

Andhra Pradesh Law Officers (Appointment and Conditions of Service) Instructions, 2000

ANDHRA PRADESH

India

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Rule

ANDHRA-PRADESH-LAW-OFFICERS-APPOINTMENT-AND-CONDITIONS of 2000

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Andhra Pradesh Law Officers (Appointment and Conditions of Service) Instructions, 2000 G.O. Ms. No.187, Law (L), dated 6th December, 2000{||-| Amending Notifications6|}

1. Short title and commencement:

(1) These instructions may be called the Andhra Pradesh Law Officers (Appointment and Conditions of Service) Instructions, 2000. (2) These instructions shall come into force at once.

2. Definitions:

- In these instructions, unless the context otherwise requires, - (i) "Assistant Government Pleader" means a person appointed to assist the Government Pleader or to conduct cases on the Civil side in the Courts of senior civil Judges, Junior civil Judges, Labour Courts, Industrial Tribunals and any other Court or Tribunal not covered by clause (iii); (ii) "Government" means the State Government; (iii) "Government Pleader" means a person appointed for work on the Civil side in the High Court of Andhra Pradesh, Andhra Pradesh Administrative Tribunal, Andhra Pradesh State Consumer Disputes Redressal Commission or District Courts and includes an Additional Government Pleader or Special Government Pleader or Government Pleader-cum-Public Prosecutor in the Special Court established under the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 or the Government Pleader in any other State level Court or Tribunal. (iv) "Law Officer" means a Government Pleader or an Assistant Government Pleader or a Public Prosecutor or Additional Public Prosecutor or Special Public Prosecutor or a Special Counsel; (v) "Special Counsel" means a

Special Counsel appointed in the Central Administrative Tribunal, Hyderabad Bench and includes an advocate appointed for any specific case or for specific purpose in any other Court or Tribunal;(vi)"Standing Counsel" means a Standing Counsel appointed for a State Public Undertaking or a Local Authority or a University or a Charitable and Hindu Religious Institution and Endowment or any other instrumentality of the Government;(vii)"State Public Undertaking" means and includes,(a)any Corporation established by or under a State Act and owned or controlled by the Government;(b)any Government company as defined under the Companies Act, 1956; and(c)any Society registered under the relevant law for the time being in force, which is funded by the Government in this behalf and includes apex co-operative bodies.

3. Appointment of Law Officers:

(1)Government shall appoint such number of Law Officers on behalf of the State, to conduct cases before various Courts and Tribunals as they may consider necessary:(2)(a)A State Public undertaking or a Local Authority or a University or any other instrumentality of the Government may appoint such number of Standing Counsel on their behalf to conduct cases before various Courts and Tribunals as they may consider necessary;(b)The appointment of a Standing Counsel in the High Court of Andhra Pradesh and in any other State Level Court or Tribunal shall be made from out of a panel of three persons prepared by the Advocate-General, after obtaining the prior approval of the Government;(c)The appointment of Standing Counsel in any other Court or Tribunal in the Districts shall be from out of a panel of three names prepared by the District Collector in consultation with the District and Sessions Judge concerned;(d)The qualifications for appointment of a Standing Counsel shall be the same as prescribed for the Government Pleaders at the State Level and the Government Pleaders and Assistant Government Pleaders at the District level;(e)The appointment of Standing Counsel shall be made on the ground of merit and suitability while making every effort to provide equitable representation to members of Scheduled Castes, Scheduled Tribes, Backward Classes and Women;(f)A Standing Counsel shall not appear in any case against the institution for which he is appointed or in any case which adversely affects the interests of such institution;(g)The honorarium payable to a Standing Counsel may be such as determined by the appointing institution;(h)Except insofar as it is expressly provided herein, the remaining instructions of this order shall apply mutatis-mutandis to Standing Counsel also.(3)Government, at its discretion, may entrust important or complex cases either to the Advocate-General, or any of the Additional Advocates-General or in consultation with the Advocate-General, to any senior Advocate.

