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NOTIFICATION

No.A.45011/1/91-LJE, the 10th November, 1995. Whereas it is expedient to make a consolidated rules relating to the conditions of appointment, duties and fees payable to the Government Advocate-cum-Public Prosecutor in the High Court, Assistant Government Advocate-cum-Public Prosecutor in the High Court, Government Advocate in the District Court, Assistant Government Advocates in the District Courts, Public Prosecutor in the District Courts and Advocates on panel, the Governor of Mizoram is pleased to make the following rules:

Short title
and commen-
cement.

1. (1) These rules may be called the Mizoram (Appointment, duties, fees etc. of Government Advocates) Rules, 1995.
- (2) They shall come into force at once.

Definitions.

2. In these rules, unless the context otherwise requires,—
 - (a) "Advocate" means an Advocate as defined in the Advocates Act, 1961 (Central Act, No. 25 of 1961);
 - (b) "day" means a period of twentyfour hours beginning at midnight;
 - (c) "Government" means the State Government of Mizoram;
 - (d) "Government Advocate" means the Advocate engaged or appointed or empanelled as such by the Government to enter appearance in any court of law on its behalf and it shall include the Government Advocate-cum-Public Prosecutor in the High Court, Assistant Government Advocate-cum-Public Prosecutor in the High Court, Government Advocate in the District Court, Assistant Government Advocate in the District Court and Public Prosecutor including Special Public Prosecutor in the District Court.

Qualification for appointment.

3. (1) No person shall be eligible for appointment as—

- (a) Government Advocate-cum-Public Prosecutor in the High Court;
- (b) Government Advocate in the District Court;
- (c) Public Prosecutor in the District Court—

Unless he hold a degree in laws from a recognised University and has been in continuous practice for a period of not less than ten years and has also worked as Assistant Government Advocate or Assistant Public Prosecutor for a period not less than three years or as Assistant Government Advocate or Assistant Public Prosecutor anywhere for any time;

Provided that the qualifications relating to length of practice may be relaxed and the length of engagement as an Assistant Government Advocate or Assistant Public Prosecutor if they are local candidates.

(2) No person shall be eligible for appointment as—

- (a) an Assistant Government Advocate-cum-Public Prosecutor in the High Court;
- (b) Assistant Government Advocate in the District Court—unless he holds a degree in law from recognised University and has been in continuous practice for a period of not less than seven years or has also worked as an Assistant Government Advocate anywhere for any term;

Provided that the requirement relating to the length of practice may be relaxed if they are local candidates.

Duties.

4. Duties of the Government Advocates under these rules shall be as specified in Annexure-I.

Restriction on taking private cases.

5. No Government Advocate appointed under these rules shall take up private cases except with the previous approval of the Legal Remembrancer/Secretary, Law & Judicial Department, Government of Mizoram, in writing. This condition is, however, not applicable in cases of central Government or statutory corporations where the such case or cases are not adverse in any manner to the interest of the State Government. Provided that a Government Advocate may with the previous approval in writing of the Legal Remembrancer/Secretary Law appear for any individual in any case in which the interest of such individual and the State Government is the same;

Travelling allowance and Daily allowance on transit

Rates of fee

No fees for consultation with the Government Officer in Govt. cases

Preference for local candidates.

Right to take over brief from Advocate.

Advocates panel.

Duties of Advocate panel.

Provided further that a Government Advocate may with the previous approval in writing of the Legal Remembrancer/Secretary, Law appear for any government employees or employees in cases where the Secretary, Law considers it necessary in the interest of the State.

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- Travelling allowance and Daily allowance on transit. 6. Travelling Allowances, leave and other facilities admissible to a Government Advocate shall be such as may be prescribed by the Government from time to time.
- Rates of fees 7. The Government Advocate under these Rules shall be entitled to such rates of fees as the Government may prescribe from time to time.
- No fees for consultation with the Government Officer in Govt. cases. 8. No Government Advocate under these Rules shall be entitled to any fees for consultation with the officers of the Government in Government cases.
- Preference for local candidates. 9. In the matter of appointment of Advocates of all categories under these rules, preference shall always be given to local candidates in the State of Mizoram.
- Right to take over brief from Advocate. 10. In the event the performance of any Government Advocate appointed under these Rules is found to be unsatisfactory, the Legal Remembrancer/Secretary, Law or his representative or the Advocate General shall have the right to take over the brief from such Government Advocate without assigning any reason whatsoever.
- Advocates on panel. 11. The State Government may have a panel of Advocates to be appointed to conduct cases on behalf of the Government in the High Court and in the courts of District and Sessions Judges/Deputy Commissioners, Additional District Magistrates/Additional District & Session Judges, Civil Judges (Senior Division), Civil Judges (Junior Division) Magistrates of the first class and the Second Class, Assistants to Deputy Commissioner and all other Courts & Tribunals, and may remove an Advocate from such panel at any time without assigning any reason.
- Duties of the Advocates on panel. 12. The Advocates on panel shall have the following duties—
(a) to conduct only such criminal cases in such courts as may be determined by the Legal Remembrancer/Secretary, Law.

