

OFFICE OF THE COMPTROLLER & AUDITOR GENERAL OF INDIA

NEW DELHI

Reference No. 1118/25-LC/2020

Date: 31/07/2024

To,

All the Heads of Department in IA&AD

Subject: Standard Operating Procedure (SOP) for providing legal assistance and logistics support to retired officials of IA&AD for appearance in Court.

1. A Government servant while in service discharges many administrative and statutory duties that may at a later date be a subject of scrutiny by courts. In the process, investigating authorities summon documents and also summon the officials as witnesses. Mostly, such summoning is with regard to cases where the Government Official during his service has given sanction for prosecution under Section 197 of the Criminal Procedure Code, 1973, Section 19 of Prevention of Corruption Act, 1988. In the Indian Audit and Accounts Department (IA&AD), summoning can also be with respect to findings in Inspection Reports, Audit Reports etc. based on which the Police and other investigating authorities initiate criminal prosecution.
2. It has been seen that many officers/officials of IA&AD are summoned by the courts in respect of the functions discharged in their official capacity at various places. Sometimes, the field offices request the Courts for exemption from personal appearance with the plea that the officer has superannuated. However, the Courts often do not accept the said plea especially in case of criminal prosecution. This causes inconvenience to retired officers/officials as sometimes they have to travel to other places to appear in the court.
3. The serving officials, while summoned by Courts, may undertake the tour as an official tour and have necessary legal support from the office in which they are working. However, the retired officials may not have the similar kind of support. Hence, it is necessary to provide adequate support to the superannuated officials. The extant provisions on the subject matter are described below.
4. Rule 6 (c) of Fundamental Rules and Supplementary Rules (FRSR) Part-III T.A. provides that "For attending Court in connection with departmental case.- It has been decided that a

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retired Government servant who is summoned by a court of Law for giving evidence in departmental cases as to facts which have come to his knowledge in the discharge of his duties while in service, or who is called upon by the Government to present its case or to act as complainant on its behalf may be allowed travelling allowance as on tour (including daily allowance for halts) for the journeys he has to perform in that connection.”

5. Further, Rule 5 (Appendix-I of CCS (Conduct) Rules, 1964) also provides that, *“The appropriate authority for taking decision in each case will be the Administrative Ministry of the Government of India concerned or Administrators who will consult the Finance and Law Ministries, where necessary. The Comptroller and Auditor General of India will exercise the powers of an Administrative Ministry in respect of the personnel of the Indian Audit and Accounts Department”*.
6. It is seen that the extant provisions relate to reimbursement of travel related allowances and expenses. It is felt that in addition, the retired officers/officials who have to appear in the court in respect of the functions discharged in their official capacity need to be provided with legal support through empanelled counsel of IA&AD in the respective station as well as logistics support in terms of coordination with court registry, documentation etc. by the respective field office.
7. Hence, the Comptroller and Auditor General of India has approved the following:

Clause 1: Whenever a retired employee receives any Notice/Summons regarding cases that arise out of/connected to the work done by him/her in official duty/official position while serving IA&AD, he should intimate the Legal Wing of O/o the CAG of India for legal assistance and logistics support.

Clause 2: Retired official appearing before the court will be provided legal and logistics support by the respective field offices of Indian Audit and Account Department (IA&AD) in whose jurisdiction concerned court is situated, through empanelled Counsel.

Clause 3: The expenditure incurred by the retired official in respect of Travelling and stay etc. will be reimbursed as per his/her last drawn pay & entitlement as prescribed in Rule 6 of Section XVI of Fundamental Rules and Supplementary Rules (FRSR) Part-III T.A Rules.

8. As the implementation of Standard Operating Procedure (SOP) involves three parties viz. Legal Wing of O/o the CAG of India, IA&AD field offices & the retired officials/officers of IA&AD, the following instructions regarding roles of the three parties are being issued:

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Sl. no.	SOP	Instructions regarding implementation
1.	Clause 1. Whenever a retired employee receives any Notice/Summons regarding cases arose out of/in connected to the work done by him/her in official duty/official position while serving IA&AD, he should intimate to Legal Wing of O/o the CAG of India for legal and logistical support.	<ul style="list-style-type: none">• All the field offices may publish the SOP on their websites. The Welfare Officer or nominated Liaison Officer may make retired officials/officers aware of the contents of this SOP.• The retired employee shall intimate the Legal wing of O/o the CAG of India about the details of Notice/Summons received from the Court through the proforma given in the Annexure.
2.	Clause 2. Retired official appearing before the court will be provided legal and logistics support by the concerned field offices of Indian Audit and Account Department (IA&AD) in whose jurisdiction concerned court situated through empanelled Counsel.	<ul style="list-style-type: none">• The Legal wing of O/o the CAG of India would intimate the concerned field office regarding action to be taken in respect of said intimation in pursuance with the SOP.• The concerned field office may contact the concerned retired official/officer to provide legal assistance through the empanelled counsel. The field office may also provide logistic support including coordination with court registry, documentation etc., if required.
3.	Clause 3. The expenditure incurred by the retired official in respect of Travelling and stay etc. will be reimbursed as per his/her last drawn pay & entitlement as prescribed in Rule 6 of Section XVI of Fundamental Rules and Supplementary Rules (FRSR) Part-III T.A Rules.	<ul style="list-style-type: none">• The retired official/officer may submit the claim in respect of travelling and stay etc. for attending the court to the office from which she/he had superannuated for the reimbursement as per applicable rules.

We may implement the Standard Operating Procedure (SOP) as above for providing legal assistance and logistics support to retired officials of IA&AD for appearance in Court in respect of the functions discharged in their official capacity.

(Approved by the CAG of India dated 31/07/2024)



Issuing Authority:-DAI (Defence & Legal)

Proforma

Intimation to Legal Wing of CAG Office for legal assistance

I (Name of the retired employee) have superannuated from the post of from the Office of (Name of the office). The court of (Name and address of the court) has issued a notice/summons to me (Copy enclosed) in the case No. (Details of the case). I have been asked to appear before the court on the date .../.../.....to depose as a prosecution witness/witness/..... (Details of the court orders, if any)

I may be provided with legal assistance as per SOP issued in this regard.

Date: ../../....

Signature-

Name-

Designation at the time of superannuation-

Present Address-

Mobile Number-

Email id-