസ്തകം, സ്വുട്ട് സെൽ മേധാവി സൂക്ഷിക്കേണ്ടതാണ്

(6) മുൻകൂർ അനുവാദം വാങ്ങാതെ ടി യോഗത്തിൽ പങ്കെടുക്കാതിരിക്കുന്ന സർക്കാർ ലാ ഓഫീസർമാരിൽ നിന്നും ജില്ലാ കളക്ടർ 7 ദിവസത്തിനകം വിശദീകരണം ആവശ്യപ്പെടേണ്ടതും, വിശദീകരണം തൃപ്തികരമല്ലാത്തപക്ഷം അവരുടെ മേൽ എടുക്കേണ്ട നടപടികളെപ്പറ്റിയുള്ള റിപ്പോർട്ട് സർക്കാരിന് സ്വുട്ട് കോൺഫറൻസ് തീയതി തൊട്ട് ഒരുമാസത്തിനകം അയച്ചു കൊടുത്തിരിക്കേണ്ടതാണ്

(7) ജില്ലയിലെ എല്ലാ ഗവൺമെന്റ് ലാ ഓഫീസർമാരും ഈ സർക്കുലറിലെ അനുബന്ധമായി ചേർത്തിരിക്കുന്ന മാതൃകയിൽ തയ്യാറാക്കിയ പ്രതിമാസ സ്റ്റേറ്റ്സ്മെന്റ് എല്ലാ മാസവും 16-ാം തീയതിക്ക് മുമ്പായി കിട്ടത്തക്കവിധത്തിൽ സ്വുട്ട് സെൽ മേധാവിയ്ക്ക് സമർപ്പിക്കേണ്ടതാണ് ഇതിൽ വീഴ്ച വരുത്തുന്നവരോട് 7 ദിവസത്തിനുള്ളിൽ രേഖാമൂലം വിശദീകരണം ആവശ്യപ്പെടേണ്ടതും വിശദീകരണം തൃപ്തികരമല്ലാത്തപക്ഷം അവരുടെ മേൽ സ്വീകരിക്കേണ്ട നടപടി സംബന്ധിച്ച റിപ്പോർട്ട് കൃത്യനിർവ്വഹണത്തിൽ വീഴ്ച വരുത്തിയ തീയതി മുതൽ ഒരുമാസത്തിനകം സർക്കാരിന് അയച്ചു കൊടുക്കേണ്ടതാണ്

(8) ഈ സർക്കുലറിലെ മാർഗ്ഗനിർദ്ദേശങ്ങൾക്ക് വിരുദ്ധമായി പ്രവർത്തിക്കുകയോ മാർഗ്ഗനിർദ്ദേശങ്ങൾ പാലിക്കുന്നതിൽ പരാജയപ്പെടുകയോ ചെയ്താൽ, കർശന നടപടികൾ എടുക്കുന്നതും, ഇതുസംബന്ധിച്ച് സർക്കാരിനുണ്ടാകുന്ന നഷ്ടം ബന്ധപ്പെട്ട ഗവൺമെന്റ് ലാ ഓഫീസർമാരിൽ നിന്നും ഈടാക്കുന്നതിന് പബ്ലിക് അക്കൗണ്ടന്റ് ആക്ട് 1963-ലും കെ ജി എൽ ഓ ചട്ടങ്ങളിലും പറഞ്ഞിരിക്കും പ്രകാരമുള്ള നടപടികൾ ആരംഭിക്കുന്നതുമായിരിക്കും

ഡോ പി പ്രഭാകരൻ,
ചീഫ് സെക്രട്ടറി

PRO FORMA

Monthly Statement on the conduct of Government Cases by Government Law Officer during the Month of

(To be filled up by the District Government Pleader & Public Prosecutor/ Addl Government Pleader & Addl Public Prosecutor/Government Advocate at Munsiff's Court Centres concerned and returned to the Head of the Suit Cell of the concerned Collectorate before 16th of every month (vide circular No 22213/B3/2009/Law dated 14-7-2010)

Name of the District

Name of Court/Courts

1 Name of the Government Law Officer

2 Office Address

3 Home Address

4 Telephone (O)

(R)

(M)

5 Appointment Order No and date
charge

date of assumption of

6 Date of last Inspection by the Law (Inspection Wing) Department

Place

Date

Name, Signature and Designation

(Office seal)

I. Details of civil cases conducted by the G. L. O. during the month of.....

Nature of cases	No of cases pending at the beginning of the month	No of cases filed during the month	No of Cases disposed of during the month			No of cases pending at the end of the month	Remarks
			No of cases decreed in favour of Government	No of cases decreed against Government	Total No of cases		
1 Original Suit							
2 LAR							
3 MACT							
4 RCP							
5 Consumer Disputes							
6 Others Civil Miscellaneous Cases (specify category)							
7 Other Tribunal Cases (specify category)							
8 Appeal							
9 Civil Miscellaneous Appeal							
10 R C A							
11 O P (Arb)							
12 O P (Pauper)							
13 O P (Elec)							
14 O P (Suc)							
15 Other O P (Specify category)							
16 EP							
17 EP(L A R)							
18 Restoration petition							
<i>Total</i>							

II. Details of Long Pending Civil Cases

<i>Item</i>	<i>Details of long pending cases</i>					
	<i>No of cases</i>	<i>Upto 1 year</i>	<i>Between 1 year and 2 years</i>	<i>Between 2 years and 5 years</i>	<i>above 5 years</i>	<i>Reason for pendency in cases above 5 years</i>
1 Original Suit						
2 LAR						
3 MACT						
4 R.C.P						
5 Consumer Disputes						
6 Other Civil Miscellaneous Cases (specify category)						
7 Other Tribunal Cases (specify category)						
8 Appeal						
9 Civil Miscellaneous Appeal						
10 R C A						
11 O.P (Arb)						
12 O P (Pauper)						
13 O P (Elec)						
14 O P (Suc)						
15 Other O P (Specify category)						
16 EP						
17 EP(L A R)						
18. Restoration petition						
<i>Total</i>						

III. Performance Assessment of Civil Cases

<i>Sl No</i>	<i>Details</i>	<i>Name of court</i>	<i>No of cases</i>	<i>Reason</i>
1	Number of EPs (LAR) pending for want of recording full satisfaction			
2	Number of EPs (LAR) pending for want of deposit of the amount			
3	Number of pending EPs in which Government property is under attachment			
4	Number of civil cases pending for want of filing written statement, objection etc			
5	Number of cases decreed ex-parte due to non appearance of Government pleader and the reasons therefor			
6	Number of cases in which legal opinion has been given as there is no scope for appeal			
7	Number of cases in which application for certified copies of judgment and decree has not been filed in time			