4. Appointment of Law officers in the High Court etc:

(1)The Government, in consultation with the Advocate-General, shall appoint such number of Law Officers in the High Court of Andhra Pradesh, Andhra Pradesh Administrative Tribunal, Central Administrative Tribunal, Hyderabad Bench, Special Court established under the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982, Andhra Pradesh State Consumer Disputes Redressal Commission and Sales Tax Appellate Tribunal or any other State Level Court or Tribunal as they may consider necessary:(2)The Advocate-General shall prepare a panel of three advocates in advance before expiry of the term of the incumbents and send the same to the Government for consideration :-Provided that the Advocate-General may consider the suggestions of the concerned

Department of the Government and the Heads of the Departments as the case may be, in inclusion of persons in the panel:(3)No person shall be included in the Panel for appointment as Government Pleader, or Special Counsel unless he,(a)has at least ten years Standing as an Advocate of a High Court or two or more such High Courts in succession;(b)is below sixty five years of age on the date of inclusion in the panel, and(c)is an income-tax assessee for a period of at least three years prior to his appointment; or(d)has practised at the Bar for a period of five years in the case of appointment of members of the Andhra Pradesh State Higher Judicial Service or the Andhra Pradesh Secretariat Service.(4)Appointment shall be made by the Government,(a)from among the members of the bar; or(b)by transfer from among,-(i)the members of the Andhra Pradesh State Higher Judicial Service from out of a panel of names forwarded by the High Court at the request of the Advocate-General; or(ii)the members of the Andhra Pradesh Secretariat Service not below the rank of Deputy Secretary to Government in Law Department.(5)No person shall be eligible for appointment as Assistant Government Pleader unless he is an Advocate of High Court of Andhra Pradesh, at least for a period of five years.(6)On receipt of a panel sent by the Advocate-General under sub-instruction (2), the Government in Law Department shall consider the same and appoint one among the panel as Law Officer for a term prescribed under instruction 8 or call for a fresh panel.(7)The Advocate-General shall submit a fresh panel as called for under sub-instruction (6) in the same manner as above for consideration.

5. Appointment of Law Officers in the District Courts and City Courts Subordinate to the High Court:

(1)Appointment of Law Officers in all the Courts and Tribunals subordinate to the High Court shall be made on the basis of the recommendations of the District Collector concerned who shall ascertain the views of the concerned District and Sessions Judge before making the recommendations.(2)The District Collector shall prepare a panel of Advocates well in advance before expiry of the term of incumbents and send the same to the Government for consideration.Note I:- While recommending panels, the District Judge may obtain the Bio-data from such of the Advocates whom he consideration to be fit for appointment and send a panel of eligible candidates on that basis without calling for bio-data from all the Advocates having a particular standing.Note II:- The Collectors shall, while making a recommendation to the Government, furnish the following particulars, in respect of advocates included in the panel, which shall pertain to a period of three years immediately preceding the year in which the recommendation is made and which shall be in a full and complete form and adequate for the purpose of the selection: i.e., Qualification, age, Social status, Standing at the Bar as an advocate, nature of practice, the number of sessions cases conducted (in case of posts of Public Prosecutor and Additional Public Prosecutor), the number of rules, appeals and the like conducted (in case of post of Government Pleaders and Additional and Assistant Government Pleaders), the amount of Income Tax, if any paid, general antecedents, efficiency, reliability, an appraisal by the Sessions Judge or the District Judge about the nature and quality of advocacy, general repute and personality.(3)No person shall be eligible for appointment,(a)as Government Pleader unless he has at least Ten years of Standing at the Bar;(b)as Assistant Government Pleader,-(i)in the Senior Civil Judges Court unless, he has at least seven years of Standing at the Bar; and(ii)in the Junior Civil Judges Courts unless, he has at least five years of Standing at the Bar.(4)On receipt of a panel sent by the District Collector under sub-instruction (1), the Government

in Law Department shall consider the same and appoint one among the panel as Law Officer for a term prescribed under instruction 8 or call for a fresh panel.(5)The District Collector shall submit a fresh panel as called for under sub-instruction (4) in the same manner as above for consideration.(6)The Standing Counsel for Charitable and Hindu Religious Institutions and Endowments shall continue to be appointed as per the existing procedure.

