

HOME DEPARTMENT

Notification

The 12th September, 1997

No. LD-97/9783, - In exercise of the powers conferred by Section 28 of the Legal Services Authorities Act, 1987 (Central Act No. 39 of 1987), and all other powers enabling him in this behalf, the Administrator, Union Territory, Chandigarh, in consultation with the Chief Justice of the Punjab and Haryana High Court, is pleased to make the following rules, namely:-

RULES

1. Short title and commencement- (1) These rules may be called the Chandigarh Legal Services Authorities Rules, 1997.

2. Definitions. –(1) In these rules, unless the context otherwise requires,-

- (a) “Act” means the Legal Services Authorities Act, 1987;
- (b) “aided person” means a person to whom Legal Service is provided in accordance with the provisions of these rules;
- (c) “eligible person” means a person, who is eligible for Legal Services under the rules:
- (d) “High Court” means the High Court of Punjab and Haryana at Chandigarh.
- (e) “Legal practitioner” shall have the same meaning as assigned to this expression in the Advocates Act, 1961;
- (f) “Legal proceeding” means civil criminal, revenue or any other proceedings arising from under any law for the time being in force its inception to final disposal in a court of law and includes preparatory steps for institution of such proceedings and also includes quasi-judicial and administrative proceedings before any tribunal or authority established under any law;

(g) "Member" means the Member of the State Authority or District Authority, as the case may be;

(h) "State Government" means the Administrator, Union Territory, Chandigarh, appointed under Article 239 of the Constitution.

(2) All Other words and expression used in these rules, but not defined shall have the meaning as assigned to them in the Act.

Section 6(2)(c).

3. The number, experience and qualifications of other Member of the State Authority.- Besides, the Chief Justice of High Court as its Patron-in-chief and a serving or retired judge of the High Court nominated by the State Government, in consultation with the Chief Justice of the High court as its Executive Chairman. The State Authority shall consist of the following members, namely:-

(A) Ex-officio members—

(i) Home Secretary , Chandigarh Administration;

(ii) Finance Secretary, Chandigarh Administration;

(iii) Legal Remembrancer-cum-Director, Prosecution,
Chandigarh Administration;

(iv) Director, Public Relations, Union Territory, Chandigarh;

(v) Director, Social welfare, Union Territory, Chandigarh;

(vi) Inspector General of Police, Union Territory, Chandigarh.

(vii) President, Punjab and Haryana High Court Bar,
Association; and

(viii) Member Secretary of the State Authority, Chandigarh.

(B) The following other members to be nominated by the State Government, in consultation with Chief Justice of High Court (hereinafter referred to as the nominated members) namely:-

(i) One Chairman of District Authority;

(ii) five eminent Social Workers (of which at least three shall be women) who are engaged in the upliftment of

the weaker sections of the society including Scheduled Castes Women, Children, Rural and Urban Labour ; and

- (iii) Head of the Law Department, Punjab University, Chandigarh, as member.

Section 28 (2) (f)

4. Headquarters of the State Authority.- The office of the State Authority shall be located at Chandigarh.

5. Special provisions for Patron-in-Chief, the Executive Chairman and Chairman, High Court Legal Service Committee.-The Patron-in-Chief, the Executive Chairman and the Chairman, High Court Legal Services Committee, being a sitting Judge of the High Court, shall be entitled to payment of travelling allowance and daily allowance in respect of journeys performed in connection with the work of the State Authority and be paid by the State Authority in accordance with the provisions of the High Court Judges (Travelling Allowance) Rules, 1959 as amended from time to time.

6. Conditions of Service of Executive Chairman in case of retired Judge.-Where the Executive Chairman is a retired Judge of the High Court, his terms and conditions of service shall be such as are specified in the Government of India. Ministry of Finance, Department of Expenditure O.M. No. 19048-E.IV, dated the 8th October, 1987, or such other relevant order of the State Government, as may be applicable to the retired Judges of the High Court appointed on Commissions or Committees.

