

भारत सरकार
रेल मंत्रालय (रेलवे बोर्ड)

सं.2002/एलसी/1/2

नई दिल्ली, दिनांक : 24.07.2002

1. महाप्रबंधक (विधि)
सभी भारतीय रेलें,
कोर, चिरेका, डीरेका, सडिका,
पधुका, तथा म.प.प./कलकत्ता सहित.
2. विशेष कार्य अधिकारी, पूर्व तट/भुवनेश्वर
पूर्व मध्य/हाजीपुर, उत्तर मध्य/इलाहाबाद
उत्तर पश्चिम/जयपुर, दक्षिण पश्चिम/बेंगलूरु
पश्चिम मध्य/जबलपुर
3. मुख्य प्रशासनिक अधिकारी/म.प.प./दिल्ली, मुंबई तथा मद्रास
डीपुका/पटियाला तथा रेडिका/कपूरथला
4. महानिदेशक/अ.अ.मा.सं./लखनऊ
5. अध्यक्ष/सभी रेल भर्ती बोर्ड.

**विषय : विभिन्न न्यायालयों में मुकदमों की पैरवी करने के लिए रेल पैनल से इतर
अधिवक्ताओं को अनुबंधित करना.**

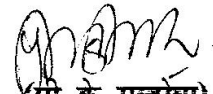
यह देखा गया है कि क्षेत्रीय रेलें, रेलवे मुकदमों की पैरवी करने के लिए पैनल से इतर अधिवक्ताओं को, और वह भी ऊंची फीस पर, अनुबंधित करने से संबंधित प्रस्ताव रेलवे बोर्ड के अनुमोदन हेतु प्रायः भेजती रही है.

बोर्ड द्वारा समय-समय पर अनुदेश जारी किए गए हैं कि रेलवे के मुकदमों की पैरवी करने के लिए केवल पैनल में उपलब्ध अधिवक्ताओं की सेवाओं, और वह भी निर्धारित निबंधन एवं शर्तों के आधार पर, का उपयोग किया जाए. ऊंची फीस देकर पैनल से इतर अधिवक्ताओं को अनुबंधित करने से पैनलबद्ध अधिवक्ताओं का मनोबल गिरता है. सक्षम प्राधिकारियों अर्थात् रेल मंत्री तथा विधि, न्याय एवं कंपनी मामले मंत्री, का अनुमोदन प्राप्त करने की प्रक्रिया भी जटिल तथा समय लेने वाली है. बहुत ही विरले मामलों में पैनल से इतर अधिवक्ताओं को अनुबंधित करने से संबंधित अनुरोध, महाप्रबंधक के व्यक्तिगत अनुमोदन से बोर्ड को भेजे जाएं और उसके लिए भी एक स्वतः पूर्ण संदर्भ भेजा जाए जिसमें प्रक्रियागत विलंब से बचने के लिए पैनल से इतर

अधिवक्ता की नियुक्ति से संबंधित निबंधन एवं शर्तों के साथ-साथ उसे अनुबंधित करने का पूरा औचित्य दिया जाए.

बोर्ड के दिनांक 5.2.2002 के समसंख्यक पत्र की ओर भी ध्यान दिलाया जाता है जिसमें रेल राज्य मंत्री (आर) ने उस व्यवस्था के बारे में अपनी अप्रसन्नता व्यक्त की है जिसमें पैनल से बाहर के वकीलों को अनुमति लिए बिना ही नियुक्त किया जाता है. यह भी स्पष्ट किया गया था कि जो अधिकारी इस निर्देश का उल्लंघन करेगा उसे ही इस राशि का भुगतान करना होगा.

दिनांक 5.2.2002 के समसंख्यक पत्र के तहत पहले जारी किए गए अनुदेशों को दोहराया जाता है.



(पी. के. मल्होत्रा)
विधि सलाहकार
रेलवे बोर्ड.

सं.2002/एलसी/1/2

नई दिल्ली, दिनांक : 24.07.2002

प्रतिलिपि -

उप महाप्रबंधक (विधि), वरिष्ठ विधि अधिकारी तथा विधि अधिकारी, सभी भारतीय रेलों एवं उत्पादन इकाइयों को सूचनार्थ


(पी. के. मल्होत्रा)
विधि सलाहकार
रेलवे बोर्ड.