(b) to conduct civil cases in courts on behalf of the State Government as may be determined by the Legal Remembrancer/Secretary, Law.

(c) to act as Junior to Advocate General, or Additional Advocate General or Assistant Advocate General or Government Advocate-cum Public Prosecutor in the High Court and Government Advocate in the District Courts as the case may be and as may be determined by the Legal Remembrancer/Secretary, Law.

(d) to discharge any other duties as may be assigned by the Legal Remembrancer/Secretary, Law.

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Notice of
resignation.

13. The Government Advocate under these Rules shall be under obligation to serve three months notice of resignation.

Removal of
Govt. Ad-
vocates

14. The Legal Remembrancer and Law Secretary may terminate the services any Government Advocate under these Rules in the event such Advocate fails to perform all or any of the duties mentioned in the Annexure-I without giving any notice or without assigning any reason whatsoever and such Advocate shall not be eligible to claim any amount as compensation for such termination.

Limitations
of the Office.

15. Every Government Advocate or Advocate on Panel shall be debarred from—

(a) advising or holding briefs against the State;

(b) Advising private parties in cases in which they are likely to be called to advise the Government;

(c) using their office accommodations provided by the Government for their private briefs/consultation/advice/counselling;

(d) accepting any appointment as Legal adviser or consultant or in similiar capacity in any firm or organisation without prior sanction from the Government, which may adversely affect the interest of the Government.

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Distribution
of cases.

16. The Legal Remembrancer/Secretary, Law may be general or special order distribute appeals and cases between the Government Advocates in the District Courts and between the Assistant Advocate General and the Government Advocates in the High Court.

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Power to
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17. In appropriate cases, if so satisfied, the Government may relax any of the provisions made in these rules.

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Removal of
Doubts.

18. Where any doubt arises as to the interpretation of these Rules, the Law Department may, with the approval of the Minister in charge of the Department, interpret any of the provisions of these rules and such a decision shall be final.

Repeal and
and saving.

19. (1) On and from the commencement of these Rules, all rules and notifications relating to the appointment and terms of or conditions of engagement and fees for engagement of such Govt. advocates, published or notified by this Department shall stand repealed.
- (2) Notwithstanding such repeal any action taken or anything done under the rules so repealed shall be deemed to have been taken or done under the provisions of these rules.

P. Chakraborty,
Secretary to the Govt. of Mizoram,
Law & Judicial Department.

ANNEXURE—I
(See rule 4)

1. To advise the State Government, without any fee, upon such Legal matters as may be referred to him by the State Government through the Legal Remembrancer/Secretary, Law.
2. To represent the State at all stages in cases before the respective District Courts and Tribunals as may be assigned.
3. To appear as a junior to the Advocate General or any other designated Senior Advocate as may be determined by the Legal Remembrancer/Secretary, Law.
4. To appear with the previous approval of the Government or the Legal Remembrancer/Secretary, Law, for government employees in cases including those falling within the purview of section 199 of the Code of Criminal Procedure, 1973, if it is necessary to do so in the interest of the State.
5. To appear in the Aizawl Bench of the Gauhati High Court and before the State Commission constituted under the Consumers Protection Act, 1936 (entrusted specifically to the Government Advocate-cum-Public Prosecutor in the High Court while for others as and when so entrusted by the Legal Remembrancer/Secretary, Law.)
6. To prepare briefs, paper books (duly paginated and allied with the Court records), synopsis of arguments, and obtain copies of order-sheets in all cases in which he has been briefed to appear.

7. To transmit three sets of paper-books to the Law Department.
8. To inform the Department concerned of the date fixed in all cases in which he has been briefed, with intimation to the Law Department.
9. To prepare plaint, written statement, counter affidavit, rejoinder and draftings of all kinds. If deemed necessary, to get such drafts settled by the senior counsel as the case may be (in cases of Assistant Govt. Advocates only).
10. To regularly attend the chamber of the senior counsel for preparation of the cases which have been assigned to him (for the Assistant Government Advocates only).
11. To hold conference with the Officers of the Department involved in litigation well in advance of the date or dates of hearing fixed and to get the briefing.
12. To stay in station during holidays except with leave from the Legal Remembrancer/Secretary, Law.
13. To perform such other duties or responsibilities as may be assigned to him by the Legal Remembrancer/Secretary, Law.

P. Chakraborty,
Secretary to the Govt. of Mizoram,
Law and Judicial Department.

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