

**ESI CORPORATION, SUB REGIONAL OFFICE, NASHIK**  
**TERMS AND CONDITIONS FOR PANEL ADVOCATES**

**1. Terms for empanelment of Counsels:**

The counsels will be empanelled for conducting the cases in which the Employees' State Insurance Corporation is a party. The cases will be assigned to them on a case to case basis as may be entrusted to them and Counsel would be required to conduct the cases to its finality.

The counsels would be on the panel ordinarily for a period of three years and continue with the cases allotted to them beyond 3 years unless terminated before 3 years. They may be removed from the panel earlier than the time stipulated on immediate notice on either side without assigning any reason thereof.

**Eligibility**

- a) Minimum Qualification: LLB from a recognized University.
- b) Minimum 5 year experience of standing the bar.
- c) Experience in handling Labour Law cases.

**2. Allocation of cases to the Counsels:**

The cases will be allocated to the counsels on the panel on a case basis or region/area basis by the Sub Regional Office, ESI Corporation, Nashik or by any other office authorized to do so.

**3. Duties of the Counsels on the Panel:**

- 1) The counsel shall appear before the EI Court, Magistrate Court, District Consumer Forum & other Courts in the cases allotted to him.
- 2) Advise the ESI Corporation on matters incidental to such litigation and when the case attended by him /her is decided against the ESI Corporation/Government and /or its officers, written Legal opinion regarding the advisability of filing an appeal from such a decision shall be given.
- 3) Render all assistance to Sub Regional office, Nashik through its Legal Branch. Social Security Officer's (Legal), Administration Branch and Branch Office Manager/s if required to do so.

- 4) Keep this office informed regarding the developments of the case from time to time, particularly with regard to drafting, filing of papers, dates of hearing of the cases, supply of copies of judgments etc.
- 5) Perform such other duties of legal nature, which may be assigned to him by this office from time to time.

**4. Right to private practice and restrictions:**

- 1) A counsel empanelled with the ESI Corporation will have the right to private practice which should not, however, interfere with the efficient discharge of his duties as a Counsel for the ESI Corporation.
- 2) A counsel shall not advise any party or accept any case or brief against the ESI Corporation in which he has appeared or likely to appear which is likely to affect or lead to litigation against the ESI Corporation.
- 3) If the counsel happens to be Partner of a firm of Lawyers of Solicitors, it will be incumbent on the firm not to take any case against the ESI Corporation in any courts or case arising in other courts out of these case (e.g) appeals/revisions in the High Court or Supreme Court or other courts or tribunals.

**5. Procedures for Empanelment:**

- 1) The applicant advocate must apply on the format prescribed by the ESIC only. No other format will be accepted.
- 2) Any application received after the last date prescribed in the advertisement shall not be entertained.
- 3) Depending upon the requirement and number of applications received. ESIC reserves the right to shortlist the candidates to be called for Interview/Interaction for selection/empanelment.
- 4) Merely fulfilling the eligibility criteria will not confer any right on an applicant advocate to be called for Interview/Interaction and to be selected.
- 5) The decision of the competent authority regarding short listing and selection of the candidates shall be final.
- 6) Canvassing in any form shall be treated as disqualification. The candidature of such applicants shall be rejected forthwith.

- 7) Shortlisted applicant advocate will be informed individually about the date, time and venue of interview.
- 8) The applicant advocate shall bring original documents at the time of Interview.
- 9) Letter to applicant advocates confirmation their empanelment will be issued by ESIC separately.

**6 General conditions:**

- 1) Applicant Advocates will not be absent without prior approval of competent Authority from appearance in court for any reason whatsoever.
- 2) Appeals, Revision or Petition arising from one common judgment or order will be together considered as one case if they are heard together.
- 3) The Social Security Officer, Legal/Manager of the concerned Branch office/any other officer deputed by the Sub Regional office will liaise between the counsel and the ESI Corporation in all the matters connected with the cases/Entrusted to the counsels.
- 4) Counsel/Advocate will have to represent the ESI Corporation in the JMFC, State consumer Forum, District Consumer Forum and should be well versed with the ESI Act as well as other related Acts and relevant Codes.
- 5) Counsel/Advocate should receive the notices meant for the ESIC from various Courts and should be able to handle the cases and appear matter in the Courts and ensure that no Ex-Parte order is passed against the ESIC.
- 6) Counsel/Advocate should able to handle the cases, which are assigned to them and appear in such assigned cases in the Courts and should also prepare Written Statement, Appeal Memo, Application etc. and also provide legal opinion to the ESI Corporation. Advocate will look after and advice the ESI Corporation on legal matters including Filing Defending suits, Petitions and Appeals that may be entrusted to them.
- 7) Counsel/Advocates should have minimum 5 years regular practice of standing in the Bar and handled Labour Law related cases.
- 8) Advocate empanelled will have to collect and produce the Certified Copy of Judgment and other related orders pertaining to the cases dealt by them within the stipulate time and submit it along with legal opinion so as to enable ESIC to proceed further.

