

**HANDLING/ MONITORING/ DEFENDING OF COURT  
CASES/ LEGAL NOTICE CASES**

**References:-**

- (a) SAO 5/S/2001/JAG.
- (b) IHQ of MoD (Army) letter No 18899/AG/DV-1(P) dt 26 Nov 1999.
- (c) Gol, Min of Def letter No 13/02/2005/D(Pen-A&AC) dt 31 May 2006.
- (d) IHQ of MoD (Army) letter No B/40122/MA(P)/AG/PS-4(Legal) dt 13 Jun 2006, 29 Nov 2006, 30 Nov 2006, 17 Oct 2008, 02 Dec 2008, 25 Apr 2011, 04 May 2011 and 14 Jul 2011.
- (e) IHQ of MoD (Army) letter No 1 (5)/2020-D(Pension/Legal) dt 12 Feb 2020.
- (f) Min of Law & Justice letter No 26(1)/2014/Judl dated 01 Oct 2015 regarding rates of Legal Fees.
- (g) IHQ of MoD (Army) letter No C/90028/Gen/Instr/Inf-9 dated 04 Mar 2021 regarding Check List for implementation of court orders.
- (h) IHQ of MoD (Army) letter No C/90028/Dirms/Inf-9 dated 05 Jan 2021 regarding delegation of powers to OIC Records for filing of LTA under SEWC 31 of AFT Act, 2007.
- (j) IHQ of MoD (Army) letter No C/90028/Dirms/Inf-9 dated 30 Oct 2023 regarding Format of noting sheet for processing the judgments for implementation of the Hon'ble Court Orders.
- (k) IHQ of MoD (Army) letter No 39022/24/AG/PS-4 dated 17 Nov 2023 regarding dealing with Disability Pension (DP)/Disability Element (DE) cases for filing of Writ Petition before the Hon'ble High Courts.

**Introduction**

1891. With the change in the socioeconomic condition, awareness in the environment about their rights and easy availability of legal advice, court cases in the Army have increased many folds on pension/allied service matters.

1892. The courts have time and again issued warnings to the authorities that penalty/ fine would be imposed on the delinquent officials for any laxity in the handling of court cases or in implementation of the court judgments and therefore issue of handling court cases with utmost care is of paramount importance. In order to avert adverse comments from judiciary, IHQ of MOD (Army) have issued comprehensive instructions alongwith responsibilities of various agencies involved on the subject.

1893. In order to better assimilation about vital subject, this ROI has been divided in to following phases:-

- (a) Part I - Terminologies used in Court Cases.
- (b) Part II - Set up of Armed Forces Tribunals.
- (c) Part III - Responsibilities of various agencies involved in handing of court cases.
- (d) Part IV - Handing of cases field in High Court/AFTs.
- (e) Part V - Handing of cases in Supreme Court.
- (f) Part VI - Handing of Contempt Cases.
- (g) Part VII - Withdrawal of Cases unconditionally.

**PART-I : TERMINOLOGIES USED IN COURT CASES**

**Legal Notice**

1894. Legal Notice is a notice issued by any citizen of India under section 80 Civil Procedure Code through an advocate to show cause for denial/rejection of his grievances/claim/right under Indian constitution.

**Original Suit/ Civil Suit**

1895. Incase, if the Petitioners is not satisfied with the reply sent by Record Office, he may approach Armed Forces Tribunal through his Advocate and file OA with prayer for declaration of relief sought.

**Writ Petition/ Original Application**

1896. Similarly, the Petitioners is also at liberty to file original application/ Writ Petition before the Hon'ble AFT/High Court claiming for quashing of denial order and grant of relief, if not satisfied with the reply sent by Record Office on the Legal Notice.

**Engaging of Addl Govt Pleader/ Dist Govt Pleader/ CGSC**

1897. Up to District level, we can engage Addl Govt Pleader/Dist Govt Pleader through concerned Station HQ/Defending Unit directly keeping in view the situation.

1898. Central Govt Standing Counsel at High Court and Supreme Court are engaged through Ministry of Law & Justice of that area through Legal Cell/ Defending unit.