Total

IV. Details of Criminal Cases conducted by the G. L. O. during the Month of.....

<i>Items</i>	<i>No of criminal cases pending at the beginning of the month</i>	<i>No of criminal cases filed during the month/ No of memos of appearance filed</i>	<i>No of Criminal Cases disposed</i>			<i>No of criminal cases pending at the end of the month</i>
			<i>No of criminal cases allowed</i>	<i>No of criminal cases dismissed</i>	<i>Total No of cases</i>	
1 Sessions cases (IPC offences)						
2 Cases under special Acts						
3 Criminal Appeals						
4 Criminal Miscellaneous Cases						
5 Bail petition						
6 Other Cases not coming under the above categories						
<i>Total</i>						

V. Details of Long pending Criminal Cases

Sl No	Items	Analysis of long pending cases					
		Name of Court	Total No. of cases	Between 6 months and 1 year	Between 1 year and 2 year	Between 2 year and 5 year	Above 5 years
1	Sessions cases (IPC offences)						
2	Cases under special Acts						
3	Criminal Appeals						
4	Criminal Miscellaneous cases						
5	Bail petition						
6	Other cases not coming under the above category						
	<i>Total</i>						

Suggestions/Complaints/urgent matters to be taken up at the Government level, if any (use separate sheet)

Place

Date

Name, Signature and Designation

(Office seal)

GOVERNMENT ORDERS AND LETTERS
GOVERNMENT OF KERALA

Abstract

ADVOCATE GENERAL—REVISION OF REMUNERATION—ORDERS ISSUED

LAW (INSPECTION WING) DEPARTMENT

GO (Ms) No 123/05/Law

Dated, Thiruvananthapuram, 12th April, 2005

Read —1. G.O (P) No 596/2000/Law dated 17-11-2000

2 U.O (F) No 132135/Rules 2/04/Fin dated 16-2-2005

ORDER

Government are pleased to revise the monthly remuneration of Advocate General at the following rates with effect from 1-4-2004

- | | | |
|---|-------------------|---------------|
| 1 | Retainer Fee | Rs 11,000 p m |
| 2 | Special Allowance | Rs 6,000 p m |

For effective appearance in final hearing of cases disposed of on merits after contest (writ petitions, writ appeals and civil cases) in the High Court and Subordinate courts —

- | | | |
|---|--|-------------------------------|
| 1 | Before Division Bench | Rs 3500 per day of appearance |
| 2 | Before Single Bench in the High Court and Subordinate Courts and Tribunals | Rs 2,500 |
| 3 | Petitions and interlocutory matters before Division Bench and Single Bench | Rs 2,000 |

For effective appearance in final hearing of Criminal cases disposed of on merits after contest in High Court and Subordinate courts —

1	Before Division Bench	Rs 3500
2	Before Single Bench and Subordinate Courts	Rs 2,000
3	Petitions and interlocutory matters before Division Bench and Single Bench	Rs 2,000
	For effective appearance in Supreme Court	Rs 10,000
	Amount being paid to Advocate General when Advocate General is absent from headquarters on any day including holidays for the purpose of any conference connected with his official duty	Rs 2,000

By order of the Governor,

S SAINUDEEN,
Law Secretary

GOVERNMENT OF KERALA

Abstract

GOVERNMENT LAW OFFICERS—HIGH COURT—REVISION OF SALARY—ORDERS ISSUED

LAW (INSPECTION WING) DEPARTMENT

GO (Ms) No 100/08/Law *Dated, Thiruvananthapuram, 4th October, 2008**Read*—1 G. O (Ms) No 180/2004/Law dated 16-11-2004

2 Lr No SS 41/2007/AG dated 9-4-2008 of the Advocate General, Kerala, Ernakulam

ORDER

The Advocate General, Kerala, Ernakulam as per his letter read above has forwarded a representation submitted by the Government Law Officers in the High court of Kerala requesting enhancement of their remuneration and recommended to revise the existing monthly salary of the Government law officers

Government, after considering the proposal of the Advocate General in detail, are pleased to revise the monthly salary of the Government Law Officers in the High Court at the following rates w e f 1-1-2008

1	Special Government Pleader	Rs 32,000
2	Senior Government Pleader	Rs 28,000
3	Government Pleader	Rs 24,000

By order of the Governor,

P S GOPINATHAN,
Law Secretary

GOVERNMENT OF KERALA

Abstract

CONDUCT OF GOVERNMENT CASES—GUIDELINES FOR EFFECTIVE CO-ORDINATION
BETWEEN THE DISTRICT ADMINISTRATION AND GOVERNMENT LAW OFFICERS OF THE
DISTRICTS—ORDERS ISSUED

LAW (INSPECTION WING) DEPARTMENT

G. O (Ms) No 103/08/Law Dated, Thiruvananthapuram, 16th October, 2008

Read—Minutes of the meeting held on 5-8-2008 in the Chamber of Hon'ble
Minister for Revenue

ORDER

It has come to the notice of Government that there is lack of effective co-ordination between the District Administration and Government Law Offices of the districts in the conduct of Government cases and that salaries of Government Law Officers and of the staff attached to their offices are disbursed belatedly. Similar issues in Thrissur district culminated in convening a high level meeting. In the light of the discussions held in the meeting, the following guidelines are issued to the District Administration and Government Law Officers of all the districts for strict observance.

(i) The District Collectors and subordinate Officers shall quickly respond to the request of the Government Law Officers for furnishing the statement of facts, signing counter affidavits and written statements. Any failure on the part of Officers would be taken serious note.

(ii) The competent staff at least one experienced in computer shall be deputed to the office of every Government Law Officer. The staff deputed to the office of Government Law Officer shall attend the duties as directed by the Government Law Officer. They shall keep a liaison between the District Administration and Government Law officers in the conduct of cases, furnishing the statements of facts, filing of counter affidavits/written statements, obtaining copies of orders, judgments and decrees obtaining legal opinion of Government Law Officers and despatch the same to the concerned Officers. It shall be duty of those staff who are deputed to the office of Government Law Officers to maintain a diary regarding total number of cases, posting of cases for each day, cases disposed of every day, copy of the judgment, decrees, applied and obtained and copy of legal opinion obtained and despatched.

