

No. 202/45/2009-AVD-II
Government of India
Ministry of Personnel, P.G. & Pensions
Department of Personnel and Training

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New Delhi, 3rd March, 2010

OFFICE MEMORANDUM

Subject:-Scheme for appointment of Special Prosecutors in CBI on contract basis – regarding.

The undersigned is directed to say that the Government has been aware of the vacancy position in Central Bureau of Investigation (CBI) particularly that of Prosecutors and resultant growing number of cases pending trial in various Courts. Keeping in view the difficulties being experienced by the CBI in filling up the vacancies in various ranks of Prosecutors, it has been decided to introduce, as a stopgap arrangement, the following Scheme for engagement of Special Prosecutors in CBI on contract basis:

I. SCOPE OF THE SCHEME

The Scheme will be operative in respect of Special Prosecutors/ Assistant Special Prosecutors to be engaged in the CBI on contract basis for carrying out the work done by the CBI's own cadre of Prosecuting Officers. The number of persons to be engaged on contract basis under this Scheme will not be more than 60 at any given time, except with the prior approval of the Government. The contractual appointment will be only for a limited period till regular recruitment is made or officers are inducted on deputation in terms of the provisions of the recruitment rules.

II. DEFINITIONS

(a)	Special Prosecutor	Will mean and include a Counsel engaged on contract basis in the CBI as per this Scheme with seven years experience at the Bar.
(b)	Assistant Special Prosecutor	Will mean and include a Counsel engaged on contract basis in the CBI as per this Scheme with three years experience at the Bar.
(c)	C.B.I.	Means and includes all CBI Branches/ Units set up by Government of India under DSPE Act, 1946.

III. METHOD OF SELECTION

The Selection of the Special Prosecutor/Asstt. Special Prosecutor will be made by a Committee chaired by the Director, CBI and comprising Director of Prosecution, CBI, one representative of the Department of Legal Affairs (not below the rank of Joint Secretary & Legal Advisor) and a representative of DoPT (not below the rank of Joint Secretary) after considering all eligible/available and willing candidates. The Committee may devise its own procedure for the purpose. The names of the selected persons will be sent for the approval of administrative Ministry of the CBI and the concurrence of the Department of Legal Affairs and for issue of notification under section 24(8) of the Code of Criminal Procedure, 1973.

IV. ALLOCATION OF CASES TO THE SPECIAL PROSECUTOR1 ASST. SPECIAL PROSECUTOR

The Public Prosecutor/Asstt. Public Prosecutor will work in the CBI Office where he is appointed and shall appear in the concerned trial court in cases marked to him.

V. TERM OF ENGAGEMENT

The term of engagement of the Public Prosecutor/Asstt. Public Prosecutor would be for a period of three years or until further orders, whichever is earlier. The term may be extended for a further period of maximum two years at the discretion of the Government of India. During the period of engagement of contract, the Special Prosecutor/Assistant Special Prosecutor would work under the overall administrative control of the Director of Prosecution and the Central Government.

VI. TERMINATION OF ENGAGEMENT

The engagement/empanelment of the Special Prosecutor/Asstt. Special Prosecutor would be terminable at any time from either side after giving one month's notice. CBI will have the right to terminate the contract after giving notice without assigning any reason.

VII. HEADQUARTERS OF THE SPECIAL PROSECUTOR1 ASST SPECIAL PROSECUTOR

The Special Prosecutor/Asstt. Special Prosecutor will locate his Headquarters during the period of his engagement at the location of the CBI office where he is attached.

VIII. REMUNERATION FOR SPECIAL PROSECUTOR1 ASST SPECIAL PROSECUTOR

The Special Prosecutors will be paid a consolidated amount of Rs 60,000/- (sixty thousand) per month and the Asstt. Prosecutors will be paid Rs. 40,000/- (forty thousand) per month. They will not be entitled to any other allowance like House Rent Allowance, Medical reimbursement, Leave Travel Concession etc. However, they will be entitled to TA/DA as payable to their counterparts in the regular cadre of the CBI.

IX. RIGHT TO PRIVATE PRACTICE AND RESTRICTIONS

A Special Prosecutor/ Asstt. Special Prosecutor will not have the right to private practice under any circumstances.

X. DUTIES

- (i) If so required, appear in the District and Subordinate Courts.
- (ii) When any cases attended to by him is decided against the Central Bureau of Investigation, give his opinion regarding the advisability of filing an appeal against such a decision.
- (iii) Keep the Central Bureau of Investigation informed about all developments in the cases entrusted to him including each hearing, and timely supplying copies of judgments etc.
- (iv) Render all assistance to the Law Officers. Advocate General of the State Government, Special or Senior Counsel, if required to do so, who may be engaged in a particular case before the High Court, Tribunals, Commission of Inquiry, Arbitrators/Umpires etc.
- (v) The Special Prosecutor/ Asst Special Prosecutor shall also perform such other duties of legal nature, which may be assigned to him by the Department of Personnel and Training or the CBI.