**Counter Affidavit**

1899. Counter Affidavit is a document filed by Respondents on behalf of UOI before the Lower Court/High Court/Supreme Court in reply to Original Suit / Civil Suit / Writ Petition/ SLP.

**Rejoinder Application**

1900. Rejoinder Application is a documents filed by Petitioner or by Respondents before the Lower Court / High Court/ Supreme Court for furnishing of additional information in his support.

**Regular Appeal**

1901. Being aggrieved by the Judgment of Lower Court/Trial Court, the Petitioner/ Respondent is at liberty to file Regular Appeal before the Civil Court (Senior Division)/District Court.

**Regular Second Appeal**

1902. The Petitioner/Respondents are at liberty to file Regular Second Appeal before the Hon'ble High Court against the Judgment of Dist Court/Lower Court/Trial Court.

**Writ Appeal/Special Appeal**

1903. Writ Appeal/Special Appeals are filed by Petitioner/Respondents before the High Court (Appellate Jurisdiction) only against the Judgment of High Courts (Single Bench).

**Special Leave Petition/ Civil Appeal**

1904. The Petitioner/Respondents are at liberty to approach the Supreme Court of India by way of filing Civil Appeal / Special Leave Petition against the Judgment of High Courts.

**Contempt Application**

1905. Whenever, the Judgment is passed by the Hon'ble Court, it is the responsibility of the Respondents to examine the Judgment/Court Order and take necessary action either to file appeal against the Judgment or go for implementation of the same within the time granted by the Hon'ble Court or otherwise there is a possibility of filing of Contempt Application by the Petitioner for heavy penalty against the Respondents be side initiating Contempt Proceedings for severe negligence.

**Execution Application**

1906. Similarly, whenever the Lower Court/AFT Judgments', it is the responsibility of the Respondents to examine the Judgment/Court Order and taken necessary action either to file appeal against the Judgment org of or implementation of the same within

the time granted by the Hon'ble Court or otherwise the responsibility of filing of Execution Application by the Petitioner by way of issuing warrant against the Respondents to cease their office property/furniture/vehicle etc and auction the same in public bid and depositing the amount involved beside charging of heavy cost/penalty against the Respondents.

**Disposal of Legal Notice Cases**

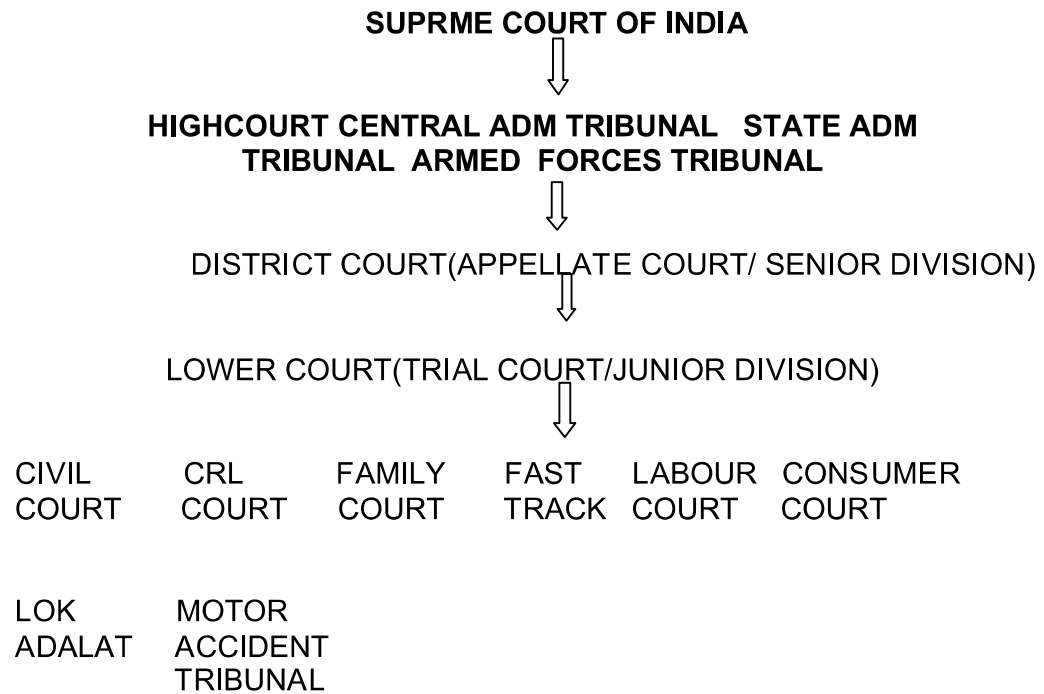
1907. Action by Record Office on receipt of the Legal Notice from the Advocate of the Petitioner under 80 CPC:-

