Government of India
Ministry of Railways
(Railway Board)

No.2022/LC/14/01 New Delhi, Dated 22.02.2022

The General Managers(Law)
All Indian Railways & Production Units,
The Chairman, All RRBs

Sub: Procedure for Engagement of Counsels by Ministry of Railways in various High Courts, Subordinate Courts and Tribunals.

In continuation of this office instructions with regard to procedure for engagement of Counsels by Ministry of Railways in various High Courts, Subordinate Courts and Tribunals, attention is invited to the letter number J-18/51/2021-JUDL dated 17.01.2022 **(copy enclosed)** received from Secretary, Department of Legal Affairs, Ministry of Law and Justice addressed to Chairman & CEO, Railway Board regarding withdrawal of existing arrangement for selection of panels counsels by the Ministry of Railways and has conveyed the decision that now onwards the cases on behalf of Railways are to be defended by the Counsels empanelled by Department of Legal affairs, Ministry of Law and Justice. In this regard, Department of Legal Affairs has issued an OM No. J-11017/12/2021-Judicial dated 01.02.2022 **(Copy enclosed)**, the same is as under :

"Subject : Engagement of Counsel by Railways in various Courts

The procedure to be followed for engagement of counsels for Ministry of Railways for various High Courts and subordinate Courts has been reviewed by the Department of Legal Affairs, with the approval of Hon'ble Minister for Law and Justice and it has been decided that henceforth, cases on behalf of Ministry of Railways would be defended by the Counsels empanelled by the Department of Legal Affairs, Ministry of Law and Justice.

2. Accordingly, the orders for empanelment of Advocates for Union of India shall also include matters pertaining to Ministry of Railways before all Courts, Tribunals and notice of suits/petitions in respect of Railway matters shall be accepted by the respective Branch Secretariats/litigation (High Court) Section, Delhi/litigation (Lower Court) Section, Delhi/Branch Secretariats concerned/Litigation Incharge of various Courts/Tribunals as notified in this Department's OM No. J-12017/01/2019-Judicial dated 21.10.2019.

4. These instructions shall come into force with immediate effect".

Further, Railway Board vide their letter No.2022/O&M/3/3 dated 08.02.2022 **(copy enclosed)** addressed to various authorities of Ministry of Railways has conveyed their decision to implement the aforesaid decision taken by Department of Legal Affairs, Ministry of Law and Justice on the subject mentioned above.

In view of the above, all earlier instructions issued by Legal Directorate regarding engagement of counsel by Railways authorities stand withdrawn and accordingly, all Zonal Railways/PUs & Equivalents, DG/RDSO & DG/NAIR, CAO/RWP & CAO/PLW and RRBs are advised to follow the procedure prescribed in OM No. J-12017/01/2019-Judicial dated 21.10.2019 **(Copy enclosed) and** OM No. J-11017/12/2021-Judicial dated 01.02.2022 mentioned above.

This issues with the approval of Secretary, Railway Board.

22/02/2022

(R.S.Verma)
Addl.Secy. & Legal Advisor/Railways

Pd. issue as from Corpts
(31) 24/2/22

(31)

रेल मंत्रालय
Ministry of Railways
Railway Board
Sig 23.02.22
Date of Issue

अनूप कुमार मेंदीरत्ता
Anoop Kumar Mendiratta

सत्यमेव जयते

सचिव
विधि और न्याय मंत्रालय
भारत सरकार
SECRETARY
DEPARTMENT OF LEGAL AFFAIRS
MINISTRY OF LAW & JUSTICE
GOVERNMENT OF INDIA

D.O. No.J-18/51/2021-Judl. Dated the 17th January, 2022

Dear Vinay Kumar Tripathi ji,

As you may be aware that as per the Government of India (Allocation of Business) Rules, 1961, engagement of Counsels to appear on behalf of Union of India in the High Courts and Subordinate Courts is assigned to the Department of Legal Affairs.

2. It appears that since Railways had a separate budget from the Union of India at the relevant point of time and further for administrative convenience, the Department of Legal Affairs permitted the selection of panel counsels on behalf of Railways before the Courts/Tribunals across India, subject to the condition that such selected panel of Counsels shall be approved by the Hon'ble Minister for Law and Justice.