प्रतिलिपि - रेलवे बोर्ड के सभी अधिकारी एवं शाखाएं

**GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)**

No. 2002/LC/1/2

New Delhi, dt. 24.07.2002.

1. The General Managers(Law),
All Indian Railways including
CORE, CLW, DLW, ICF, W&AP
& MTP/Calcutta
2. OSDs, East Coast/Bhubaneswar,
East Central/Hajipur, North Central/Allahabad,
North Western/Jaipur, South Western/Bangalore,
Western Central/Jabalpur.
3. The CAOs/MTP/Delhi, Bombay & Madras
DCW/Patiala & RCF/Kapurthala.
4. DG/RDSO/Lucknow.
5. Chairman/All Railway Recruitment Boards.

**SUB: Engagement of Advocates who are not on the
Railway panel for contesting cases in various
Courts.**

It has been observed that the Zonal Railways are frequently sending proposals to the Railway Board for approval of engagement of non-panel advocates and that too on high fee to conduct railway cases.

Instructions have been issued from time to time by the Board that services of panel advocate alone and that too on the prescribed terms and conditions should be utilized for conducting the railway cases. Engaging non-panel advocates on high fee has a demoralizing effect on the paneled advocate. The process of getting approval of the Competent Authorities i.e. the Minister for Railways and the Minister for Law, Justice and Co. Affairs is also cumbersome and time consuming. It is only in rarest of rare

cases that request for engagement of non-panelled advocates should be referred to the Board with G.M's personal approval and that too in a self-contained reference giving full justification for engagement of a non-panelled advocate along with terms and conditions of his appointment to avoid procedural delay.

Attention is also invited to the Board's letter of even number dated 5-2-2002 wherein the MOS(R) has recorded his displeasure on the manner in which the lawyers from outside the panel are appointed without taking permission. It was also made clear that the officer who violates the direction should be made liable to pay up the amount.


The instructions already circulated vide letter of even number dated 5-2-2002 are hereby reiterated.


(P.K. Malhotra)
Legal Adviser,
Railway Board.

No. 2002/LC/1/2

New Delhi, dated 24 07, 2002.

Copy for information to Dy. G.M.(Law), Sr. Law Officer and Law Officer, All Indian Railways and Production Units.


(P.K. Malhotra)
Legal Adviser,
Railway Board.

Copy to all Officers and Branches of Railway Board.

RECEIVED
OF INDIAN
RAILWAYS
BOARD
H. D. HOUSE

The General Manager,
All Zonal Railways & PUs.

New Delhi, dt. 19.12.2006.

पु.क. नमस्कार २
 उपनिषद् SW
 उपाध्यक्ष/प्रमुख/सचिव/
 Dy. G. M. तहसील/पंचायत,
 मुख्यालय पंचायत/
 Chief L. W. Assistant/
 यश
 नगरपालिका/पंचायत/
 L. W. Assistant/
 19.12.2006.

Accordingly, it has been decided that the processing of the case file should be initiated immediately on receipt of uncertified copy of the order. A Table should be placed on the first page of the case file showing the schedule of processing of file according to the proforma enclosed. Item Nos. 1(a), (b), (d) and 1A of the Table should be filled in by the concerned officer in the first instance. Later when the certified copy of the order is received, it may be compared with the uncertified copy and changes, if any brought to notice immediately.

A Monitoring Unit
Department

Also, while sending the proposals for SLP to Railway Board, Zonal Railways should ensure that the proposal is invariably accompanied with following documents:

- (i) Chronological sequence
- (ii)

- (i) Chronological sequence of events in tabular form.
- (ii) Certified Copy of the High Court Order and CAT's order, wherever applicable.
- (iii) Grounds taken by the appellant and respondent before the CAT/High Courts etc.

- (iv) A legible copy of all the documents and correspondences relating to the case.
- (v) The details of any pending or decided SLP on issue similar to the one which has been referred may also be given.
- (vi) The questions of Law on which the appeal is preferred.
- (vii) Opinion of Railway's Law Officer & the concerned Railway Advocate.