6. Appointment of Public Prosecutors, Additional Public Prosecutors and Special Public Prosecutors:

- Public Prosecutors, Additional Public Prosecutors and Special Public Prosecutors shall be appointed as per the provisions of Section 24 of the Code of Criminal Procedure, 1973.

7. Guidelines for selection of Law Officers:

- The selection of candidates for appointment as Law Officers shall, as far as possible, be in accordance with the following guidelines:(a)The selection shall be based primarily on merit and suitability.(b)In making the selection, every endeavour shall be made to provide equitable representation to members, of Scheduled Castes, Scheduled Tribes and Backward Classes in accordance with the ratio of 15%, 6% and 25% respectively. Women shall be accorded reasonable representation in all categories.(c)When merit and suitability are equal, preference may be given to members of Scheduled Castes, Scheduled Tribes, Backward Classes and Women;(d)For the above purpose, the High Court of Andhra Pradesh, the Andhra Pradesh Administrative Tribunal and other Courts and Tribunals at the State Level may be treated as one unit of appointment and each Zone may be treated as one unit of appointment.Explanation:- 'Zone' for the purposes of this Instructions means a 'zone' specified in the Second Schedule to the Andhra Pradesh Public Employment (Organisation of Local Cadres and Regulation of Direct Recruitment) Order, 1975.

8. Term of Law Officers:

- Law Officers shall ordinarily be appointed for a term of three years. The Law Officers so appointed may be considered for a second term, if the Government are satisfied that he has proven efficiency, high rate of success and good performance and for a third term in exceptional cases :Provided that Government Pleaders, Assistant Government Pleaders, Public Prosecutors and Additional Public Prosecutors in Subordinate Courts may be considered for appointment for a second term if their performance is very good and in the case of persons belonging to Scheduled Castes and Scheduled Tribes if their performance is satisfactory.

9. Termination of Service:

- Notwithstanding anything contained in instruction 8, either the Government of the Law Officer may terminate the engagement with one month's notice.Provided that the Government may terminate the engagement by paying one month honorarium in lieu of one month's notice.

10. Terms and Conditions of Appointment of Law Officers in the High Court, etc:

(1)(a) All Law Officers in the High Court and other Courts and Tribunals at the State Level shall function under the general superintendence and control of the Advocate-General and shall perform such duties and functions as assigned to them by the Advocate-General from time to time. (b) They shall not appear against or give any advice against the interests of the Government or any State Public Sector undertaking or Company or any other instrumentality of the Government. (c) They shall be wholly responsible for ensuring all cases entrusted to them are properly prepared and represented in the Courts. (2) All Government Pleaders should, with the assistance of the Assistant Government Pleaders attached to them, prepare the requisite counter-affidavits in writ petitions expeditiously and comprehensively. (3) Government Pleaders should not delegate any important matters involving State Policy or otherwise important, as also batch cases. (4) Government Pleaders may, if they so desire consult the Advocate-General on matters of importance involving difficult questions of Law and act as per his advice. (5) Assistant Government Pleaders shall function under the control and guidance of the Government Pleaders to whom they are attached under the overall supervision and control of the Advocate-General. (6) All Assistant Government Pleaders shall attend to such duties and functions as are entrusted by the Government Pleaders to whom they are attached. They shall regularly attend the Office of the concerned Government Pleader. It will be their primary duty to prepare draft counters in writ petitions and other matters and have them finalised by the Government Pleader. (7) The Law Officers are expected to be always available at Hyderabad and they shall not leave the Headquarters without prior permission of the Advocate-General and without making adequate alternative arrangements. (8) All Law Officers should furnish a report to the Advocate-General every month of the cases disposed of, Counters filed or yet to be filed, new cases filed and necessary ancillary information. (9) Every Law Officer shall attend the review meetings convened by the Advocate-General without fail along with the necessary material.