Section 6 (3)

7. Member Secretary.-Member Secretary of the State Authority constituted under these rules shall exercise the following powers and shall perform the following duties, namely:-

- (a) to give free legal services to the eligible persons and weaker sections of the society;
- (b) to work out modalities of the Legal Services and Programmes approved by the State Authority and ensure their effective monitoring and implementation;

- (c) to exercise the power as Director in respect of Administrative House keeping, Finance and Budget matters as Head of the Department of Legal Services;
- (d) to maintain true and proper accounts of the State Authority including periodical checking and auditing in respect thereof;
- (e) to manage the properties, records and funds of the State Authority;
- (f) to prepare Annual Income and Expenditure Account Balance-Sheet of the State Authority;
- (g) to liaise with the Social Action Groups, District Authorities;
- (h) to maintain up-to date and complete statistical information including progress made in the implementation of various Legal Services Programmes from time to time;
- (i) to process proposals for financial assistance and issue Utilisation Certificate thereof;
- (j) to organise various legal services programmes as approved by the State Authority and convene meetings or seminars and workshops connected with the Legal Services Programmes and preparation of Reports and follow-up action thereof;
- (k) to produce video or documentary films, publicity material, Literature and publications, to inform general public about the various aspects of the Legal Services programmes;
- (l) to lay stress on the resolution of rural disputes and to take extra measures to draw schemes for effective and

meaningful legal services for setting rural disputers at the door-steps of the rural people including organisation of Mediation Centre in the rural as well as urban areas;

- (m) to perform such other functions as are necessary to give effect to the policy and directions of the Central Authority ; and
- (n) to perform such other duties as may be expedient for officials functioning of the State Authority or as may be assigned to him by Executive Chairman.

Section 6 (4).

8. The term of office and other conditions of Member-Secretary of the State Authority.-(1) The term of office of the members nominated under clause (B) of rule 3 of the State Authority shall be two years and they shall be eligible for renomination;

(2) A member of the State Authority nominated under clause (B) of rule 3 may be removed by the State Government, if-

- (a) he fails, without sufficient cause, to attend three consecutive meetings of the State Authority or five meetings held within the space of two years; or
- (b) has been adjudged as insolvent ; or
- (c) has been convicted of an offence which in the opinion of the State Government involves moral turpitude ; or
- (d) has become physically or mentally incapable of acting as a member; or
- (e) has so abused his position as to render his continuance in the State Authority pre-judicial to the public interest.

(3) Notwithstanding anything contained in sub rule (2), no member shall be removed from the State Authority on the grounds specified therein unless a reference in this behalf is received by the State Government from the Executive Chairman after holding such an enquiry as he deems fit.

(4) A member may, by writing under his hand addressed to the Executive Chairman, resign from the State Authority and such resignation, shall take effect on the expiry of a period of thirty days from the date of tendering resignation.

(5) If any nominated member ceases to be member of the State Authority for any reason, the vacancy shall be filled up in the manner and from the source from which the same was originally filled under clause (B) of rule 3, and a person so nominated to fill a casual vacancy shall continue to be, a member for remainder of his predecessors terms.

(6) All nominated members shall be entitled to payment of travelling allowance and daily allowance in respect of journeys performed in connection with the meetings of the State Authority and shall be paid by the State Authority in accordance with the rules as are applicable to the Class I officers of the Government as amended from time to time.

(7) The ex-officio members shall be entitled to travelling allowance and daily allowance either from his parent department, or as the case may be, from the State Authority.

(8) The Member-Secretary of the State Authority shall be whole time employee of the State Government.

(9) In all matters like age of retirement, pay and allowances, benefits and entitlements, plus disciplinary matters the Member-Secretary shall be governed by the rules as are applicable to the members of the Punjab/Haryana Superior Judicial Service.

Section 6(5)

9. The number of officers and other employees of the State Authority.-

The State Authority shall have such number of officers and other employees for rendering Secretariat and field assistance and its day to

day functions as may be sanctioned by the State Government from time to time.

Section 6(6)

10. The conditions of service and the salary and allowances of officers and other employees of the State Authority.-(1) The officers and other employees of the State Authority shall be entitled to draw pay and allowances in the scales of pay admissible to Government employees holding equivalent posts and shall also be entitled to same status, privileges and facilities.

(2) In all other matters like age of retirement and disciplinary matters, the officers and other employees of the State Authority shall be governed by the Government Rules, as are applicable to the employees holding equivalent posts.