(iii) It shall be the duty of the senior officer, whatever be the designation in the office of the Government Law Officer to file copy application in disposed cases, get copies of orders, decree and judgments and to forward the same to the District Collector/concerned officer. In the event of dereliction, on a report of Government Law Officer, appropriate action shall be initiated against them by the District Collectors.

(iv) The Government Law Officer should ensure that the copy applications are filed in time and copies of the orders, decrees and judgments are forwarded to District Collector/concerned Officer in time. All cases are to be properly monitored by the Government Pleaders. The Government Law Officer should directly intimate the District Collector about the important Court orders, judgments and cases in which appeals/revision petitions are to be filed urgently.

(v) The District Collectors shall see that all arrears of salaries of the staff attached to the offices of the Government Pleaders are disbursed forthwith.

(vi) As regards the establishment matters of the office of the Government Pleaders, the procedure prescribed in the Kerala Government Law Officers (Appointment and Conditions of Service) and conduct of cases Rules 1978 shall be followed in all districts.

(vii) The District Collectors shall see, that salaries to the Government Law Officers are disbursed on or before 5th of every calendar month.

(viii) The District Collector and District Government Pleader in the concerned district shall make all necessary arrangements to see that the above guidelines are observed strictly. Non-observance of the above guidelines would be viewed seriously.

By order of the Governor,

P S GOPINATHAN,
Law Secretary

GOVERNMENT OF KERALA

Abstract

GOVERNMENT LAW OFFICERS—ENHANCEMENT OF THE RATES OF FEES PAYABLE TO THE
STANDING COUNSEL IN THE SUPREME COURT—ORDERS ISSUED

LAW (INSPECTION WING) DEPARTMENT

G. O (Ms) No 3/09/Law Dated, Thiruvananthapuram, 13th January, 2009

Read—Minutes of the meeting chaired by the Honourable Minister for Law
and Parliamentary Affairs on 14-7-2007 in New Delhi

ORDER

Government are pleased to enhance the rates of fees payable to the
Standing Counsel in the Supreme Court as follows with effect from 1-8-2007:

Drafting Special Leave Petitions	Rs 750
Drafting Counter Affidavit	Rs 500
Appearing in Court to argue Special Leave Petitions as leading Counsel	Rs 1000
Assisting the Senior to argue Special Leave Petitions	Rs 500
Appearance in Court to argue the final hearing as leading Counsel (for the first day)	Rs 1500
Appearance in Court to argue the final hearing as leading counsel on each of the subsequent days	Rs. 1000
Appearance in Court at the final hearing to assist the Senior Advocate (for the first day)	Rs 1000
Appearance in Court at the final hearing to assist the Senior Advocate on each of the subsequent days	Rs. 700
Copying charges	Rs 10/20
Retainer fee	Rs 3000 per mensum
Initial expenses	Rs 1000/700

By order of the Governor,

P S GOPINATHAN,
Law Secretary

GOVERNMENT OF KERALA

Abstract

GOVERNMENT LAW OFFICERS IN DISTRICT COURT, ADDITIONAL DISTRICT COURT AND
SUB COURT CENTRES—REVISION OF REMUNERATION—ORDERS ISSUED

LAW (INSPECTION WING) DEPARTMENT

G. O. (Ms) No 10/09/Law Dated, Thiruvananthapuram, 22nd January, 2009

Read.—1. G O (P) No 11/78/Law dated 25-1-1978

2. G. O. (Ms) No 142/2006/Law dated 22-5-2006

ORDER

Government are pleased to revise the monthly remuneration of Government Law Officers in District Court, Additional District Court and Sub Court centres w.e.f. 1-1-2008 at the following rates

District Government Pleader and Public Prosecutor	Rs 20,500
Additional Government Pleader and Addl Public Prosecutor	Rs 18,500

This is consolidated remuneration and they are not eligible for any other allowances

By order of the Governor,

P S GOPINATHAN,
Law Secretary

GOVERNMENT OF KERALA

Abstract

ADVOCATE GENERAL—REVISION OF REMUNERATION—ORDERS ISSUED

LAW (INSPECTION WING) DEPARTMENT

G O (Ms) No 14/09/Law Dated, Thiruvananthapuram, 28th January, 2009.

Read —1 G O (P) No 123/2005/Law dated 17-11-2000

2 U O No 89352/R2/08/Fun dated 14-12-2008

ORDER

Government are pleased to revise the monthly remuneration of Advocate General at the following rates

1 Retainer Fee	Rs 30,000 p m.
2 Special Allowance	Rs 17,000 p m

By order of the Governor,

P S GOPINATHAN,
Law Secretary

GOVERNMENT OF KERALA

Abstract

ADDITIONAL ADVOCATE GENERAL—REVISION OF REMUNERATION—ORDERS ISSUED

LAW (INSPECTION WING) DEPARTMENT

G O (Ms) No 93/09/Law Dated, Thiruvananthapuram, 4th July, 2009

Read —1 G O (P) No 124/2005/Law dated 12-4-2005

ORDER

Government are pleased to revise the monthly remuneration of Additional Advocate General at the following rates w e f 1-7-2009

1 Retainer Fee	Rs 22,000 p m
2 Special Allowance	Rs 12,000 p m

By order of the Governor,

K SASIDHARAN NAIR,
Law Secretary

GOVERNMENT OF KERALA

Abstract

ADMINISTRATOR GENERAL AND OFFICIAL TRUSTEE OF KERALA, ERNAKULAM—
ENHANCEMENT OF MONTHLY REMUNERATION—ORDERS ISSUED

LAW (INSPECTION WING) DEPARTMENT

G O (Ms) No 115/09/Law *Dated, Thiruvananthapuram, 31st July, 2009*

Read—1 G O (Ms) No 341/99/Law dated 9-7-1999

2 Letter No SS 07/09/AG dated 14-1-2009 of the Advocate General,
Kerala, Ernakulam

ORDER

The Advocate General, Ernakulam vide letter read as 2nd paper above has recommended to enhance the monthly remuneration of the Administrator General and Official Trustee of Kerala fixed vide G O. read as 1st paper above

2 Government, after having considered the matter in detail, are pleased to enhance the monthly remuneration of the Administrator General and Official Trustee of Kerala to Rs 20,000 (Rupees Twenty thousand only) w e f 1-5-2009

By order of the Governor,

K SASIDHARAN NAIR,
Law Secretary

GOVERNMENT OF KERALA

Abstract

LAW DEPARTMENTS ADVOCATES FOR DOING GOVERNMENT WORKS AT MUNSIF'S COURT CENTRES—REVISION OF REMUNERATION—SANCTIONED—ORDERS ISSUED

LAW (INSPECTION WING) DEPARTMENT

G O (Ms) No 152/09/Law Dated, Thiruvananthapuram, 9th November, 2009.

