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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 1549/2009

COURT ON ITS OWN MOTION Petitioner
THROUGH None.

versus

STATE Respondent

THROUGH: Mr. Rahul Mehra, Standing Counsel
(Crl.) with Mr. Amrit Singh,
Advocate for the Govt. of NCT of
Delhi.

Ms. Aayushi Gupta, Advocate for Mr.
Raman Duggal, Standing Counsel
(Civil) for the Govt. of NCT of Delhi.

Mr. Sanjeev Bhandari, Spl. PP
counsel for CBI.

Mr. Ashish Dixit, Advocate for Delhi
Prosecutor Welfare Association with
President & Vice President of the
Association in person.

Mr. Naresh Kaushik, Ms. Twinkle
Maheshwari, Ms Megha Singh & Mr.
Manoj Joshi, Advocates for the
respondent/ UPSC

Ms. Meera Bhatia, Advocate for UOI

CORAM:
HON'BLE MR. JUSTICE KAILASH GAMBHIR
HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

% **03.09.2015**

CM. APPL Nos.18506/2013, 13869 & 14366/2014 & 5612 & 11196/2015

Mr. Rahul Mehra, the learned Standing Counsel (Crl.) appearing for the State has placed on record the photocopies of the Cabinet decision dated 01.09.2015 and a detailed Note for the Council of Ministers circulated by the Secretary-in-Charge (Home) with regard to the subject-- revision of pay scales of prosecuting officers working under the Directorate of Prosecution, Govt. of NCT of Delhi.

Pursuant to the directions given by this Court vide order dated 06.08.2015 followed by another order dated 27.08.2015 directing the respondents to take prompt steps in making payment of all the professional fee/ retainer-ship fee bills as were forwarded by the Office of the learned Standing Counsel (Crl.) without causing any delay alongwith further directions to make immediate provision to implement the suggestions of the learned Amicus Curiae for better and efficient functioning of the learned APPs and to revise retainer-ship fee/ professional fee of the Standing Counsel, Addl. Standing Counsels, the APPs Assistant PPs, the Panel Lawyers, the Chief Secretary in its meeting took up the matter for necessary compliance of the said directions. The Chief Secretary had given direction to the Law Department, Govt. of NCT of Delhi to immediately clear all the pending bills of the Standing Counsel, Addl. Standing Counsel and the Addl. Public Prosecutors and this direction of the Chief Secretary, already stands complied with, as all the professional fee bills of the APPs received upto 27.08.2015 and retainer-ship fee bills of the Standing Counsel, Addl. Standing Counsel (Civil & Crl.) upto the month of July, 2015 have been paid. The affidavit further states that all the cheques have been delivered to

the Office of the Standing Counsel (Civil & CrI.) on 28.08.2015.

With regard to the various directions given by the Court in relation to the various facilities like, Computers, Laptop, Manupatra search engine etc. for efficient functioning of the learned APPs in the High Court, the Chief Secretary in his affidavit stated that the Council of Ministers is expected to take up the matter in its meeting on 01.09.2015. It further stated that in the said meeting the Council of Ministers is also expected to take up the matter regarding upward revision of retainership fees/ professional fees of Standing Counsel and Addl. Standing Counsel (Civil & CrI.), APPs and the Panel Lawyers. With regard to the revision of Pay Scales of the Prosecutors in District Courts, the Chief Secretary stated that a separate proposal has been prepared in the form of a Cabinet Note and this issue is also expected to be taken up in the same meeting on 01.09.2015. It further states that a separate order has been issued to provide facilities like Internet, Dongle and Manupatra search engine etc.

The matter was taken up on 02.09.2015. Mr. Rahul Mehra, the learned Standing Counsel (CrI.) apprised the Court that the Cabinet in its meeting held on 01.09.2015 has already accorded its approval to the various directions given by the Chief Secretary. In the light of the said submission made by the learned Standing Counsel (CrI.), we directed the learned Standing Counsel (CrI.) to place on record the minutes of the Cabinet decision.

Today, Mr. Rahul Mehra, the learned Standing Counsel (CrI.) placed on record a copy of the minutes of the Cabinet decision and a detailed Note for the Council of Ministers. The same be taken on record.