- (a) To study allegations/grievances/relief sought by the Petitioner in Legal Notice in the light of existing Rules and Regulations on the subject.
- (b) To prepare & fwd Brief facts of the Case, Para wise Comments, draft reply to Legal Notice alongwith a copy of Legal Notice to concerned Line Dte/IHQ of MoD (Army) (Inf/Legal) for issue of necessary directions in terms of SAO 5/S/2001/JAG with a copy to PCDA (P), Allahabad/agencies involved, for perusal and necessary directions in the matter.

**Note:-**

- (i) Only Legal Notice/Petitions/Court Cases against Court Martial Proceedings or Disciplinary matter will be referred to IHQ of MoD (Army)AG/DV Dte.
- (ii) On receipt of necessary directions from the Line Dte, to send suitable reply to the Petitioner through his Counsel.
- (iii) The time prescribed for sending of reply to Legal Notice is 60 days.
- (iv) No reply/correspondence shall be made with the Petitioner's Counsel/Advocate directly.
- (v) Details of Legal Notice and progress of the case shall be recorded in the Legal Notice Register accordingly.
- (vi) If the Petitioner is satisfied with the reply and remains silent for consecutive three years, the matter will be treated as closed.

1908. **Hierarchy of Courts in India**



**RESTRICTED**

812

**PART-II :SETUP OF ARMED FORCES TRIBUNAL**

1910. Due to the time involved and administrative channels involved in civil Judiciary system, the Central Govt has now established Armed Forces Tribunals functional at various places of India for the persons subject to Army/ Navy/Air Force Act with respect to service matters related to service/ pension interims of Armed Forces Tribunal Act-2007. Principal Bench of Armed Forces Tribunals situated at Delhi. Details of regional AFTs are as under:-

**AFT(PRINCIPAL BENCH) NEW DELHI**

Regional Bench at							
Kochi	Jaipur	Mumbai	Chennai	Kolkata	Lucknow	Gauhati	Chandigarh/Shimla
Karnataka, Kerala & UT of Lakshadweep	Rajasthan	Maharashtra, Gujarat, Goa	Tamilnadu, Andhra Pradesh	West Bengal, Odissa, Jarkhand, Bihar, Andaman & Nikobar	UP, Uttarkhand, MP & Chattisgarh	Assam, Manipur, Nagaland, Meghalaya, Tripura, Mezoram Arunachal Pradesh	Chandigarh Punjab, Haryana, J&K, HP

**PART III- RESPONSIBILITIES OF VARIOUS AGENCIES INVOLVED IN HANDLING OF COURT CASES**

**Role of Record Office**

1911. In case, if the Petitioner is not satisfied with the reply sent by Record Office and approaches Civil Courts/Lower Court and forward Court Summons/Original Suit, the following action is required to be taken by the Record Office:-

- (a) To send Sign alto Stn HQ/Area HQ under whose jurisdiction the case falls for detailment of local unit to defend the subject court case in consultation with Addl/ Dist Govt Pleader.
- (b) Ask Defending unit to file Memo of appearance on behalf of UOI and others before the Hon'ble Civil Court on initial date of hearing and sufficient time is sought for filing of Written Statement/Statement of Objection in consultation with Dist Govt Pleader.
- (c) To study court case in the light of existing Rules and Regulations on the subject and relief sought by the Plaintiff.

**RESTRICTED**

**RESTRICTED**

813

(d) To Prepare and forward Brief facts of the case, Para wise Comments alongwith copy of Court Summons/ Original Suit/Civil Suit and other relevant documents in quadruplicate to local Defending unit for handing over the same in triplicate to Dist Govt Pleader for preparation/filing of Written Statement.