Read —1 Representations dated 25-7-2008, 30-8-2008 and 30-9-2008 respectively of Sri O K Sasindran, Sri C K Ramachandran and Sri K Pramod, Advocates doing Government works at Munsiff's Court Centres, Kannur District

2 G O (P) No 11/78/Law dated 25-1-1978

3 G O (Ms) No 255/07/Law dated 22-11-2007

ORDER

Advocates for doing Government works at Munsifs Court centres in Kannur district vide representations read as 1st paper above have requested the Government to enhance the monthly remuneration of Advocates for doing Government works at Munsiff's Court centres in the State

Government, after having considered all aspects of the matter in detail, are pleased to revise the monthly remuneration of Advocates for doing Government works at Munsiff's Court centres as Rs 5,000 (Rupees Five Thousand only) p m w e f 1-11-2009

The expenditure will be debited to the Budget allotment under the Head of Account "2014-00-114-98-28"

By order of the Governor,

K SASIDHARAN NAIR,
Law Secretary

GOVERNMENT OF KERALA

Abstract

LAW DEPARTMENT ADMINISTRATION—CREATION OF ONE POST OF LEGAL ASSISTANT EACH IN THE 14 OFFICES OF DISTRICT GOVERNMENT PLEADER IN ADDITION TO THE CADRE POST OF LAW DEPARTMENT—SANCTIONED—ORDERS ISSUED

LAW (ADMINISTRATION-II) DEPARTMENT

G O (Ms) No. 26/10/Law Dated, Thiruvananthapuram, 19th February, 2010

Read—1 Minutes of the meeting on Court Cases Monitoring Solution for Law Offices held on 2-6-2009

2 U O. (F) No 73252/Exp A3/09/Fm dated 14-12-2009

ORDER

The Project of Court Cases Monitoring Solutions for Law Offices is conceived to implement a computerized Court Case Tracking and Monitoring System at fourteen District Government Pleader's offices in Kerala, Law Office at New Delhi and the Office of the Advocate General at Ernakulam with a view to conduct and monitor Government cases much more effectively than at present. Even though the project was started in the year 2004, it was found that the same is not functioning properly. As a part of revamping the Project a meeting was convened by Hon'ble Minister (Law and Parliamentary Affairs) on 2-6-2009, as per first paper read above, and it was decided to create one Legal Assistant post each in the office of fourteen District Government Pleader for monitoring cases and for data updation. The Government are convinced with the urgent need as to posting of responsible staff exclusively for the purpose of monitoring cases and data updation in the 14 offices of District Government Pleader, since day to day data entry and the monitoring of a responsible person is fundamental to the very success of the project.

2. Accordingly the Government of Kerala have examined the matter in detail and are pleased to accord sanction for the creation of one post of Legal Assistant each in the 14 offices of District Government Pleader in the Scale of Pay of Rs. 8390-13270 in addition to the cadre posts of Law Department in the office of the 14 District Government Pleader in Kerala, who shall be responsible for monitoring cases and data updation.

3 This order is issued with the concurrence of Finance Department vide U O (1) read as 2nd cited

By order of the Governor,

K SASIDHARAN NAIR,
Law Secretary

GOVERNMENT OF KERALA

Abstract

REVENUE DEPARTMENT—DISTRICT COLLECTORATES—APPOINTMENT OF DEPUTY SECRETARY (LAW) IN THE COLLECTORATES—DESIGNATION AS DISTRICT LAW OFFICER AND ASSIGNMENT OF DUTIES AND RESPONSIBILITIES—ORDERS ISSUED

REVENUE (G) DEPARTMENT

G O (Ms) No 277/2010/RD. *Dated, Thiruvananthapuram, 9th July, 2010*

- Read*—1 Circular No 19266/B3/2008/Law dated 29-11-2008.
 2 Circular No 7812/B3/2009/Law dated 22-6-2009
 3 G O (Rt.) No 757/2009/Law dated 21-8-2009
 4 Circular No 22148/B3/2009/Law dated 15-1-2010

ORDER

As per the G O read as 3rd paper above, eight posts of Deputy Secretary (Law) Were created as addition to the cadre posts of Law Department to head the Suit Cell of the District Collectorates of Thiruvananthapuram, Kollam, Alappuzha, Idukki, Ernakulam, Palakkad, Kozhikode and Kasaragod The following orders are issued with immediate effect with regard to their designation, duties and responsibilities and facilities to be made available to those officers posted against this newly created posts.

I Designation

Deputy Secretary (Law) in each Collectorate is designated as District Law Officer (DLO)

II Duties and responsibilities of the District Law Officer

- 1 It shall be the duty of the District Law Officer to monitor the conduct of all court cases in which Government/District Authority is a party so as to protect the interest of Government and to minimize the expenses and losses to the Government
- 2 District Law Officer is bound to give advice on all legal matters referred to the District Law Officer by the District Collector Legal question specifying the point/points on which advice of District Law Officer is sought for must be formulated before submitting files to District Law Officer District Law Officers are not expected to tender advice in the following cases

- (i) hypothetical issues
- (ii) issues to be resolved by administrative wing itself
- (iii) subjects covered under departmental manual, procedures, sub-rules etc , in which departmental officers are familiar
- (iv) issues raised while officers functioning in the capacity of arbitrator, umpire, etc.
- (v) occasions where officers use discretionary powers vested under statutes
- (vi) matters coming under the Right to Information Act

3 Any draft Statement of Facts prepared by the section shall be examined by the officers concerned from the administrative point of view before submitting to the District Law Officer for vetting the legal aspects involved in the case and the District Law officer shall examine the same in terms of the circular read as 2nd paper above and ensure that the approved Statement of Facts are furnished to concerned Government Pleader/Advocate General and necessary affidavit/statement filed before the court in time

4 District Law Officer shall be alert in the conduct of all cases with special care in the matter of LAR cases, KLC cases, Land Assignment cases/RR cases among others in terms of the Circular read as 2nd paper above District Law Officer should ensure that the Statement of Facts is prepared accurately and without delay. Efforts should be taken by the District Law Officer for filing affidavits/statements for obtaining court order in time, examination of cases under Sec 28 A of the Land Acquisition Act, 1894 by the District Collector and for timely deposit of the decretal amount in LAR cases against which appeal was not preferred to avoid EPs as far as possible