Please ensure that the above instructions are followed scrupulously while dealing with the cases relating to SLP/Appeals.

Shukla 19/12/06
(Dr. O.P. SHUKLA)
Legal Adviser,
Railway Board

No.2006/LC/18/1

New Delhi, dt. 19.12.2006.

Copy to (i) Law Officers, All Zonal Railways & PUs
(ii) All Officers & Branches of Railway Board.
10/12/06
anishu Hame
New Delhi

Shukla 19/12/06
(Dr. O.P. SHUKLA)
Legal Adviser,
Railway Board



TABLE

1. Limitation period: _____ days		Expiring on: _____	
Out of Total period of _____ days expiring on _____,		_____ days	
No. of days available with the Department for processing of file:			
(a) Date of Order of Tribunal/High Court			
(b) Date of receipt of uncertified copy of order			
(c) Date of receipt of certified copy of the order			
(d) Date by which the file is to reach the Head of Department to enable him to take decision in the case			
(e) Date on which final decision of Head of Department is taken			
(f) Date on which the file is forwarded to Ministry of Law			
1A. Out of the total period of Limitation of _____ days, expiring on _____, number of days available with :			
The Deptt. of legal Affairs;			
Ld. Law Officer; and			
Central Agency Section for drafting panel advocate and for filing of SLP/CA			

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

2002/LC/1/2

New Delhi, dt. 05.02.2002


1. The General Managers(Law),
All Indian Railways including
CORE, CLW, DLW, ICF, W & AP & MTP/Calcutta.
2. OSDs, East Coast/Bhubaneswar,
East Central/Hajipur, North Central/Allahabad,
North Western/Jaipur, South Western/Bangalore,
West Central/Jabalpur.
3. The CAOs/MTP/Delhi, Bombay & Madras.
DCW/Patiala & RCF/Kapurthala.
4. DG/RDSO/Lucknow.
5. Chairman/All Railway Recruitment Boards.

Sub:- Engagement of advocates who are not on the Railway
panel for contesting cases in various courts.

An instance has come to the notice of this office wherein an advocate who was not on the panel of Railway was engaged for contesting railway case without prior approval of the competent authority. When the case was submitted for post facto approval, the Hon'ble MOS(R) has passed following orders:

"As a special case, this is allowed. However I would like to record my displeasure on the manner in which lawyers from outside the panel are appointed without taking permission. Henceforth, the officer who violates the direction should be made liable to pay up the amount. This maybe brought to the notice of all Zonal Railways."

Railway are requested to note the above orders for information and strict compliance.



(P.K. MALHOTRA)
Legal Adviser
Railway Board

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2002/LC/1/2

New Delhi, dt. 05.02.2002

copy for information to Dy. G.M. (Law), Sr. Law Officer and Law
Officer, All Indian Railways and Production Units.


(P.K. MALHOTRA)
Legal Adviser
Railway Board

Copy to all Officers and Branches of Railway Board.

**GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)**

No.2002/LC/1/7

New Delhi, dt. 08.04.2002

The General Manager,
All Zonal Railways including
CORE, CLW, DLW, ICF, W&AP, MTP/Calcutta.

OSDs, East Coast Rly, East Central Rly,
N.C.Rly, N.W. Rly, S.W.Rly, & W.C.Rly.

The CAOs, MTP/Delhi, Bombay & Chennai
DCW/Patiala & RCF Kapurthala.

DG, RDSO/Lucknow.

Chairman, All Railway Recruitment Boards.

Sub: Monitoring of Contempt of Court Cases.

Ref: This Ministry's letter No.92/LC/Misc./37 dated 15.10.97.

It has been noticed by the Railway Board that off-late there has been steep rise in the "contempt of court" cases and senior officers have been asked by the various Courts/Central Administrative Tribunals to appear personally in these matters.