Section 8A(3).

11. The experience and qualifications of Secretary of the High Court Legal Services Committee.-A person shall not be qualified for appointment as Secretary of the High Court Legal Service Committee unless he is a member of the Punjab/ Haryana Superior Judicial Service:

Provided that if no suitable person is available from amongst the members of the Punjab/Haryana Superior Judicial Service, an officer of the High Court not below the rank of a Joint Registrar shall be eligible for appointment as Secretary of the aforesaid Committee.

Section 8a(5) (6).

12. The number of officers and other employees of the High Court Legal Services Committee and the Conditions of Service and Salary and Allowance payable to them.-(1) The High Court Legal Services Committee shall be provided with such number of officers and other employees for rendering secretarial assistance and for its day to day functions as may be sanctioned by the State Government from time to time.

(2) The officers and other employees of the High Court Legal Services Committee shall be entitled to draw pay and allowances and other

benefits in the scale of pay at par with the Government employees, as the case may be, holding equivalent posts and shall also be entitled to the same status, privileges and facilities.

- (3) In all other matters like age of retirement and disciplinary matters, the officers and other employees of the High Court Legal Services Committee shall be governed by the service rules of the Chandigarh Administration and if belonging to the establishment of the High Court, then the rules of the High Court.

Section 9

13. The number, experience and qualifications of members of the District Authority:- The District Authority shall consist of the following members, namely:-

(A) Ex-officio members—

- | | |
|--|-------------|
| (i) District and Sessions Judge | ...Chairman |
| (ii) Deputy Commissioner | ...Member |
| (iii) Additional District and Sessions Judge-I | ...Member |
| (iv) Senior Superintendent of Police | ...Member |
| (v) Chief Judicial Magistrate | ...Member |
| (vi) District Attorney | ...Member |
| (vii) Public Relation Officer | ...Member |
| (viii) President, District Bar Association | ...Member |
| (ix) Assistant District Attorney | ...Member |

dealing with Legal Aid
programmes at District Head quarters

(B) Nominated Members :-

Three Members form amongst eminent Social Workers (of which at least one shall be woman) who are engaged in the upliftment of the weaker sections of the society including Scheduled Castes and Backward Classes to be nominated by the State Government in consultations with the Chief Justice of the High Court.

Section 9 (5).

14. The number of officers and other employees of the District Authority.- The District authority shall have such number of officers and other employees for rendering secretarial and field assistance in its day to day functions as may be sanctioned by the State Government from time to time.

Section 9 (6).

15. The conditions of service and the salary and allowances of the officers and other employees of the District Authority.-(1) The officers and other employees of the District Authority shall be entitled to draw pay and allowances in the scales of pay admissible to Union Territory employees holding equivalent posts and shall also be entitled to same status privileges and facilities.

(2) In all other matters, like age of retirement and disciplinary matters, the officers and other employees of the District authority shall be governed by the Government rules as are applicable to persons holding equivalent posts.

Sections 12 (h) and 28 (2).

16. The upper limit of annual income of a person entitling him to legal services, if the case is before a court other than the Supreme Court.—

(1) In addition to the persons mentioned in clauses (a) to (g) of Section 12 of the Act, a citizen of India whose annual income from all sources does not exceed one lac rupees (as per amendment 2011) shall be entitled to legal services, if the case is before a Court other than the Supreme Court.

(2) In cases where the High Court or the Supreme Court provides legal service under any order, legal service should be deemed to have been provided by an Authority of a Committee in relaxation of all the conditions laid down in these rules.

Section 28 (2) (p).

17. Matters on which legal service is admissible.—In addition to the cases covered under Sections 12 and 13 of Act, legal Service may also be provided in all matters, where such service shall be aimed at:-

- (a) amicable settlement of the dispute by bringing about conciliation between the parties to other dispute; and
- (b) rendering assistance in complying with various legal requirements in order to secure the benefits under various schemes sponsored by or on behalf of the Central Government or the State Government or any other public authority or for the Welfare of the general public or any section thereof.

Sections 2(c), 13 and Section 28 (2) (p).