(e) A copy each of above documents is also sent to IHQ of MoD (Army) (Line Dte)PCDA(P),Allahabad, OIC legal Cell, Command Headquarters, Service HQ, Area/ Sub Area HQ and all concerned for information & additional comments, if any.

**Action on receipt of Court Judgment**

1912. Sequence of actions to be complied with on receipt of court judgment will be as follows:-

(a) To study the court judgment and legal opinion given by Govt Counsel.

(b) If the case has enough grounds and is recommended for filing of an appeal by the Govt Pleader, necessary action for filing of an appeal in the District Court will be taken in consultation with Area HQ/Stn HQ/Defending unit within time prescribed for the purpose, under intimation to all concerned. The powers have been delegated to OIC Records for deciding filling of Leave to Appeal.

(c) In case where the legal opinion of Govt Counsels in favour of implementation and no strong grounds are found for filing an appeal, copy of Court Order, Legal Opinion of Govt Pleader along with recommendations of OIC Records and Comprehensive Brief of the Case will be forwarded to IHQ of MOD (Army) (Line Dte) to accord sanction of the competent authority to implement the same.

(d) On receipt of Govt sanction, to forward necessary claim to PCDA(P)Allahabad for notifying the PPO and the same is dispatched to the concerned Pension Disbursing Authority for releasing pension to the Petitioner at the earliest or action as per the nature of redresses / relief given in the Court.

(e) Thereafter to file compliance report before the Hon'ble Court in consultation with Defending unit/Govt Counsel.

(f) WP to be filed before the Hon'ble High court in all superannuation/PMR/ Completion of terms of engagement of discharge cases which were allowed in favour of the applicant (NANA cases).

(g) WP to be filed before the Hon'ble High court in case the Hon'ble Tribunal allowed the OA in favour of the applicant without applying the restriction of arrears for 03 years.

(h) Invalidation/deemed invalidation cases will be analyzed for implementation or appeal.

**RESTRICTED**

**RESTRICTED**

814

(j) WP to be filed before the Hon'ble High Court in all cases which were allowed by the Hon'ble Tribunal against the policy and stay order to obtain to avoid adverse order of AFT.

(k) Where WP is recommended the LTA filed and pending before the Hon'ble AFT will be withdrawn.

(l) WP to be filed in the fwg cases:-

(a) Superannuation and premature retirement/disch cases (NANA).

(b) Superannuation (Attr/Aggr) and premature retirement/ disch (Attr/Aggr) cases.

(c) Cases with MA (E) on restriction of Arrears.

(d) Cases with service element gtd to personnel not having min qualifying service.

**Auth** : IHQ of MoD (Army) letter No 39022/24/AG/PS-4 dated 17 Nov 2023

**Note**:- In case where there is time involved in obtaining Govt sanction, necessary action for filing of an application for grant of additional time shall be filed before the Court in consultation with Defending unit/Govt Pleader.

**Role of Station HQ/Sub Area/Area HQ**

1913. Station HQ/Sub Area/Area HQ will detail local unit in terms of SAO 5/S/2001/JAG to defend the subject court case and incur legal expenses there on. It will also keep a watch on progress of the court case till its finality.

**Role of local Defending unit**

1914. Local Defending unit will be responsibilities for the followings:-

(a) To file Memo of appearance on initial date of hearing in consultation with Govt Pleader and seek sufficient time for filing of Written Statement/Statement of Objection.

(b) To handover Brief facts of the Case, Para wise Comments and Original Suit to Govt Pleader in triplicate for preparation of Draft Written Statement.

(c) To file Written Statement / Statement of Objections duly vetted by Ministry of Law & Justice/Area HQ/Record Office in consultation with Govt Pleader and forward copy of the same to Record Office.

(d) To obtain sanction of GOC-in-C in terms of Para 538 of Regulations for

**RESTRICTED**



**RESTRICTED**

815

the Army 1987 (Revised) for engaging Govt Counsel to Defend the court case and payment of prescribed fees accordingly as and when bill are received from the Govt Counsel.

(e) To attend each and every date of hearing in consultation with Govt Pleader and send progress to Record Office/Area HQ/Stn HQ till its finality.