2. The party which approaches the Court/Tribunal with an application for "contempt of court" generally does so only when the Railways fail to take timely action, either in implementing the judgement/order or in filing appeal and obtaining stay of the operation of the order appealed against. It may please be appreciated that once the Court/Tribunal has passed an order/judgement, it is the duty of the concerned authority either to implement it within the given time-frame or to file an appeal within the prescribed period of limitation along with an application for staying

operation of the judgement appealed against. It is only when this procedure is not followed, contempt applications are filed and senior officers are put to inconvenience. In these matters, the Court/Tribunal generally issue notice for personal appearance of the senior officers resulting in avoidable wastage of time and inconvenience to the officers.

3. With a view to have effective control on monitoring litigation matters, especially contempt cases, it has been decided that the Railways/Production Units should adopt a uniform procedure to ensure that to the extent possible, filing of contempt petition is avoided. The Railways/Production Units may issue instructions to the officers working under them, *mutatis mutandis* on the following lines:-

- i) Implementation of the judgement passed by Courts/Tribunals should be monitored at the level of DRM/PHOD concerned and CWM/Officer-in-charge in the case of extra Divisional units.
- ii) Decision on implementation of the judgement or on the issue of filing appeal against the same should be taken immediately and within a given time frame. In case it is decided to file an appeal against the order/judgement, the same should be done within the prescribed period of limitation along with application for staying the operation of the order/judgement. In case it is decided not to file an appeal, the process for implementation of the judgement/order should be initiated immediately and such action should be completed within a prescribed time frame. If due to some unavoidable reasons, the concerned Railway/Production Unit feels that a decision cannot be taken within the prescribed time frame or as the case may be, time allowed by the Court/Tribunal, an application should be filed before the concerned Court/Tribunal seeking more time to consider implementation of the judgement/order. Such application should be filed before the expiry of time granted by Court/Tribunal for implementation of the order.

- iii) The Branch Officer concerned should be made responsible for monitoring day-to-day development of such cases and it should be his personal responsibility to ensure that timely decision is taken for filing appeal or for implementing the judgement.
 - iv) The Legal Cell of the Railways/Production Units should invariably be consulted in all such matters and their opinion obtained before taking a final decision in the matter. In cases in which orders issued by the Government of India or the Railway Board are challenged, reference should invariably be made to the Directorate concerned of the Railway Board and final decision in the matter should be taken only after consulting the Board. The Directorate concerned of the Railway Board will take opinion of the Legal Directorate, wherever necessary.
 - v) In the Railways/Production Units contempt cases should be monitored at the level of GM/PHOD/DRM and CWM or Officer-in-Charge of extra Divisional Units. In cases where officers of Railway Board are impleaded, information should invariably be furnished to the concerned Head of the Directorate in Board's Office responsible for handling that contempt case along with a copy to Legal Cell of the Railway Board by 5th of every month on the proforma enclosed as Annexure-I. The Railways/PUs may also like to devise a proforma such as the one shown in Annexure II for monitoring court cases at their level.
4. Receipt of the letter may please be acknowledged.


(K.K.Nangia)
Dy. Legal Adviser
Railway Board

- 4 -

New Delhi, dt. 08.01.2002

62/LC/1/7

Copy to Dy. General Manager(Law), Senior Law Officer, Law
Officer of Zonal Railways/ Production Units for information and appropriate
necessary action.

(K.K.Nangia)

Dy. Legal Adviser
Railway Board

**GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)**

DRAFT

No.2003/LC/15/Cal/12.

New Delhi, dt. 09. 12. 2003

The General Managers,
All Indian Railways & Production Units.


**Sub: Appearance of empanelled Railway Advocates against
Railways.**

It has come to the notice of this office that advocates empanelled for a particular court or Zonal Railway are appearing against Railways in other Courts/Zonal Railways. In this connection, it is pointed out that an advocate when empanelled for Railways becomes a Railway Advocate for whole of Indian Railways. He is allotted a particular Court or a Zonal Railway only for the purpose of administrative convenience. Railway as a whole is one entity and none of the empanelled railway advocates is to appear against Railways before any Court/ Tribunal/ Forum/ Arbitrator/ Umpires/ Commissions of Inquiry.