18. Modes of providing legal service.—Legal service may be given in all or any one or more of the following modes, namely :-

- (a) by payment of court fee, process fee, expenses of witnesses, preparation of the paper book, lawyers fee and all other charges payable or incurred in connection with any legal proceedings;
- (b) through representation by a legal practitioner in legal proceedings;
- (c) by supplying certified copies of judgements, order notes or evidence and other documents in legal proceedings,
- (d) by preparation of appeal, paper book, including printing, typing and translation of documents in legal proceedings,
- (e) by drafting of legal documents,
- (f) by giving legal advice on any legal matter, and
- (g) through Mediation Centres of Family Counselling Centres.

Inserted as per the notification No 9/1/2-IH(8)-2000/16995 dated 28th August 2000

Section 18-A

Rule 18-A Procedure for providing refund of Court Fee.

Where a compromise or settlement has been arrived at by a Lok Adalat in a case referred to it under sub-section (1) of Section 20m the Court Fee paid in such case shall be refunded by the Collector of the District in the manner prescribed under the Rules framed under the

Court Fee Act, 1870 on the basis of a certificate of refund issued by the Lok Adalat.

Section 18-B.

Procedure for executive of awards passed by Lok Adalats.

The awards passed by Lok Adalats in respect of pending cases shall be executable by the courts in which those matters were pending prior to the passing of the awards by the Lok Adalats regarding matters at Prelitigative stage shall be executed through the Court of District Judge.

Section 28 (2) (p).

19. Procedure for providing free legal service.—(1) A person desiring any legal service shall furnish an application-cum-affidavit addressed to the Member-Secretary of the State Authority, Secretary of the High Court Legal Services Committee, Chairman of the District Authority (hereinafter referred to as Authority or Committee), as the case may be, in a form approved by the State Authority.

(2) The Member-Secretary, Secretary, or the Chairman of the Authority, as the case may be, shall maintain a register of applications wherein all applications for legal service received under sub-rule (1) shall be entered.

20. Disposal of application.—(1) On receipt of an application-cum-affidavit, the Member-Secretary the Secretary or the Chairman of the Authority, as the case may be, shall scrutinize the application for the purpose of deciding whether the applicant is entitled to get legal service in accordance with the provisions of these rules, and for the purpose of arriving at such a decision, he may, if necessary and required, give personal hearing to the applicant but in doing so, the Member-Secretary, the Secretary or the Chairman of the Authority, as the case may be, shall have regard to the fact that the applicant is a poor person or belongs to a weaker section of the society and deserves to be assisted. The application shall be processed as early as possible and preferably within fifteen days of its receipt,

(2) The decision of the Member-Secretary, the Secretary and the Chairman of the Authority to provide legal service shall be subject to confirmation by the concerned Authority.

(3) Where it is decided not to provide any legal service to an applicant, the reasons for doing so shall be recorded in the register of applications maintained by the Authority and information in writing to that effect shall be communicated to the applicant.

(4) No legal service shall be allowed to continue after the legal service is granted, if the authority is satisfied that.—

- (a) the applicant has knowingly made false statement or has furnished false information as regards his eligibility,
- (b) in legal proceedings other than the one relating to criminal prosecution, there is no prima facie case to institute, or as the case may be to defend the case,
- (c) the application is frivolous and fictitious or the applicant is not entitled to the same under the provisions of these rules, or
- (d) having regard to all the circumstances of the case, it is otherwise not reasonable to grant it.

Section 28 (2) (p).

21. Panels for legal service.—(1) Every authority shall prepare such number of panels of legal practitioners, as it may consider necessary.

(2) Every, Panel prepared under sub-rule (1), shall remain in for it is revised or modified by the Authority.

(3) Appointment of a legal practitioner for legal service under these rules shall be made as far as possible from the panels of legal practitioners prepared under sub-rule (1) by the Authority.

Provided that the Executive Chairman may appoint a legal practitioner not include in the panel and in a special case, Chairman of the Authority may do so with the prior permission of the Executive Chairman.

- 4. Every person included in the panel shall be required to communicate, in writing to the Member Secretary, the Secretary or the Chairman of the Authority may do so with the prior permission of the Executive Chairman.
- 5. If any person after having agreed to serve on a panel neglects or does not discharge the duties properly, the

Authority may delete his name from the panel and may also disassociate him forthwith from the legal service being provided by him.