As per decision No.2200 dated 01.09.2015, the Cabinet has approved

the revised remuneration /fee and other facilities as mentioned in Annexure-I with modification that (i) Dragon Software instead of Stenographer, (ii) Internet through Dongle and (iii) Stationary Allowance or required stationary shall be provided to each counsel by Law Department. We reproduce herein the said revised remuneration/ fee as have been accorded by the Cabinet as under:

For Standing Counsel & Addl. Standing Counsel		
Nature of work	Existing Remuneration/ Fees	Revised Remuneration/ Fees
Monthly Retainership for Standing Counsel	Rs.25,000	1,10,000/-
Secretarial Assistance to Standing Counsel	10,000/-	30,000/-
Monthly Retainership for Addl. Standing Counsel	20,000/-	90,000/-
Secretarial Assistance to Addl. Standing Counsel	5,000/-	30,000/-
Appearance: Suits, Writ Petitions and Appeals, including oral applications, Revision Petitions, Special Civil	Rs.4500/- per case for Civil and Criminal Writ Petition under Articles 226 and 227. If in a case, hearing on Writ Petition goes on for more than 3 days, an additional fee of Rs.450/- per day (not exceeding 3 in number) may be paid by way of refresher	Rs.8000/- per case per day of effective hearing, subject to a maximum of Rs.40000/- per case. In case of non-effective hearing Rs.2000/- per case per day subject to a maximum of 5

Application in High Court.	fee.	hearings.
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Drafting of Writ Petition (Civil and Crl.) Suits, arbitration matters etc.	Rs.1500/-	Rs.7500/- per case
Drafting of appeal/revision (Civil and Crl.)	1500/-	3500/- per appeal/revision.
Drafting of misc. Application/other petitions including interim motions notices, leave application arbitration, company matters and other land acquisition, affidavits	1500/-	2000/- per case/ per application (max. Rs.10,000/- per case)
Clerkage charges	10% of fees subject to maximum of Rs.2400/-	10% of fees subject to maximum of Rs.5000/-

For Panel Advocates (Civil)

Nature of Work	Existing Remuneration/Fees	Revised Remuneration/Fees
Fee payable Hearing: Suits, Writ Petitions and Appeals, including oral applications for Leave to	Rs.4500/- (per case) If in a case, hearing on a writ petition goes on for more than 3 days, an additional fee of Rs.450/- per day (not	Rs.2000/- per case per day of effective hearing, subject to a maximum of Rs.10000/- per case.

Appeal in Writ Petitions. Revision petitions, special civil application in High Court	exceeding 3 in number) may be paid by way of refresher fee.	In case of non-effective hearing Rs.500/- per case, per day subject to a maximum of 5 hearings.
Drafting of Writ Petitions Appeal/ Revision/Pleadings/Suits, Written Statement, Rejoinders, Arbitration matters etc.	1500/-	2000/- per case
Drafting of misc. Application/other petitions including interim motions notices, leave application arbitration, company matters and other land acquisition references application for Leave to Appeal in Writ Petitions, affidavits	1500/-	1000/- per case/ per application (max. Rs.5,000/- per case)
Clerkage charges	10% of fees subject to maximum of Rs.2400/-	10% of fees subject to maximum of Rs.2400/- per case.

For Addl. Public Prosecutors

Nature of Work	Existing Remuneration/Fees	Revised Remuneration/Fees
Fee payable	Fee payable to APP in Delhi High Court is at Rs.800/- per case subject to maximum of Rs.4000/-	Fee payable to APP in Delhi High Court be Rs.3000/- per case per day for effective

	per day.	hearing subject to maximum of Rs.9000/- per day and maximum of Rs.15000/- per case. Rs.500/- per non-effective hearing, subject to a maximum of five hearings in a case.
All other terms and conditions applicable to Standing Counsel/ Addl. Standing Counsel/ Panel Advocates/ APPs/ in the pre-revised OM No.F.5(2)/07/Lit303-310 dated 18/03/2008 and OM No.F5(2)/07Lit/Dy Secylaw/2429-2436 dated 11/12/12 shall continue to remain applicable unless specifically revoked/revised.		