(f) As and when the matter is dismissed, Court Order is to be obtained and forward to Record Office and all concerned intimating that the case is treated as closed provided no appeal is filed by the Petitioner.

(g) Incase, if the order is passed against UOI against the existing rules and regulations, Court Order alongwith Legal Opinion of Govt Pleader to be obtained by fastest means and forwarded to Record Office for further action.

**PART- IV**

**HANDLING OF HIGH COURT CASES/ ARMED FORCES TRIBUNAL**

1915. In view of establishment of Armed Forces Tribunal (Section 14 of AFT Act 2007), all cases pertaining to service matters filed in various courts (except High Court or Supreme Court) will be transferred to AFT. Therefore, it becomes incumbent on part of Defending unit/ OIC legal Cell of respective area to apprise lower courts through CGSC transferred all cases to AFT and in any case filed in future should also be got transferred to AFT.

**Auth:** IHQ of MoD (Army) letter No B/39022/Misc/AG/PS-4(L)/BC dt 16 Aug 10.

1916. On receipt of High Court Notice/CWP/WP/Original Application from Armed Forces Tribunal, signal will be sent to OIC Legal Cell located at Area HQ for detailment of local Defending unit and Addl CGSC from the Min of Law & Justice and requesting him to file memo of appearance on the date of hearing fixed on behalf of UOI & others and if possible, seek sufficient time for filing of Counter Affidavit.

1917. Case shall be studied in the Light of existing Rules and Regulations on the subject and relief sought by the Petitioner. Copy Notice/CWP/OA, Brief facts of the Case and Para wise Comments alongwith Photostat copies of all the relevant documents will be prepared and forwarded in triplicate to OIC Legal Cell/Defending unit for preparation/ filing of Counter Affidavit in consultation with Addl CGSC duly vetted by OIC Legal Cell/ Ministry of Law & Justice. A copy of each of above documents is also sent to Line Dte/ PCDA (P), Allahabad/Command HQ/Area/Sub Area HQ and all concerned. To ensure that Counter Affidavit/ Statement of objection is filed within time granted.

1918. Sanction of GOC-in-C in whose geographical jurisdiction the case is filled be obtained by Defending unit in terms of Para 538 of Regulations for the Army 1987 (Revised)for engaging Govt Counsel/ Defending court case and payment of prescribed fees.

**RESTRICTED**

**RESTRICTED**

816

1919. A copy of Counter Affidavit will be fwd to Line Dte and all concerned and case is progressed monthly/ quarterly through Defending unit and progress report will be sent accordingly.

1920. As soon as matter is dismissed, Court Order to be obtained and forwarded to Line Dte and all concerned.

1921. If the order is passed against UOI/clearly against the existing rules and regulations on pensions, court order and Legal Opinion of CGSC to be obtained at fastest means and necessary action will be taken for filing of an appeal with in time prescribed for the purpose in consultation with OIC Legal Cell/ Area HQ/ Defending unit under intimation to Line Dte and all concerned.

1922. In cases where legal opinion of Govt Counsel is in favour of implementation of the Judgment, copy of court order alongwith all the relevant documents and Recommendations of OIC Records will be forwarded to Line Dte to accord sanction of the competent authority with in time given by the court and take necessary action to implement the court order accordingly. Compliance report is filed be for the Hon'ble High Court/ AFT in consultation with OIC Legal Cell/ Govt Counsel/ Defending unit. The powers have been delegated to OIC Records for deciding filling of Leave to Appeal or otherwise in terms of Section 31 of AFT Act.

1923. Necessary action for filing of an application for grant of some extra time shall be filed before the Hon'ble High Court/ AFT in case Govt sanction is likely to take more time.

1924. Payment of Govt Counsel to be made by the Defending unit as and when Bills are received after verifying the same in terms of rates prescribed vide Govt of India, Min of Law, Justice and Co. Affairs New Delhi letter No File No. 26(1)/2014/Judl dated 01 Oct 2015.

1925. Details of Judgment against the UOI where appeals not filed in time shall be brought to the notice of MoD through Line Dte.