11. Interim arrangements:

- The Advocate-General or District Collectors may make interim arrangements in case of death, resignation, absence, expiry of term of Law Officer or where there is a necessity and urgency and obtain ratification from the Government.

12. Bar to hold office:

- No Law Officer shall hold an office either by election or nomination in any local authority or its committee or such other office specified by the Government from time to time.

13. Relinquishment of certain assignments:

- A Government Pleader or Assistant Government Pleader, Public Prosecutor or Additional Public Prosecutor before assuming charge as such shall relinquish his assignment, if any, such as Standing

Counsel for any Statutory Corporation, Local authority or University or any other institution as well as Notary.

14. Restriction on Private Practice:

- No Law Officer shall appear in any Court or Tribunal against the State of Andhra Pradesh, Local Authorities, State Public Undertakings, Universities and other institutions owned or controlled by the Government.

15. Control:

- Subject to the overall control of the Government, all the Law Officers shall function under the direct control of the Advocate-General or other concerned functionaries.

16. Self appraisal Report:

(1) Every Law Officer shall submit a quarterly self appraisal report before the first Saturday of every succeeding quarter indicating the number of cases pending at the beginning of the quarter, cases, instituted during the quarter, disposed of during the quarter and pending at the end of the quarter to the Government in the concerned Administrative Department or to the District Collector concerned, as the case may be, and to Government in Law Department. (2) The report so forwarded shall also contain the number of main cases, interlocutory applications, Miscellaneous Cases disposed of and a specific mention about the matters in which Government have succeeded or failed and the reasons for the failure and the steps taken or to be taken in case of failure and also indicate any deficiency in the assistance to the Law Officer by the concerned department/Institution or as the case be, the authorities.

17. Review of Performance:

(1) The performance of the Law officers in the High Court and other Courts and Tribunals at the State Level shall be reviewed by a Committee headed by the Advocate-General with the Law Secretary (Legal Affairs), concerned Secretary of the Administrative Department and concerned Head of the Department as members once in every three months. The review committee may meet as and when convenes by the Advocate-General. (2) The District Collector shall review the performance of the Law Officers in the District once in two months and send his report to the Law Department in the Secretariat for necessary action. (3) Every Law Officer should attend the review meetings with all necessary material.

18. Retainer Fee:

- Retainer fee shall be paid to the following Law Officers as shown against each : (1) Public Prosecutor in the High Court shall be paid retainer fee of Rs.1,250/- (Rupees One thousand two hundred and fifty only) per month. (2) Additional Public Prosecutor in the High Court shall be paid retainer fee of

Rs.1,000/- (Rupees One thousand only) per month.