4.1 The District Law Officer shall follow up all contempt of court cases to ensure timely necessary action

5 In cases where District Collector or subordinate officer require legal advice from the Advocate General for filing appeal before High Court/Supreme Court, District Law Officer shall ensure that the appropriate decision is taken by the Administrative Department in the Secretariat as per the instructions issued in the circular read as 1st paper above

6 The District Law Officer shall ensure that delay in filing appeals and special leave petitions are avoided as instructed in the Government circular read as 4th paper above The Suit Registers of the Collectorates and the sub-offices

shall be submitted to the District Law Officer for inspection through Senior Superintendent (Suit Cell). The District Law Officer shall streamline the functioning of the Suit Cell. He will ensure computerization of all court cases pending and close follow up of each. A computerized monitoring system with regular alarm mechanism will be set up

7 A register of Suit Notices as shown in Appendix V at the "Kerala Government Law Officers (Appointment and Conditions of Service and Conduct of Cases) Rules, 1978" should be maintained in the Suit Cell

8 A Register of contempt of Court Cases/Court Order implementation should be maintained in the Suit Cell in order to watch the implementation of Court directions. Such registers shall be periodically inspected by the District Law Officer. Senior Superintendent (Suit Cell) shall be directed to watch the prompt maintenance of register and take necessary action, if any lapse is noticed in this regard

9 The District Law Officer shall be that regular follow up action is taken in all pending cases including RR, LAR, EP, etc., and the stage of each ascertained by contacting the Government Pleader concerned or Advocate General. A separate list of cases involving realization of large amount of revenue to the State exchequer shall be kept for monitoring by the District Law Officer. The District Law Officer may call for monthly statement showing the latest position of cases from the Government Pleaders in the district to enable him to update the concerned registers.

10 Monthly review meeting of all District level officers of the concerned Districts shall be convened under chairmanship of the District Collector, with Law Officer as convener for monitoring the progress of each and every court case in which Government/District Authority is a party

III Position of District Law Officer in the District Administration

1 The District Law Officer shall work under the direct control of District Collector. Files related to the Court Cases shall be routed through District Law Officer by the Deputy Collector or the Senior Superintendent concerned

2 The offices of the Government Pleaders at District Courts, Additional District Courts and Sub Courts shall be under the supervision of the District Law Officer

3 Tapals related to court cases shall be routed through the District Law Officer

4 Any short fall/poor performance on the part of the District Law Officers shall be reported to Government in Law Department and copy forwarded to Revenue Department, by the District Collector for appropriate action

IV Reports to be submitted by District Law Officer

1 District Law Officer shall submit the Suit Registers, once every year, for the inspection by the Law Secretary, Land Revenue Commissioner and Revenue Secretary.

2 The District Law Officer shall inspect the sub offices under the District Collector at least once every quarter and the report of inspection shall be submitted to the Law (Monitoring) Cell, Law Secretary and Revenue Secretary and Land Revenue Commissioner through the District Collector

3 A consolidated Register of Suits, WP(C)s Appeal, etc shall be kept in the Suit Cell separately so as to ascertain the present position of the cases without referring the case files A Suit Register shall be maintained in the prescribed pro forma by each section clerk in the Collectorate/Sub Offices with proper up-to-date details so as to ensure, efficient and timely supervision of the progress on the Suits, WP(C)s, Appeals, etc

4 The District Collector shall furnish a quarterly statement (i.e., as on the 31st March, 30th June, 30th September and 31st December of every year) in the prescribed pro forma to the Law (Monitoring Cell) Department A consolidated list of pending cases may be prepared with utmost care in the prescribed pro forma and shall also be forwarded in every six months i.e., as on 30th June and 31st December every year

District Law Officers will be provided with required facilities viz , office supporting staff and other office requirements so that they can function effectively and ensure that full legal support is available to the District Collectors

By order of the Governor,

DR P PRABAKARAN,
Chief Secretary to Government

GOVERNMENT OF KERALA

Abstract

LAW DEPARTMENT—POWERS, DUTIES AND RESPONSIBILITIES OF LEGAL ASSISTANT APPOINTED IN THE OFFICE OF THE DISTRICT GOVERNMENT PLEADER AND PUBLIC PROSECUTOR—ORDERS ISSUED

LAW (INSPECTION WING) DEPARTMENT

G O (Ms) No 114/2010/Law *Dated, Thiruvananthapuram, 13th July, 2010*

Read—1 GO (Ms) No 26/2010/Law dated 19-2-2010

2 GO (Rt) No 542/2010/Law dated 23-6-2010

ORDER

Government, vide Government Order read as 1st paper above, have accorded sanction for the creation of one post of Legal assistant each in the 14 offices of District Government Pleaders and Public Prosecutors in the Scale of pay, 8390-13270 in addition to the cadre posts of Law Department who shall be responsible for monitoring the conduct of Government cases and data updation in connection with the Project of Court Cases Monitoring Solution for Law Officers

Accordingly Government, vide Government Order, read as 2nd paper above have posted one Legal Assistant each in the Offices of the District Government Pleaders and Public Prosecutors of Kollam, Idukki and Kozhikode Districts

Now, Government are pleased to define the powers, duties, and responsibilities of the Legal Assistants, appointed in the Offices of the District - Pleaders and Public Prosecutors as follows—

1 The Legal Assistant appointed in the Office of the District Government Pleader and Public Prosecutor shall report for duty before the District Law Officer [Deputy Secretary (Law)] of the Suit Cell and in his absence, before the District Collector concerned, who shall be his controlling officer

2 The controlling officer shall make necessary arrangements for the disbursement of salary of the Legal Assistant from the concerned Head of Account

3 The Legal Assistant shall act as a channel of communication between the District Law Officer [Deputy Secretary (Law)] Suit Cell Collectorate and the office of the District Government Pleader and Public Prosecutor

4 He shall co-ordinate the working of all the Government Law Offices in the District and keep a liaison between the Suit Cell of the District Administration and Government Law Officers in respect of the conduct of Government cases

5 He shall be responsible for the proper upkeeping of the Project of Court Cases monitoring Solution for Law Offices in the Office of the District Government Pleader and Public Prosecutor and may do the necessary action for the proper conduct of the project including supervision of hardware and software

6 He shall keep updated all the data of the Government cases attended to by the Government Law Officers in the web base, Court cases Monitoring System In cases where backlog needs to be filled the same shall be done by him

7 He shall ensure that Scheduled Preventive Maintenance, Unscheduled on call corrective and remedial maintenance and Operating System (OS) support are properly provided by the implementing agency

