

32. Priority in respect of army personnel's litigation

- (1) On the presentation to any court by or on behalf of any person subject to this Act of a certificate from the proper military authority of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such court, the court shall, on the application of such person, arrange, so far as may be possible, for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for.
- (2) The certificate from the proper military authority shall state the first and last day of the leave or intended leave, and set forth a description of the case with respect to which the leave was granted or applied for.
- (3) No fee shall be payable to the court in respect of the presentation of any such certificate, or of any application by or on behalf of any such person, for priority for the hearing of his case.
- (4) Where the court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for its inability to do so, and shall cause a copy thereof to be furnished to such person on his application without any payment whatever by him in respect either of the application for such copy or of the copy itself.
- (5) If in any case a question arises as to the proper military authority qualified to grant such certificate as aforesaid, such question shall at once be referred by the court to an officer having power not less than a brigade or equivalent commander whose decision shall be final.

NOTES

1. For orders as to the speedy disposal of suits by or against officers or soldiers who have obtained leave of absence for the purposes of the suit see [Regs Army para 535](#).
2. The Indian Soldiers Litigation Act, 1925 (Act IV of 1925), (reproduced in part IV) provides, among other things, for the postponement, when necessary in the interest of justice, of proceedings pending before a Civil or Revenue Court in India to which any person subject to AA serving under "special conditions" (see [s.3](#) of the Indian Soldiers Litigation Act) is a party when such person is unable to appear in person or is not represented by any person duly authorized to appear, plead or act on his behalf. This concession, however, does not necessarily extend to preemption cases or to cases where the soldier's interests are identical with those of any other party to the proceedings and are adequately represented by such other party or are merely of a formal nature.
3. Govt. of India, Ministry of Home Affairs while listing out the service privileges ([AA.ss.28-32](#)) have issued instructions to the State Govts to accord priority in respect of Army personnel's litigation. See [Regs Army para 532](#) and appendix 'K-1' to Regs Army.
4. For form of appointment of attorney, see [Regs Army para 533](#).
5. A power of attorney to institute or defend a suit executed by a person subject to the AA is not chargeable with any court fee. See [Regs Army para 534](#).
6. If the case cannot be disposed of within the period of leave granted, the civil officer concerned may extend leave for such period as will admit of the receipt of a reply to an application to the OC unit for the necessary extension of leave. The civil officer will report to the OC unit any grant of leave sanctioned by him. See [Regs Army para 536](#).