**PART-V**

**HANDLING OF HON'BLE SUPREME COURT CASES**

1926. On receipt of Notice/CWP/WP/SLP from the Supreme Court of India, Signal to be sent to OIC Legal Cell, HQ Delhi Area for detailment of local Defending unit and Addl CGSC from the Min of Law & Justice and request him to file memo of appearance on behalf of UOI & Other son the date of hearing fixed and seek sufficient time for filing of Counter Affidavit.

1927. Case shall be studied in the Light of existing Rules and Regulations on the subject and relief sought by the Petitioner. Copy Notice/CWP /WP/SLP, Brief facts of the Case and Para wise Comments along with Photostat copies of all the relevant documents will be prepared and forwarded in triplicate to OIC Legal Cell, HQ Delhi Area/Defending unit for preparation/filing of Counter Affidavit in consultation with Addl

**RESTRICTED**

**RESTRICTED**

817

CGSC duly vetted by Line Dte/OIC Legal Cell/Ministry of Law & Justice. A copy of each of the above documents are also sent to Line Dte/ PCDA(P), Allahabad/Command HQ/Area/Sub Area HQ and all concerned. Ensure that Counter Affidavit is filed within time granted/prescribed for the purpose.

1928. Sanction of GOC-in-C in whose Geographical jurisdiction ,the case is filed shall be obtained by Defending unit in terms of Para 538 of Regulations for the Army 1987 (Revised) for engaging Govt Counsel/Defending court case and payment of prescribed fees.

1929. A copy of Counter Affidavit will be fwd to Line Dte and all concerned as and when filed and case will be progressed monthly/quarterly through OIC Legal Cell/Defending unit and progress report will be sent accordingly.

1930. As and when the matter is dismissed, court order to be obtained and forwarded to Line Dte and all concerned and case be treated as closed.

1931. However, if the order is passed against UOI, court order along with Legal Opinion of Govt Counsel are obtained at fastest means and submitted to Line for necessary directions on the matter at the earliest and take necessary action accordingly.

1932. In case Legal Opinion of Govt Counsels to implement court order, copy of Supreme Court Order, Legal Opinion of Govt Counsel alongwith all the relevant documents and Recommendations of OIC Records will be forwarded to Line Dte to accord Govt sanction with in time given by the court and take necessary action to implement the court order accordingly. Compliance report will be filed in consultation with Govt Counsel/OIC Legal Cell/Defending Unit.

1933. Necessary action for filing of an application for grant of some extra time shall be filed before the Hon'ble Supreme Court in case Govt sanction is likely to take more time.

1934. Detailed entries to the effect will be recorded in the Court Cases Register meant for the purpose till finality of the court case.

1935. Payment of Govt Counsel shall be made by the Defending unit as and when Bills are received after verifying the same in terms of rates prescribed vide Govt of India, Min of Law, Justice and Co. Affairs New Delhi letter No F.No. 26(1)/2014/Judl dated 01 Oct 2015.

**PART- VI**

**HANDLING OF CONTEMPT CASES**

1936. Handling of contempt cases requires personal involvement of OIC and CRO Records. On receipt of notice/summons from the court, Line Dte will be informed immediately. 'Vakalatnama' on behalf of contemnors will be handed over to Govt Counsel through courier. In case court order has been complied with, the compliance report alongwith a counter affidavit will be submitted in the court within the time frame in consultation with OIC Legal Cell/Govt Counsel.

**RESTRICTED**

**RESTRICTED**

818

1937. It must be ensured that no hearing on contempt petition goes un-represented. Progress of the case till its final disposal will be submitted to Line Dte.

**PART-VII**

**WITHDRAWAL OF COURT CASES UNCONDITIONALLY**

1938. Directions have now been issued by AG/PS-4(Legal)/Line Dte to withdraw/concede the court cases unconditionally in the following type of court case to reduce number of court cases against UOI:-

- (a) **Service Pension Cases.** By according action of Competent Auth for condonation of deficiency in service upto 1 year provided individuals have not been dismissed from service in dishonor or prematurely discharged at his own request from service or who has already been granted condonation earlier for his service towards first spell.

1939 to 1945 Blank.

**RESTRICTED**