Cabinet by its decision No.2199 dated 01.09.2015 has approved the revision of pay scale of prosecuting officers working under the Directorate of Prosecution, Govt. of NCT of Delhi as contained in Para 12 of the Cabinet Note with immediate effect. Para 12 of the Cabinet decision is reproduced as under:

“The Hon’ble Minister of Home, Govt. of NCT of Delhi has observed that the job of Asstt. Public Prosecutors and the Prosecutors is very taxing, as the complexity of Court cases in Delhi is more as compared to other states, and the level of judicial scrutiny is very higher. It was with this in mind that the recruitment rules of Asstt. Public Prosecutors also prescribe experience with educational qualifications. The Hon’ble Minister of Home as recommended the grant of higher pay as under:-.

S.	Post	Present Pay Scale as	Pay Scales proposed for
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No.		per Sixth Pay Commission	prosecuting officers
1.	Asstt. Public Prosecutors	9300-34800 with G.P. 4600/- in PB2	15600-39100 with GP 5400/- PB3 (Grade A entry scale) (Group B post upgraded to Group A post)
2.	Addl. Public Prosecutors	15600-39100 with GP 5400/- in PB3	15600-39100 with GP 6600/- PB3 (Scale –S-19)
3.	Chief Prosecutor	15600-39100 with GP 6600/- PB3 (Grade A entry scale)	15600-39100 with GP 7600/- PB3 (Scale-S-21)
4.	Director (Prosecution)	15600-39100 with GP 7600/- in PB3	37000-67000 with GP 8700/- PB4 (Scale-S-24)

A number of directions were given by this Court directing the Govt. of NCT of Delhi, Union Government, CBI to take prompt steps in the payment of the professional fee bills of the Panel Lawyers, Addl. Public Prosecutors, Standing Counsel, Addl. Standing Counsel, CBI Prosecutors which were pending outstanding for the last several years and it is only pursuant to the directions given by this Court from time to time, these Authorities started paying the professional fee bills of the Lawyers. This indeed is not a happy situation as all the Lawyers on the Govt. Panel whether of the Central Government or Govt. of NCT of Delhi or these police agencies or whether in the capacity of Standing Counsel, Addl. Standing Counsel, Addl. Public Prosecutors or Panel Lawyers are required to be paid their fee bills immediately and in any case not later than the period of two months from the date of submission of their bills. If the Lawyer himself is at

fault, then the Department cannot be put to blame. In the justice delivery system, how can we expect a Lawyer to perform efficiently when neither their fee bills are duly paid nor are they provided with the necessary infrastructure to carry on their duties. Recent meeting which the Chief Secretary held pursuant to the directions given by this Court has further yielded a fruitful result as the Chief Secretary has not only expedited the entire process of payments of the outstanding bills of Standing Counsel, Addl. Standing Counsel, Addl. Public Prosecutors or Panel Lawyers but has also recommended for the necessary infrastructure to be made available to the Standing Counsel, Addl. Standing Counsel, Addl. Public Prosecutors or Panel Lawyers. Cabinet Note has already given its approval as have been referred in the meeting held on 01.09.2015. It is also a matter of satisfaction that the Cabinet has approved the revised remuneration fee and retainership fee of all the public prosecutors, Additional Standing Counsel and State Counsel as reproduced above. We expect and hope that there will be no further delay in the implementation of the said decision and wherever any approval at the end of the Central Government is required on the said decisions taken by the Cabinet in its meeting, we expect that the Union Government shall also act with all promptness to accord its approval without causing any further delay in the matter. However, wherever no approval of the Union Government is required on the said decisions taken by the Cabinet, the Delhi Govt. of NCT of Delhi shall proceed to act on the said decisions taken by the Cabinet in its meeting expeditiously. In case, any further improvement in the scales is required, the same may also be carried out by the Govt. of NCT of Delhi as expeditiously as possible without causing any further delay.

Put up the matter on 08.12.2015, for necessary compliances and report about the implementation of the decision of the Cabinet taken in its meeting on 01.09.2015.

We appreciate the efforts made by Mr. Rahul Mehra, the learned Standing Counsel (CrI.), Mr. Rajeev Virmani, Senior Advocate and the other Lawyers who have been assisting the Court in this matter. We also appreciate the Govt. of NCT of Delhi in this regard for taking prompt decision in the matter.

KAILASH GAMBHIR, J.

SUNITA GUPTA, J.

SEPTEMBER 03, 2015

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