



The Mizoram Gazette

EXTRA ORDINARY

Published by Authority

Regn. No. NE-313(MZ) 2006-2008

Rs. 2/- per issue

VOL - XXXVIII Aizawl, Wednesday 26.8.2009 Bhadrapada 4, S.E. 1931, Issue No. 421

NOTIFICATION

No. A. 45017/2/09-LJE, the 25th August, 2009. The following Rules of the Mizoram Standing Counsel for the Government (Appointment and Conditions of Service) Rules, 2009 is hereby published for general information and will come into force from the date of publication in the Mizoram Gazette.

Zahmingthanga Ralte,
Deputy Secretary to the Govt. of Mizoram.

**THE MIZORAM STANDING COUNSEL FOR THE GOVERNMENT
(APPOINTMENT & CONDITIONS OF SERVICE) RULES, 2009**

In exercise of powers conferred by the proviso to Article 309 of the Constitution of India and in supersession of this Department's Notification No. A.45011/2/92-LJE/218 dated 22nd February, 2006, the Governor of Mizoram hereby makes the following rules regulating the remuneration, duties and other terms and conditions of the Standing Counsel for the State of Mizoram in the Supreme Court, namely: -

1. Short title and commencement :

- (1) These Rules may be called the Mizoram Standing Counsel for the Government (Appointment and Conditions of Service) Rules, 2009.
- (2) They shall come into force on the date of their publication in the official Gazette.

2. Definitions : In these Rules, unless the context otherwise requires –

- (a) "*Standing Counsel*" means an advocate appointed by the Governor of Mizoram for the State of Mizoram to represent and defend the State in the Supreme Court of India and shall include an Additional Standing Counsel;
- (b) "Appointing Authority" means the Governor of Mizoram;
- (c) "Government" means the State Government of Mizoram.

3. Qualification and term for appointment:

- (1) No person shall be eligible for appointment as Standing Counsel unless he is designated as an Advocate-on-Record in the Supreme Court of India and having continuously practised in the Supreme Court as an advocate for not less than ten years.
- (2) The Standing Counsel shall hold office during the pleasure of the appointing authority or for a term of five years, which ever is earlier;
Provided that –
 - (1) on the expiration of his term of office, he/she may be eligible for reappointment to that office for a further term not exceeding five years, and
 - (2) the appointment of a Standing Counsel may, at any time during his term of office, be terminated by serving three months' notice in writing by either side.

4. Headquarters :

- (1) The Headquarters of a Standing Counsel shall be New Delhi.
- (2) The Standing Counsel may, with the permission of the Government of Mizoram, leave the headquarters during the vacation of the Supreme Court:

Provided that he/she shall make himself available for duties whenever required by the Government.

5. Duties : It shall be the duty of a Standing Counsel –

- (a) to give advice to the Government upon such legal matters, and to perform such duties of legal character, as may from time to time, be referred or assigned to him by the Government;
- (b) to appear, whenever required, in the Supreme Court or in any High Court on behalf of the Government in cases (including suits, writ petitions, appeal and other proceedings) in which the Government is concerned as a party or is otherwise interested;
- (c) to discharge such other legal functions as may be specifically entrusted to him or her by the Government from time to time.

Entitlement of Leave – The Government may grant to a Standing Counsel such leave as it may deem fit.

6. Retainer, fee and allowances –

1. A retainer, except during the period of his leave - Rs. 12,000/- per month
2. For each day of appearance in the Supreme Court of India, New Delhi on behalf of the Government - Rs. 2,500/-
3. Fees for drafting and preparation of Affidavit-in-compliance or otherwise save and except a petition for adjournment, of routine nature, on behalf of the Government - Rs. 2,500/- per draft in a case
4. Other miscellaneous expenses like filing report, fax, phone including the clerkage viz. typing etc. - Rs. 800/- per diem (Lump sum)
5. Any matter or amount involved as such which are not covered by the above provisions shall be decided by the State Government.

Explanation – (1) If two or more cases involving substantially identical questions are heard together with common arguments, the Standing Counsel shall be entitled to only one fee as for a single case.

6. Where a Standing Counsel is required to perform journeys outside the headquarters in the course of his duties with prior permission from the Government, he/she shall be paid or reimbursed all such expenses as are admissible to a Government Servant of Senior Group 'A' category as per the relevant Rules.
 7. If a Standing Counsel is called upon to perform any duty other than those referred to in Rule 5, such as, acting as Arbitrator or giving opinion after hearing both the sides, one being the Government, he shall be paid such fee as may be determined by the Government.
7. **Restrictions – (1)** The Standing Counsel shall not: -
- (a) advise any party against the Government, or in cases which he is likely to be called upon to advise, or appear for the Government or hold briefs in any Court for any party except for the Government
 - (b) defend an accused person in a criminal prosecution, without the permission of the Government; or
 - (c) accept appointment to any office in any company or corporation without the permission of the Government.
- 2) Where a Standing Counsel appears or does other work on behalf of bodies of the State such as the State Election Commission, the State Public Service Commission etc. he/she shall only be entitled to fees on the scales mentioned in clause (c) of sub-rule (2) of Rule 7.
8. **Perquisites – (1)** The Standing Counsel shall also be entitled to Conveyance allowance of Rs. 3000/- per month for the effective performance of his duties.
9. **Power to relax –** When the Government is of the opinion that it is necessary or expedient so to do, may be order, and for reasons to be recorded in writing, relax any of the provisions of these rules.

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