3. Considering the provisions under the Government of India (Allocation of Business) Rules, 1961 and for bringing in efficiency in monitoring the litigation on behalf of Union of India, it has been decided by the Competent Authority to withdraw the said arrangement for selection of panel Counsels by the Railways. Accordingly, cases on behalf of Railways would now onwards be also defended by the Counsels empanelled by the Department of Legal Affairs, Ministry of Law and Justice.

4. I am, therefore, to request you to direct the concerned officers/subordinate offices under Ministry of Railways to engage the counsels from the panel prepared by the Department of Legal Affairs and ensure adherence to the instructions issued by this department from time to time. Kindly acknowledge the same within a week, to ensure that suitable instructions may also be issued to the Branch Offices and Law Officers.

This issues with the approval of Hon'ble Minister for Law and Justice.

With warm regards,

Yours sincerely,

(Anoop Kumar Mendiratta)

Vinay Kumar Tripathi,
Chairman & CEO,
Railway Board,
Rail Bhavan, New Delhi.

F.No. J-11017/12/2021-Judicial
Government of India
Ministry of Law & Justice
Department of Legal Affairs
Judicial Section

Shastri Bhawan, New Delhi
Dated 1st February, 2022

OFFICE MEMORANDUM

Subject :- Engagement of Counsels by Railways in various Courts.

The procedure to be followed for the engagement of Counsels for Ministry of Railways for various High Courts and Subordinate Courts has been reviewed by the Department of Legal Affairs with the approval of Hon'ble Minister for Law and Justice and it has been decided that henceforth cases on behalf of Ministry of Railways would be defended by the Counsels empanelled by the Department of Legal Affairs, Ministry of Law and Justice.

2. Accordingly, the orders for empanelment of advocates for Union of India shall also include matters pertaining to Ministry of Railways before all Courts/Tribunals and notice of suits/petitions in respect of Railway matters shall be accepted by the respective Branch Secretariats/Litigation (High Court) Section, Delhi/Litigation (Lower Court) Section, Delhi/Branch Secretariats concerned/Litigation In-charge of various Courts/Tribunals, as notified in this Department's O.M No.J-12017/01/2019-Judicial, dated 21.10.2019.

4. These instructions shall come into force with immediate effect.

(R.K. SRIVASTAVA)
Joint Secretary & Legal Adviser

1. Additional Solicitors General (as per list attached)
2. Assistant Solicitors General (as per list attached)
3. Sr. CGSC/Standing Government Counsel (as per list attached)
4. Incharge, Branch Secretariats at Mumbai, Kolkata, Chennai & Bengaluru.
5. Incharge, Litigation (HC) Section, Delhi/Incharge(LC) Section, Delhi

Copy to:

1. The Registrar Generals of all High Courts
2. All District Judges.

भारत सरकार Government of India
रेल मंत्रालय Ministry of Railways
रेलवे बोर्ड (Railway Board)

No.2022/O&M/3/3

New Delhi, Dated:08.02.2022

General Manager,
All Indian Railways/PUs
& Equivalents
DG/RDSO & DG/NAIR
CAO/RWP & CAO/PLW

Sub : Engagement of Counsels by Railways in various Courts.

Kindly find enclosed herewith the letter No. J-18/51/2021-Judl. dated 17.01.2022 from Secretary, Department of Legal Affairs, Ministry of Law & Justice addressed to Board(CRB &CEO) regarding revised procedure for engagement of Counsels by Railways in various courts. In this regard an OM No.J-11017/12/2021-Judicial dated 01.02.2022 issued by Department of Legal Affairs, Ministry of Law & Justice is also enclosed.

2. Ministry of Railways has decided to implement the above with immediate effect. Accordingly, necessary action may be taken for implementation of aforesaid order. Further clarification, if any, may be sought from Legal Directorate/Cell of Railway Board.

Encl. Two (02)

(B Majumdar)
Joint Secretary/Railway Board
jsecyrb@rb.railnet.gov.in
Telephone No. 011-23387362
Room No.533-C, 5th Floor
Railway Board

Copy to : Legal Cell

F. No. J-12017/1/2019-Judicial
Government of India
Ministry of Law & Justice
Department of Legal Affairs
(Judicial Section)

Shastri Bhawan, New Delhi
Dated 21st October, 2019

OFFICE MEMORANDUM

Sub: Engagement of Counsel on behalf of Union of India – regarding.

As per the Government of India (Allocation of Business) Rules, 1961 the Department of Legal Affairs has, *inter-alia*, been entrusted with the following functions:

(i) .....engagement of counsel to appear on behalf of the Union of India in the High Courts and subordinate courts where the Union of India is a party.