2. It has been already mentioned in the terms of empanelment of advocates that a counsel will have a right to private practice which should not interfere with the efficient discharge of his duties as a counsel for railways. Further, a counsel shall not advise any party in or except any case against the Railways and also if the counsel happens to be an Member of a firm of lawyers or solicitors, it will be incumbent upon the firm not to take up any case against the Railways.

3. Railways are as such, requested to ensure fair & equitable distribution of cases amongst the empanelled Railway Advocates to avoid grievances of the existing panel counsel and also to implement the above instructions with immediate effect. Necessary action against the advocates appearing against Railways may also be proposed.


4. Please acknowledge receipt.


(A. Khatwani)
For Secretary
Railway Board

No.2003/LC/15/Cal/12.

New Delhi, dt. 09. 12. 2003

Copy to Law Officer, All Indian Railways.


(A. Khatwani)
Supdt.(Legal)/Railway Board

**GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
RAILWAY BOARD**

No. 2014/LC/MISC/12

New Delhi, dt. 28.7.2016

The General Manager
All Indian Railways & Production Units
Chairman, RRBs

Sub: Conduct of cases before the Courts/Tribunals in which the Chairman/Members/Secretary of Railway Board has been impleaded as one of the Respondents.

1. It has been observed that in a number of court cases being filed against Railway Administration, the applicants normally implead Chairman, Members and Secretary, Railway Board as one of the respondents.

2. There have been several instances where Chairman, Railway Board and other Members have been impleaded in Contempt cases involving establishments or contractual matters. Some of these cases have resulted in personal appearance of Chairman and Members, Railway Board also.

3. The larger issue which comes out of these cases is whether the CRB, the Secretary/ Railway Board, the Members of the Railway Board and other higher officials who are not directly connected with the appointment, promotion and payment of Group 'C' and erstwhile Gr 'D' staff can be impleaded by the court of law. In this connection, a comprehensive guideline was issued by the Railway Board way back on 15-10-1997, where the Board had clarified that under Section 80 CPC only General Manager alone should be issued a notice who will receive it for and on behalf of the Government of India or Railway Administration. This is so because General Manager is the defined authority as a Railway Administration in terms of para 3 and 4 of Railway Act.

4. Moreover, since there are large number of courts and administrative tribunals where thousands of cases are being filed and contested everyday by the Railway, it will not be practically feasible for the CRB and other higher officials to attend each and every court everyday or even to file an Affidavit on behalf of Railways. Therefore, the letter of 15-10-1997 directed the Railways to contest before the court that the CRB, Secretary etc., are misjoinder parties. Therefore, whenever they are listed as Respondents, Zonal Railways are required to file an application in concerned court and bring out as to who are concerned authority who are dealing with the subject matter of petition that others are misjoinder parties and accordingly their name should be got deleted from the list of Respondents.

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5. As per practice, only necessary parties are required to be impleaded as respondents/ defendants. If a person still impleads a party who has nothing to do with the case, the application/petition itself is liable to be dismissed on the ground of misjoinder parties.


6. In view of the above, all the Zonal Railway and other Railway establishments may take following action:-

a. Immediate action may be taken to file miscellaneous applications before various Courts including CAT and other Tribunals wherein Chairman/ Secretary and other Board Members have been unnecessarily impleaded as respondents, for deletion of their names from the list of respondents on the plea of their being misjoinder parties. It may also be brought out as to who is the appropriate authority dealing with the subject matter of the petition.

b. To streamline the system so that no occasion should arise wherein the contempt case arises on account of inclusion of name of Chairman, Members and Secretary, Railway Board in the list of respondents.

Please acknowledge receipt and advise positively within a month the action taken alongwith the list of cases wherein such application has been filed.

This issues with the approval of Board.



(A.Khatwani)
Dy. Legal Adviser
Railway Board.

No. 2014/LC/MISC/12

New Delhi, dt. 28.7.2016

Copy for information and necessary action forwarded to:

1. PPS to All Board Members, Railway Board.
2. All Advisers & Executive Directors, Railway Board.
3. All Officers and Branches of Railway Board.
4. All DGM (Law)/ Law Officers of Zonal Railways and Production Units


(A.Khatwani)
Dy. Legal Adviser
Railway Board.