8 He shall keep a register to record the performance of implementing agency in delivering the service levels prescribed by this Department in the Service Level Agreements entered into between Law Department and implementing agency from time to time This is to make the latter responsible in keeping the service levels and to calculate the penalty to be imposed as per the terms of Agreement A report in this regard should also be sent to Additional Law Secretary, Law (Nodal) Department

9 He shall send monthly reports on the data updation to the Additional Law Secretary, Law (Nodal) Department and also report any difficulty affecting the proper implementation of the Project

10 He shall make himself well aware of the IT Act, 2000 (Central Act 21 of 2000) the rules and notifications issued thereunder from time to time

11 He shall timely report to the Additional Law Secretary, Law (Nodal) Department on any of the lapses from the part of implementing agency

12 He shall comply with the directions issued from the Law (Nodal) Department for the proper upkeeping of the Project

13 He shall inform any relevant modification for fine-tuning the software to the Additional Law Secretary, Law (Nodal) Department

14 He shall ensure that the network connectivity provided for the Project shall not be misused

15 He shall attend training given by the implementing agency

16 He Shall keep necessary registers showing the statistics of Government cases conducted by the Government Law Officers in the District

17 He shall keep a consolidated monthly statement of Government cases pending before the various courts in the District concerned He shall call for the monthly statement on the conduct of Government cases by Government Law Officers in the District and consolidate them as per the guidelines issued in this regard and forward the same in the prescribed format to the District Law Officer [Deputy Secretary (Law)] Suit Cell of the Collectorate concerned, in time

18 He shall see that the staff are maintaining the registers required to be maintained by the K G L O Rules, 1978 in the proper format

19 He shall be the custodian of "B" Diary and ensure that it is kept up-to-date by the concerned officer in the office of the District Government Pleader and Public Prosecutor with all the corresponding details of the "A" Dairy kept in the office of concerned court If any dereliction of duty regarding the up dation of "B" Diary is found he shall report the matter to the District Government Pleader and Public Prosecutor and the Controlling Officer and take remedial action in time

20 He shall call for the details for preparing budget proposals etc , with respect to the Head of Account "2014-00-114- L A & C-98" in the prescribed pro forma from the offices of the Government Law Officers of the District verify and consolidate them, prepare the draft budget proposal and forward the same to the Law Secretary through the controlling officer concerned Each demand for grants, proposal for expenditure, application for allotment, request for additional authorization, draft budget proposal etc , in respect of the Budget Head of Account "2014-00-114- L A & C-98" shall be scrutinized at the District level by the Legal Assistant concerned and forwarded to the Law Secretary through the Controlling Officer concerned

21 The District Collector, the District Law Officer [Deputy Secretary (Law)] and the District Government Pleader and Public Prosecutor shall provide all necessary facilities to the Legal Assistant appointed in the Office of the District Government Pleader and Public Prosecutor to discharge his duties and responsibilities properly, efficiently and effectively

Any failure to comply with this order will be viewed very seriously

By order of the Governor,

K SASIDHARAN NAIR,
Law Secretary

GOVERNMENT OF KERALA

Law (Inspection Wing) Department

No 3640/B3/05/Law

Dated, Thiruvananthapuram, 20th May, 2005

From

The Law Secretary

To

The District Government Pleader and Public Prosecutor/Additional
Government Pleader and Additional Public Prosecutor

Sir,

Sub — Judgment in Criminal Appeal Nos 526, 545 and 665 of 2001—reg
Ref — Letter D No 3583/2001/SEC-IIA dated 20-1-2005 from the Assistant
Registrar, Supreme Court of India

The Hon'ble Supreme Court in its formal Judgment in Criminal Appeal Nos 526 of 2001, 545 of 2001 and 665 of 2001 directed against the judgment and order dated 19-3-2001 passed by the Designated Court No 3 at Ahmedabad in Terrorist Case Nos 2 of 1997, 33 of 1994 and 16 of 1995 has observed that the decision laid down in Nalini's Case (State Vs Nalini 1999 (5) SCC 253) is correct law

Further, while dealing with the other submission on the rigours of Section 18 of the Act the Bench has taken notice of the note of caution of the Hon'ble Supreme Court in para 352 of the judgment in Kartar Singh's case [Kartar Singh Vs State of Punjab (1994) 3 SCC 569] The Hon'ble Supreme Court reiterated that observation of note of caution in Kartar Singh's case is eloquently sufficient to caution police officials as well as the Presiding Officers of the Designated Courts from misusing the Act and to enforce the Act effectively and in consonance with legislative intentment which would mean after the application of mind The relevant extract of the formal judgment dated 12-1-2005 laid down by the Hon'ble Supreme Court is stated below for due compliance —

“The decision in Nalini's Case has laid down correct law and we hold that the confessional statement duly recorded under Section 15 of TADA and Rules framed thereunder would continue to remain admissible for the offences under any other law which were tried along with TADA offences under Section 12 of the Act, notwithstanding that the accused was acquitted of offences under TADA in the same trial”

The note of caution of the Hon'ble Supreme Court in Kartar Singh's case paragraph 352 (S C P 707) is as under —

"352 It is true that on many occasions, we have come across cases wherein the prosecution unjustifiably invokes the provisions of the TADA Act with an oblique motive of depriving the accused persons from getting bail and in some occasions when the courts are inclined to grant bail in cases registered under ordinary criminal law, the investigating officers in order to circumvent the authority of the courts invoke the provisions of the TADA Act This kind of invocation of the provisions of TADA in cases the facts of which do not warrant is nothing but sheer misuse and abuse of the Act by the police Unless, the public prosecutors rise to the occasion and discharge their onerous responsibilities keeping in mind that they are prosecutors on behalf of the public but not the police and unless the Presiding Officers of the Designated Courts discharge their judicial functions keeping in view the fundamental rights particularly of the personal right and liberty of every citizen as enshrined in the Constitution to which they have been assigned the role of sentinel on the qui vive, it cannot be said that the provisions of TADA Act are enforced effectively inconsonance with the legislative intendment"

Yours faithfully,

T K SAMUEL VARGHESE,
Joint Secretary,
for Law Secretary

GOVERNMENT OF KERALA
Law (Inspection -B) Department

No 7806/B3/2010/Law

Dated, Thiruvananthapuram, 14th June, 2010

From

The Law Secretary

To

All District Collectors/District Government Pleaders & Public Prosecutors/
Deputy Secretary (Law), Suit Cell of all Collectorates/Addl Government
Pleaders and Addl Public Prosecutors