(ii) Conduct of cases in the Supreme Court and the High Courts on behalf of the Central Government and on behalf of the Governments of States participating in the Central Agency Scheme.

2. To perform the above functions the Department of Legal Affairs has been empanelling suitable Advocates as Law Officers {i.e. Attorney General for India, Solicitor General of India and Additional Solicitors General of India (ASGIs)}, Assistant Solicitors General of India (Asst. SGIs) and various categories of Panel Counsel for various courts / tribunals across the country. These panels are made for a particular tenure after which either their tenures are extended or new panels are formed. Besides this, some Ministries / Departments performing special / technical functions have been authorized to select panel of counsels as per their specific requirements and the said panel is finally approved by this Department. In addition to this, in some specific / sensitive / high stake cases, proposals are received from various Ministries / Departments of Central Government for the engagement of special counsel which are considered by the Department of Legal Affairs on case to case basis. All the engagements / appearances of Advocates for conducting Central Govt. litigation before any court / tribunal without approval of this Department or contrary to the procedure established are in violation of the provisions of the Govt. of India (Allocation of Business) Rules, 1961.

3. Earlier, from time to time instructions have been issued by this Department. Recently, OM Nos. 34(01)/2012-Judl. dated 05.12.2012 and OM No. 29(2)/2002-Judl. (Pt.) dated 16.01.2015 have been issued.

4. Despite this, it has come to notice of this Department that various Ministries / Departments of Govt. of India and their subordinate offices (especially at District level)

are deviating from this procedure. Therefore, it has been decided to again issue a detailed OM re-iterating compliance / guidance of all the Ministries / Departments and their subordinate offices, described as under:

(A) Various Courts / Tribunals at Delhi:

In Delhi, there are attached offices of this Department viz. Central Agency Section, Litigation (High Court/CAT) Section, Litigation (Lower Court) Section of this Department which are responsible for engaging suitable panel counsel from the panel of this Department for various courts / tribunals situated in Delhi as and when notices/requests, in this regard, are received by them. Similarly, In-charge Central Agency Section and In-charge Litigation (High Court) Section are responsible for engagement of Law Officers for conducting Central Govt. litigation before the Supreme Court of India and High Court of Delhi, respectively. Details in this regard are as under:

Sl. No.	Name of the subordinate office	Court/Tribunal before which engagements are made
1.	Incharge, Central Agency Section	Supreme Court of India
2.	Incharge, Litigation (High Court/CAT) Section	High Court of Delhi, Armed Forces Tribunal (PB), National Green Tribunal (PB) and CAT (PB), New Delhi and other Tribunals/ Commissions situated in Delhi.
3.	Incharge, Litigation (Lower Court) Section	District Courts, Dwarka, Rohini, Patiala House, Tis Hazari, Karkardooma and Saket and other subordinate courts in Delhi.

B). Various Courts / Tribunal at Mumbai, Kolkata, Chennai and Bengaluru:

There are four Branch Secretariats of this Department at Mumbai, Kolkata, Chennai and Bengaluru working as subordinate offices who engage counsel from the panel of this Department for respective court / tribunal (including High Court, CAT Bench, AFT Bench, NGT Bench and District & Subordinate Courts) within their jurisdiction.

C). Various High Courts / CATs / AFTs / NGTs in the country:

In places except the stations mentioned under para (A) to (B) above, the engagement of counsel from the panel for respective court / tribunal is made by the concerned In-charge litigation for that court / tribunal. The present position in this regard is as under:

Sl. No.	Court / Tribunal	In-charge litigation (by Designation)
1.	High Courts	Additional Solicitor General of India (ASGI) OR Assistant Solicitor General of India (Asst. SGI) (ASGI will prevail if available)

2.	CAT, AFT, NGT Benches (outside Delhi)	Concerned Senior Central Government Standing Counsel (Sr. CGSC)

D). **District & Subordinate Courts in the country except at Delhi, Mumbai, Kolkata, Chennai & Bengaluru:**

For District & Subordinate Courts in the country except at Delhi, Mumbai, Kolkata, Chennai & Bengaluru, the concerned Standing Government Counsel (SGC) is the In-charge litigation who is entrusted with the task of allocation of cases amongst the other panel counsel for the concerned District & Subordinate Courts, i.e. Additional Standing Govt. Counsel (including the SGC).