6. If any person after having agreed to serve on a panel, is guilty of misconduct or violates any of the provisions of these rules, he shall be liable to be removed from the panel, besides any appropriate legal proceedings.
7. Save as otherwise directed by the Authority, a legal practitioner who ceased to be on the panel whether on account of resignation or otherwise, shall, as soon, as practicable after he so ceases to be on the panel, deliver within seven days all the papers pertaining to cases entrusted to his to the Member-Secretary, Secretary of Chairman of the Authority failing which he shall forfeit any claim to the legal fee or other dues, if any besides appropriate civil or criminal legal action.

Section 28 (2) (p).

22. Duties of legal practitioners on the panel.—(1) A legal practitioner appointed for rendering legal service to an aided person under these rules shall,--

(a) if the case is not concerning any legal proceedings, hear the aided person or any other representing him and examine the papers and documents relating to the case and shall give his advice, in writing, to the aided person and also send a copy of the advice so recorded to the Member-Secretary, the Secretary or the Chairman of the Authority, and

(b) if the case relates to any legal proceedings represent the aided person to act and plead for him in the legal proceedings and shall forthwith make a report to the Member-Secretary, the Secretary or the Chairman of the Authority, on the action taken by him and also make monthly report to them in regard to the progress of the legal proceedings, besides a report, in writing, within two days of the final conclusion of proceedings to the concerned Authority.

(2) The legal practitioner, so long as he remains on the panel, shall act in accordance with such instructions, as may be given to him from time to time by the Authority.

Section 28 (2) (p).

23. Honorarium payable to legal practitioner on the panel.—(1) The legal practitioners brought on the panel in terms of rule 21 shall be paid by the concerned Authority. Such honorarium, as may be determined from time to time by the State Authority in respect of the legal proceedings conducted and advice tendered by them under these rules.

(2) No legal practitioner to whom any case is asked for legal service shall receive any fee or remuneration whether in cash or in kind or any other advantage, monetary or otherwise, from the aided person or from any other person on his behalf.

(3) In case the final judgement or order is rendered by the court against the aided person, the concerned legal practitioner shall also submit along with his fee bill, his opinion, in writing, with reasons as to whether the case is fit for further appeal or revision, as the case may be, within seven days from the receipt of the certified copy of final judgement or order.

Section 28 (2) (p).

24. Duties of aided person.—(1) A person seeking legal service shall comply with the requisition or direction that may be made upon him by the Authority from the date of application made for legal service till the completion or cessation of legal service or cancellation of eligibility.

(2) Every aided person shall execute an agreement agreeing to the effect that in the event of the Court passing a decree or order in his favour awarding costs to him or other monetary benefit or advantage (except an order of maintenance) to repay by way of reimbursement to the Authority, the amount of costs, charges and expenses of legal proceedings incurred by the Authority in rendering him legal service and to facilitate such reimbursement, he shall also execute an irrevocable power of attorney authorizing the Member-Secretary, the Secretary or the Chairman of the Authority, to do all such acts and

things, as may be necessary for recovery or realization of the amount decreed or ordered to be paid to him.

(3) The costs, charges and expenses which may be recovered by the Authority under sub-rule (2), shall be credited to the State Government.

Section 28 (2) (p).

25. Operation of Bank Account.— The Member-Secretary, the Secretary or the Chairman of the Authority, shall operate the account of the Authority.

Section 29 (2) (p).

26. The experience and qualification of other persons of the Lok Adalats.—A person shall not be qualified to be included in the bench of a Lok Adalat, unless he is—

- (a) an eminent social worker, who is engaged in the upliftment of the weaker sections of the Society, including scheduled castes, women, children, rural and urban labour; or
- (b) a lawyer of at least ten years standing ; or
- (c) a person of repute, who is specially integrated in the implementation of the Legal Services Schemes and programmes ;
or
- (d) a medical or any other expert as deemed fit by the Authority.

27. Interpretation—If any question arises as to the interpretation of these rules, the decision of the State Government thereon, shall be final.

ANURADHA GUPTA,
Home Secretary,
Chandigarh Administration.