19. Honorarium:

(1)(a)The Government Pleaders appointed in the High Court of Andhra Pradesh, Andhra Pradesh Administrative Tribunal, Special Court established under the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 and Andhra Pradesh State Consumer Redressal Commission or in any other State Level Court or Tribunal shall be paid a consolidated honorarium of Rs. 20,000/- (Rupees Twenty thousand only) i.e., Rs.16,000/- as honorarium and Rs.4,000/- as conveyance allowance per month.(b)Assistant Government Pleaders appointed to assist the above Government Pleaders shall be paid a consolidated honorarium of Rs.7,000/- (Rupees Seven thousand only) i.e., Rs.5,000/- as honorarium and Rs.2,000/- as conveyance allowance per month.(c)Honorarium on Criminal side shall be paid as per the following rates and it shall be shared by the Public Prosecutor and Additional Public Prosecutors in such ratio as may be determined by the Government from time to time.(i)referred trial - Rs.1000/- (Rupees one thousand only) per case.(ii)criminal appeal - Rs.400/- (Rupees Four hundred only) per case.(iii)criminal revision - Rs.200/- (Rupees Two hundred only) per case.(iv)criminal miscellaneous petition - Rs.150/- (Rupees One hundred and fifty only) per case.(d)The Public Prosecutor and the Additional Public Prosecutors shall each be paid a conveyance allowance of Rs.3,500/- (Rupees three thousand five hundred only) per month.(2)The Special Counsel for the Government appointed in the Central Administrative Tribunal, Hyderabad Bench, shall be paid a consolidated honorarium of Rs.10,000/- (Rupees ten thousand only) per month.(3)(a)Government Pleaders appointed in the District Courts, Special Government Pleaders and Additional Government Pleaders other than those engaged in individual cases shall be paid a consolidated honorarium of Rs.10,000/- (Rupees ten thousand only) per month.(b)Assistant Government Pleaders appointed in the Senior Civil Judges Court shall be paid a consolidated honorarium of Rs.6,000/- (Rupees six thousand only) per month.(c)Assistant Government Pleaders appointed in the Junior Civil Judges Court shall be paid a consolidated honorarium of Rs.3,000/- (Rupees three thousand only) per month.(d)Special Counsel engaged in individual cases shall be paid fee as per Advocates Fees Rules or as otherwise agreed.(e)Public Prosecutors in District and Sessions Courts shall be paid a consolidated honorarium of Rs.8,000/- (Rupees Eight thousand only) per month.(f)Additional Public Prosecutors in the Additional District and Sessions Courts shall be paid a consolidated honorarium of Rs.7,000/- (Rupees Seven thousand only) per month.(g)Additional Public Prosecutors in Assistant Sessions Courts shall be paid a consolidated honorarium of Rs.4,000/- (Rupees four thousand only) per month.(h)Special Public Prosecutors appointed in individual cases shall be paid honorarium at the rate of Rs.100/- (Rupees One hundred only) per appearance per day.(i)Special Public Prosecutor appointed for all the cases in different Courts shall be paid honorarium on par with the corresponding regular prosecutor.(j)Assistant Government Pleaders appointed in the Labour Courts shall be paid a consolidated honorarium of Rs.3,000/- (Rupees three thousand only) per month.

20. Allowances:

- Law Officers attending the Government work before the Courts at other stations shall be paid Travelling Allowance and Daily Allowance on par with Grade-II Officers.

21. Bar to claim Additional Honorarium:

- Any Law Officer who is paid consolidated monthly honorarium shall not be eligible to claim additional honorarium for discharging his duties in different Courts or in arbitration cases.

22. Liaison work and Assistance:

(1) Each Secretariat Department and each Head of Department shall designate a Senior Officer not below the rank of a Joint Secretary/Deputy Secretary or Joint Director respectively to act as a liaison officer with the Advocate-General, Additional Advocate-General, Government Pleaders and other Law officers. (2) Each Secretariat Department and each Head of Department shall designate a Section Officer/Superintendent as in-charge of legal and Court matters and that Section Officer/Superintendent shall regularly attend the High Court and Andhra Pradesh Administrative Tribunal and other Courts for assisting the Law Officers concerned for representing before the Courts and for obtaining and implementing the instructions of the Law Officer concerned regarding action to be taken in respect of such cases from time to time. (3) In every Government Office in the State, an Officer should be designated as in charge of and responsible for all Legal and Court matters. Such officer should attend the Courts and be in touch with the Law Officers concerned whenever required and provide all assistance and information to the Law Officers required from time to time. (4) The Government Pleaders and Assistant Government Pleaders in the Subordinate Courts may be provided the assistance of a Stenographer/Typist by the concerned Government Office in respect of the Government cases whenever required.

23. Validity of certain acts:

- Consequent upon the supersession of the Executive Instructions issued in G.O. Ms. No.118, Law, dated 28-6-1999. (a) the Law Officers existing on the date of issue of these instructions shall be continued until expiry of their term; and (b) the panels of advocates sent under the said instructions for the appointment of Law Officers and are pending consideration of the Government as on the date of issue of these instructions shall be valid and deemed to have been sent under the provisions of these instructions.