5. All the Departments / subordinate offices of the Central Government are required to directly contact the Litigation Incharge of the concerned court / tribunal as detailed in para 4 (A) to (C) above, for the engagement of counsel / change of counsel (if required) from the panel for that court / tribunal to represent Union of India in their cases. The contact details of the concerned ASGI / Asst. SGI / Sr. CGSC/ SGC / Incharge of Litigation Sections & Branch Secretariats are available on the official website of this Department. Departments / subordinate offices of Central Government are advised to ensure from time to time that the panel counsel who is representing them is still on the panel of this Ministry. If the tenure of representing panel counsel expires before disposal of the case, the concerned Litigation Incharge may be approached for the engagement of another counsel from the panel. All the Ministries / Departments are advised not to engage counsel who are not on the panel of this Ministry/Department without approval of this Department.

6. In addition to the above, in this context, Item No. 9 (i) of the Annexure to Schedule V of the Delegation of Financial Power Rules (DFPR), 1978 is also referred which clearly establishes the principle for the expenditure on account of Legal Charges which needs to be paid to all kinds of Barristers, Advocates, Arbitrators, Pleaders and Umpires representing Union of India before any court (including tribunals) in the country only with the prior consent of this Ministry, and, in case of Law Officers/panel counsel engaged by this Ministry, Legal Charges are to be paid as per the fee schedule prescribed by this Department for the purpose.

7. **In light of the above, engagement of counsel to represent Union of India before any court / tribunal of the country, who are not on the panel of Ministry of Law & Justice with running tenure and / or whose engagement has not been approved by Ministry of Law & Justice, is violation of (i) the Government of India (Allocation of Business) Rules, 1961 and (ii) the Delegation of Financial Powers Rules, 1978.**

8. All the OMs of this Department referred above, Details of concerned Litigation Incharges and details of Panel Counsel (in the form of orders of empanelment) are available on official website of this Department i.e. www.legalaffairs.gov.in.

9. This is for information of all the Ministries / Departments of the Government of India and offices subordinate to them for strict compliance.

10. All the subordinate offices of this Department i.e. the Central Agency Section, Branch Secretariat at Mumbai, Kolkata, Chennai and Bengaluru, all Litigation Sections at New Delhi and all the Litigation In-charges before various courts / tribunals in the country are also requested to ensure strict compliance of instructions contained in this Circular and in case of any deviation this Department may be informed immediately.

11. This issues with the approval of Hon'ble Minister for Law & Justice.

(S. R. Mishra)
Additional Secretary

To,

1. All the Ministries / Departments of Govt. of India (as per list enclosed) with request to give wide publicity of the contents of this circular amongst all their subordinate offices.
2. The Comptroller & Auditor General of India with request to give wide publicity of the contents of this circular amongst all of their Audit units.
3. The Controller General of Accounts with request to give wide publicity of the contents of this circular amongst all their PAOs/ZAOs/CDDOs across the country.
4. The Registrars of all the High Courts/CATs/AFTs/NGTs in the country and their Benches with request to the give wide publicity of the contents of this Circular amongst all the District Judges under their jurisdiction.
5. The Incharge, Branch Secretariats at Mumbai, Kolkata, Chennai & Bengaluru.
6. The Incharge, Central Agency Section, Supreme Court of India.
7. The Incharge, Litigation (High Court/CAT/Lower Court) Section at New Delhi.
8. The Additional Solicitors General of India for the High Court of Punjab & Haryana, Allahabad, Patna and Rajasthan.
9. All the Senior Central Govt. Standing Counsel for various CAT Benches, AFT Benches, NGT Benches across the country.
10. All the Standing Govt. Counsel for various District & Subordinate Courts in the country.

F. No. J-12017/1/2019-Judicial

Dated : 21.10.2019

Copy to:

1. PS to Hon'ble MLJ/PS to Law Secretary/PS to Legislative Secretary/ PS to all Additional Secretaries/PS to all Joint Secretaries of Department of Legal Affairs.
2. PS to Additional Legal Adviser (Judicial) of Department of Legal Affairs.
3. The Assistant Legal Adviser (Judicial) of Department of Legal Affairs.
4. To be uploaded on website of the Department of Legal Affairs i.e. www.legalaffairs.gov.in under tab 'Judicial Section' in the link 'Circulars pertaining to litigation'.
5. Office/Spare Copies.

(D. Srinivas)
Section Officer (Judicial)
Tel. 011-23384945
Email: judicial-dla@nic.in