XI. ASSISTANCE:- They shall be provided with the assistance of Pairvi Officers, Naib Court, etc. as per requirement from within the existing strength of the CBI.

XII. PENALTIES FOR PROVEN MISCONDUCT ETC

- (i) Disciplinary provisions of Bar Council for professional misconducts.
- (ii) Apart from the provision of termination of the contract, provision of PC Act would apply to them, as they would be public servants during the term of their contract.


XIII. RELAXATION

The Government of India will, however, have the right to relax any of the provisions of this Scheme in deserving cases.

2. A copy each of the draft Offer of Appointment and draft Agreement applicable under this Scheme, duly vetted by the Department of Legal Affairs, is enclosed herewith as Annexure I and II.

3. While resorting to contractual engagement as per this Scheme, CBI should simultaneously take steps to fill up all vacancies in various ranks of Prosecutors on a regular basis and as and when posts are filled up on regular basis as per the provisions of the existing Recruitment Rules, the contractual appointment(s) should be terminated.

4. The Scheme is issued with the approval of Establishment Division/DOPT, Integrated Finance Division/MHA, Department of Legal Affairs (Ministry of Law) and the Hon'ble MOS (PP).


3.3.2010

(Manisha Saxena)
Deputy Secretary (Vig)

1. Director, CBI. CGO Complex, Lodhi Road, New Delhi.
2. Pay & Accounts Officer, CBI, New Delhi.
3. Department of Legal Affairs, Shastri Bhavan, New Delhi.
4. Integrated Finance Division/MHA, North Block, New Delhi.
- ✓ 5. Director (Technical), NIC, North Block with request to put this on the website of Ministry of Personnel.
6. Guard file of AVD-II Section.

DRAFT OFFER OF APPOINTMENT

SPEED POST

No. _____

CENTRAL BUREAU OF INVESTIGATION

Government of India/Bharat Sarkar

Dated: _____

MEMORANDUM

Shri _____ s/d/o _____
R/o _____ is offered engagement as Spl. Prosecutor/Assistant
Prosecutor on contractual basis in Delhi Special Police Establishment,
Central Bureau of Investigation.

2. He/She will be entitled to draw consolidated amount of Rs. _____
per month. He/She will not be entitled to any other allowance like House
Rent Allowance, Medical reimbursement, Leave Travel Concession etc.
However, he/she will be entitled to TA/DA as payable to their counterparts in
the regular cadre of the CBI.

3. The terms of offer of appointment are as follows:-

(i) That the said engagement as Special Prosecutor/Assistant Special
Prosecutor shall be for a period of three years or until further orders
whichever is earlier. The said engagement may however, be extended for a
further period of two years at the discretion of the Government of India.

(ii) That the said engagement on contractual basis may be terminated at
any time by a month's notice given by either side and without assigning any
reason. The CBI, however, reserves the right to terminate his/her services
forthwith or before the expiry of the stipulated period of notice by making
payment to him of a sum equivalent to the consolidated remuneration for the
period of notice or the unexpired portion thereof.

(iii) That he/she shall be paid a consolidated amount of Rs. _____ per
month as per remuneration and would not be entitled to any other
allowances like House Rent Allowance, Medical Reimbursement,
Government Accommodation, Leave Travel Concession, Conveyance
Allowance, etc. as payable to their counterparts in regular cadre of CBI. The
appointee shall also be not entitled to any benefits like PF, Gratuity,
Seniority, Promotions, etc.

(iv) That he/she shall be required to perform duties in the Central Bureau
of Investigation under the administrative control and supervision of the

Director of Prosecution. The duties, inter-alia, as may be assigned by the Director of Prosecution would be as under:-

- (a) To appear in the District and Subordinate Courts.
 - (b) When any case attended by him is decided against the Central Bureau of Investigation, give his/her opinion regarding the advisability of filing an appeal against such a decision
 - (c) Keep the Central Bureau of Investigation informed about all the developments in the case regarding each hearing and timely supplying copies of judgement etc.
 - (d) Render all assistance to the Law Officers, Advocate General of the State Government, Special or Senior Counsel, if required to do so, who may be engaged in a particular case before the High Court, Tribunals, Commission of Inquiry, before the Arbitrators/Umpires etc.
 - (e) To give legal advice in the matters/cases referred to him.
 - (f) He/She shall also perform such other duties of legal nature, which may be assigned to him by the Deptt. Of Personnel and Training or the CBI.
- (v) He/She shall be entitled to all official and secretarial assistance, office accommodation at the place of posting.
- (vi) He/She shall be required to maintain discipline and absolute integrity in accordance with the rules as contained under the CCS (Conduct) Rules, 1964.
- (vii) He/She shall have no right of private practice under any circumstances.
- (viii) He/She shall be eligible for leave of 15 days in a year on valid medical/other grounds.
4. The appointment carries with it the liability to serve in any part of India.
5. Other conditions of services will be governed by the relevant rules and orders in force from time to time.
6. (a) He is also required to submit the following documents:-
- (i) Oath of Allegiance to the Constitution.
 - (ii) Oath/Undertaking for maintenance of Secrecy.
 - (iii) A declaration that he/she has not more than one wife/husband living
- (b) He/She will also be required to produce the following original certificates at the time of joining duties:
- (i) Original Certificate of education and other technical qualification (with one attested copy of each).