Su

Sub —Attachment—Judgment dated 25/2/2010 in WP@ No 31577
2009 of the Hon'ble High Court of Kerala-Garnishee
Proceeding—Directions issued —Reg

Ref—(1) Judgment dated 25/2/2010 in WP No 31577/2009 of
the Hon'ble High Court of Kerala

(2) Letter No PL3/10419/2009 dated 13-4-2010 of the Director of
Treasuries, Thiruvananthapuram

Attention is invited to the reference cited The Director of Treasuries vide reference 2nd cited has informed that the Hon'ble Sub Court, Thodupuzha in its order in F P No 88/2003 in O S No 121/1981, placed the Sub Treasury Officer, Thodupuzha as garnishee, that the order was challenged before the Hon'ble High Court in W P No 31577/2009 and that the Hon'ble High Court in the reference 1st cited observed as follows

" .When the petitioner appeared and pointed out that he cannot be treated as a garnishee in respect of the amount in question, the court below ought to have conducted an enquiry under Order XXI Rule 46C of the C P C and it is only thereafter Order XXI Rule 46B would have been resorted to

It was the incumbent on the part of the court below to determine the disputed issue, as contemplated under Order XXI rule 46C of the C. P C, before directing him to be deposited This aspect has to be considered by the court below While doing so, the court below has also to consider the impact of order XXI Rule 52 of the C P C "

Therefore, you are requested to take note of the above matter and take necessary steps to convince the execution court of the above observation of the High Court as and when similar cases arise in future in order to avoid attachment of Treasury Deposit under the guise of garnishee proceedings

Yours Faithfully,

K. MADHUSUDANAN NAIR,
Law Secretary (I/C)

Copy to

The Director of Treasury, Thiruvananthapuram

GOVERNMENT OF KERALA

Law (Administration I) Department

Office Order No 74/2010/Law *Dated, Thiruvananthapuram, 20th July, 2010*

Sub —Law Department—Estt Work Distribution Order—Reg—

Ref—Office Order No 80/2008/Law dated 14-8-2008

In the office order referred above in Sl No 17 Law (Monitoring Cell I) against MC 1 under the Heading "Subject dealt within the section" the following entries shall be added at the end namely, "and controlling the Head of Account 2014-00-114-LA &C-98" The above modification shall come into force with immediate effect

K. SASIDHARAN NAIR,
Law Secretary

GOVERNMENT OF KERALA

Law (Inspection -B) Department

No 12841/B3/2010/Law

Dated, Thiruvananthapuram, 16th July, 2010

From

The Law Secretary

To

(1) The Advocate General, Kerala, Ernakulam

(2) The District Collector/District Law Officer (Deputy Secretary (Law))

Suit Cell Collectoraie/District Govt Pleader & Public Procecurator,
Thiruvananthapuram, Kollam, Pathanamthitta, Allapuzha, Kottayam, Idukki,
Ernakulam, Thrissur, Palakkad, Malappuram, Kozhikode, Wayanad, Kannur,
Kasargod

Sir,

Sub—Judgment dated 4-10-2007 of Hon'ble Supreme Court in CrI
Appeal No 1338/2007 regarding personal appearance of officers
before the court-copy of judgement—Forwarding of—Reg.

Ref—Letter No F 29 (2)/2010 - Judi dated 3-6-2010 of Additional
Legal Adviser, Ministry of Law & Justice, New Delhi

In inviting attention to the reference cited, the copy of the judgement
dated 4-10-2007 of the Hon'ble Supreme Court in CrI Appeal No 1338/2007 is
forwarded herewith for information and necessary action

Yours faithfully,

T VASANTHA KUMAR,
Joint Secretary,
For Law Secretary

CASE NO

Appeal (CrI) 1338 of 2007

PETITIONER State of Gujarat

RESPONDENT Turabali Gulamhussain Hiran & Aur

DATE OF JUDGMENT 04-10-2007

BENCH A K Mathur & Markandey Katju

JUDGMENT JUDGMENT

CRIMINAL APPEAL No 1338 OF 2007

(Arising out of Special Leave Petition (Crl) No 2252 of 2007
 MARKANDEY KATJU, J.

1 Leave granted.

2 This appeal has been filed against the impugned interim order dated 11-4-2007 of the Gujarat High Court in Criminal Miscellaneous Application No 13747/2005 in Criminal Appeal No 728/2005

3 A perusal of the impugned interim order shows that a Criminal Appeal was filed with a delay of 25 days. The learned Judge of the Gujarat High Court (Hon'ble R S Garg, J) on the application for condonation of delay in filing the appeal passed the impugned order directing the Chief Secretary and Law Secretary of the Gujarat Government to be personally present before him on 20-4-2007 "so that the Court may have a direct dialogue with them that what effective steps they are taking to provide sufficient staff to the office of the Government Pleader/Public Prosecutor and to avoid delay at every stage". It may be mentioned that the reason given for the delay of 25 days was the shortage of staff including stenographers in the office of the Public Prosecutor.

4 In our opinion, the learned Judge of Gujarat High Court was totally unjustified in summoning the Chief Secretary and Law Secretary merely because there was a delay of 25 days in filing the appeal. It may be mentioned that the same Hon'ble Judge (Hon R S Garg, J) in several other cases also summoned the Chief Secretary to appear before him personally. Thus, in Special Civil Application Nos 13969/1993 and 6896/1993 titled Gujarat Hotels Ltd and others vs State of Gujarat & others dated 18-1-2007 he summoned the Chief Secretary to appear before him personally. That case related to an incentive scheme of the State government for attracting new entrepreneurs.

5 In another case, Special Civil Application No 8209/1998 titled Gujarat Revenue Tribunal VS A K Chakraborty, IAS, the Bench of Hon'ble RS Garg and Hon'ble M R Shah, JJ by an order dated 28-2-2007, ordered the Chief Secretary to be personally present on 6-3-2007 "so that the Court may discuss the niceties with him and may ask him certain questions hovering in the mind of the Court".

6 A large number of cases have come up before this Court where we find that learned Judges of various High Courts have been summoning the Chief Secretary, Secretaries to the Government (Central and State), Director Generals of Police, Director CBI or BSF or other senior officials of the Government.

7 There is no doubt that the High Court has power to summon these officials, but in our opinion that should be done in very rare and exceptional cases when there are compelling circumstances to do so. Such summoning orders should not be passed lightly or as a routine or at the drop of a hat.

8 Judges should have modesty and humility. They should realize that summoning a senior official, except in some very rare and exceptional situation, and that too for compelling reasons, is counter productive and may also involve heavy expenses and valuable time of the official concerned.

9 The judiciary must have respect for the executive and the legislature. Judges should realize that officials like the Chief Secretary, Secretary to the Government, Commissioners, District Magistrates, senior police officials etc., are extremely busy persons who are often working from morning till night. No doubt, the ministers lay down the policy but the actual implementation of the policy and day to day running of the government has to be done by the bureaucrats, and hence the bureaucrats are often working round the clock. If they are summoned by the Court they will, of course, appear before the Court, but then a lot of public money and time may be unnecessarily wasted. Sometimes High Court Judges summon high officials in far off places like Director, CBI or Home Secretary to the Government of India not realizing that it entails heavy expenditure like arranging of a BSF aircraft, coupled with public money and valuable time which would have been otherwise spent on public welfare.

10. *Hence, frequent, casual and lackadaisical summoning of high officials by the Court cannot be appreciated. We are constrained to make these observations because we are coming across a large number of cases where such orders summoning of high officials are being passed by the High Courts and often it is nothing but for the ego satisfaction of the learned Judge.*

11 We do not mean to say that in no circumstances and on no occasion should an official be summoned by the Court. In some extreme and compelling situation that may be done, but on such occasions also the senior official must be given proper respect by the Court and he should not be humiliated. Such senior officials need not be made to stand all the time when the hearing is going

on and they can be offered a chair by the Court to sit. They need to stand only when answering or making a statement in the Court. The senior officials too have their self-respect, and if the Court gives them respect they in turn will respect the Court. Respect begets respect.

12 It sometimes happens that a senior official may not even know about the order of the High Court. For example, if the High Court stays the order of the Collector of suspension of a class—III or class IV employee in a government department, and certified copy of that order is left with the Clerk in the office of the Collector, it often happens that the Collector is not even aware of the order as he has gone on tour and he may come to know about it only after a few days. In the meantime a contempt of court notice is issued against him by the Court summoning him to be personally present in Court. In our opinion, this should not be readily done, because there is no reason why the Collector would not obey the order of the High Court. *In such circumstances, the Court should only request the government counsel to inform the concerned Collector about the earlier order of the Court which may not have been brought to the notice of the Collector concerned, and the High Court can again list the case after a week or two.* Almost invariably it will be found that as soon as the Collector comes to know about the stay order of the High Court, he orders compliance of it.

13 In the present case, we find no occasion or reason for the learned Judge to summon the Chief Secretary or the Law Secretary by the impugned order. If the learned Judge was concerned about the lack of enough Stenographers in the office of the Public Prosecutor he could have called the Advocate General or Govt. Advocate to his chamber and have asked him to convey the Court's displeasure to the government, but where was the need to summon the Chief Secretary or Law Secretary? Hence, we set aside the impugned interim order dated 11-4-2007 and condone the delay of 25 days in filing the appeal before the High Court. The High Court may now proceed to hear the Criminal Appeal in accordance with law. The appeal is allowed.

14 The Secretary General of this Court is directed to circulate a copy of this judgment to the Registrar Generals/Registrars of all the High Courts, who shall circulate copies of the said judgment to all Hon'ble Judges of the High Courts.

GOVERNMENT OF KERALA

* Personnel and Administrative Reforms (Advice-C) Department

CIRCULAR

No 14509/Adv C2/98/P&ARD.

Dated, Thiruvananthapuram, 14th October, 1998

Sub —Procedure for dealing with Court cases—Instructions Issued

Certain issues relating to the O Ps pending in the Hon'ble High Court were discussed, among other things, at the meeting of Secretaries and the Advocate General with Chief Secretary held on 14-9-1998. In the light of the discussion the following instructions are issued

- 1 The Laison Officers will be authorised to swear to counter affidavits in routine cases
- 2 The Advocate General will conduct or arrange to conduct periodical review of cases on the last Saturday of the month in his office in so far as the Departments which have to deal with a number of Court cases and difficulties arising therefrom. Either the Secretary or a Senior Officer nominated by him should attend such review meetings
- 3 It may be noted that only heads of Departments and Officers of and above the rank of Additional Secretary to Government should address the Advocate General by D O Letters

M MOHANKUMAR,
Chief Secretary

GOVERNMENT OF KERALA

Home (C) Department

CIRCULAR

No 61153/C2/91/Home

Dated, Thiruvananthapuram, 25th March, 1992

Sub —Appointment of Special Public Prosecutors—Procedure—Regarding

Special Public Prosecutors are appointed by Government by invoking section 24(8) of the Code of Criminal Procedure, which provides that the Central Government or a State Government may appoint for the purpose of any case or classes of cases a person, who has been in practice as an Advocate for not less than ten years as a Special Public Prosecutor. A large number of petitions are received by Government with the request to appoint Special Public Prosecutors and in almost all the petitions, the aggrieved parties suggest the name of the Advocates also. The Special Public Prosecutors are eligible for regulation fee prescribed in Rule 39 of the Kerala Government Law Officers (Appointment and Conditions of Service) and Conduct of Cases Rules, 1978. The proviso to rule 39 provides that the Government may, in special circumstances, sanction the payment of fees at a higher rate or a consolidated fee to any Special Public Prosecutor.

2. Considering the volume of applications received by Government for appointment of Special Public Prosecutors and the heavy financial commitment involved, it has become necessary to formulate the following guidelines in the appointment of Special Public Prosecutors:—

(a) The appointment of Special Public Prosecutors will be permitted only in very exceptional circumstances, where the cases involved are highly sensational or have extensive public interest.

(b) The appointment will be made only after consultation with the District Collector/Superintendent of Police concerned who will specifically express his view whether the appointment of Special Public Prosecutor is absolutely necessary to conduct the prosecution effectively.

(c) If the District Collector/Superintendent of Police is so satisfied he will also forward to Government a letter from the Advocate proposed to be appointed as Special Public Prosecutor, indicating his willingness to conduct the prosecution on payment of regulation fee prescribed in the Kerala Government Law Officers (Appointment and conditions of service and Conduct of Cases Rules 1978)

(d) No private individual will be permitted to meet expenses connected with engagement of a Special Public Prosecutor

(e) Requests for appointment of a Junior Counsel to assist the Special Public Prosecutor will not be entertained when the appointment is made under section 24 (8) of Criminal Procedure Code

3 These instructions supersede all existing orders on the subject, and will be scrupulously adhered to

C P NAIR,

Commissioner & Secretary

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