- (ii) Certificate of age (Original matriculation or equivalent certificate) with one attested copy.
- (iii) Discharge Certificate, if any, in original, alongwith one attested copy.
- (iv) Three passport size photographs.
- (v) Any other documents which may be specified.

7. If any declaration given or information furnished by the candidate proves to be false or if the candidate is found to have willfully suppressed any material information, he/she will be liable for removal from his/her engagement as Spl. Prosecutor/Assistant Special Prosecutor and such other action as Government may deem necessary.

8. No traveling allowance will be allowed for joining the appointment

9. In case offer of engagement on contract basis and on above terms and conditions is accepted, he/she should report to _____

10. He/She is requested to submit his/her acceptance or otherwise within _____ of receipt of this memorandum, to the undersigned by speed post/FAX (_____).

11. If he/she fails to report for duty for _____, this offer will be treated as **cancelled**.

Dy. Director (Admn.)
CBI, Head Office,
New Delhi.

To

Shri/Smt./Ms. _____

Copy forwarded to:-

- 1. DOPICBI.
- 2. DP&T.

DRAFT AGREEMENT

An agreement made at New Delhi on _____ day of _____ between the President of India through authorized representative as notified under article 299 of the Constitution of India on the one part (First party) and _____ Advocate on the other part (second party)

Whereas the President of India is pleased to appoint Shri/Smt./Ms. _____ the second party as _____ on contract basis and the second party has agreed to render the required services and perform the duties attached with the said appointment and both the parties have agreed as follows:-

1. That the engagement of second party to as aforesaid shall be for a period of three year or until further orders whichever is earlier. The said appointment may however, be extended for a further period of two years at the discretion of the Government of India. The appointee shall not have any claim or right to regular appointment to any post, as a consequence of this agreement
2. That notwithstanding the condition stipulated in para 1 above, the said engagement/contract would be terminable at any time from either side after giving one month notice. The first party, however, will have right to terminate the contract by waiving the requirement of notice without assigning any reason.
3. That the second party shall be paid a consolidated amount of Rs. _____ per month as remuneration and would not be entitled to any other allowances like House Rent Allowance, Medical Benefits, Government Accommodation, Conveyance Allowance as payable to their counterparts in regular cadre of CBI from the Government.
4. The second party shall be required to perform his/her duties in the Central Bureau of Investigation under the administrative control and supervision of the Director of Prosecution. The duties, inter alia, as may be assigned by DOP would be as under:-
 - (i) To appear in the District and Subordinate Courts.
 - (ii) When any case attended to by him is decided against the Central Bureau of Investigation, give his opinion regarding advisability of filing an appeal against such a decision.

- (iii) Keep the Central Bureau of Investigation informed about all developments in the case regarding each hearing and timely supplying copies of judgements, etc.
 - (iv) Render all assistance to the Law Officers, Advocate General of the State Governments, Special or Senior Counsels, if required to do so, who may be engaged in a particular case before the High Court, Tribunals, Commission of Inquiry, or before the Arbitrators/Umpires etc.
 - (v) To give legal advice in the matters/cases referred to him/her.
 - (vi) The Special Prosecutor/Asstt. Prosecutor shall also perform such other duties of legal nature, which may be assigned to him/her by the Department of Personnel and Training or the CBI.
5. That the second party shall be entitled to all official and secretariat assistance, office accommodation, at the place of posting.
6. That the second party will be required to maintain discipline and absolute integrity in accordance with the rules as contained under the CCS (Conduct) Rules.

The appointee shall be on whole time appointment and shall not accept any other appointment, paid or otherwise, during the period of contract. That the second party will not have right to private practice under any circumstance.

That leave of 15 days in a year shall be admissible to the second party on valid medical/other grounds.

In witness whereof this agreement has been signed between the parties hereto by the authorized representative first party and the second party on date, month and year mentioned above.

FIRST PARTY

SECOND PARTY

In presence of

Witness No.1

Witness No.2