- 9) Advocate entrusted with the cases, should immediately ensure that necessary action is taken for receipts of fine and such other cost of litigation as ordered by the court and is promptly credited to the ESI Corporation.
- 10) Applicant Advocate have to adhere to instructions/guidelines issued by ESI Corporation from time to time.
- 11) A report on progress of Suits Cases entrusted to the Advocates will be sent to the legal branch, Sub Regional Office, Nashik every month.
- 12) Applicant Advocates will not be entitled to any travelling expenses or any miscellaneous allowance for visiting branches or Courts.
- 13) Applicant Advocates should not use ESI Corporation name or Symbol in Letter Heads, Sign Boards and name Plate etc.
- 14) It may be noted that Advocate empanelment does not amount to an appointment or right for an appointment to be made by the ESI Corporation. Corporation is free to engage any advocate of its choice, and no right exists to claim that he/she should alone be entrusted with legal matter for a particular case, pertains to the Corporation.
- 15) When any case attended by the Advocate is decided against the Corporation, the Advocate concerned must give considered opinion regarding the reasons for such adverse order and the advisability of filling an appeal from such a decision not later than 5 working days of the order. However, reason for success may also be forwarded along with final order.
- 16) The Advocate's opinion would be an input for our decision making. Therefore, we would like to state that in the case, Advocate's opinion turns out to be untrue and factually incorrect, causing loss to Corporation, we may seek such clarifications as may be required to investigate the matter and fix the responsibility. In the event it is established that wherever gross negligence on the part of Advocate's has caused part pecuniary damage loss to the Corporation, ESIC may recommend his/her name for including in the caution list for circulation among sister concerns i.e EPFO etc., including Bar Association.
- 17) Please note that above empanelment with ESI Corporation is subject to further extension/renewal depending upon the Advocate's performance and service to the satisfaction of the Corporation.
- 18) Applicant Advocates or their spouse or juniors or partners in their firm should not represent the party in case against ESI Corporation under any circumstances.

- 19) The Advocates shall accept the terms and conditions of the empanelment as determined by the ESIC from time to time.
- 20) The Joint Director I/c., Sub Regional Office, Nashik will be the final authority to assign the cases in various courts to the empanelled advocates depending upon the requirement/nature of the cases.
- 21) The fee to counsel will be paid by the Sub Regional Office, ESI Corporation, Nashik on receipt of certified copy of Judgment opinion and collection of Fine/Fee from Court towards ESI Corporation if any and on presentation of a claim along with a Stamped Receipt.
- 22) Charges for cases withdrawn will be paid as deemed appropriate by the Corporation.
- 23) Miscellaneous Expenditure including Court Fees shall be paid on actual basis on the submission of bills along with the statements and Vouchers.
- 24) Modification in Fee structure shall be applicable as per discretion of ESI from time to time.
- 25) **The advocates who are on the existing panel shall cease to be on the panel after the new panel is finalised as per this current notice (except the cases already allotted to them). Therefore, they are also required to apply afresh against this notice.**
- 26) Upon termination or non-renewal of term of empanelment, as the case may be, the Advocate shall return the brief(s) allocated to the Advocate by ESIC along with all other documents/records connected thereto, with no objection certificate, if so required. No Advocate shall have the right to represent ESIC or undertake any activity upon expiry or termination of the term of engagement.
- 27) The empaneled Advocates shall not delegate cases and shall themselves deal with the same. They may have to coordinate and work with designated Senior Advocates, if any, engaged in the case as well as with the Officers of ESIC, if required.
- 28) The Advocate shall ensure efficient and effective professional services and bestow commensurate attention in relation to matters of ESIC and conduct himself at all times in accordance with the Advocates Act, 1961 and rules laid down by the Bar Council, including rules regarding code of conduct and ethics.
- 29) The Advocate, while pursuing any case on behalf of ESIC, shall not act without instructions of ESIC and inform ESIC about the proceedings of each hearing by reporting mail and furnishing a copy of orders of each date without which the ESIC may not settle bills of payment.
- 30) The Advocate shall not seek any adjournment unless ESIC deems it necessary on valid or cogent reasons. Under no circumstances, the matters entrusted by ESIC should go unattended before the Court, which shall be viewed as serious violation of conditions of empanelment and may entail de-empanelment.

- 31) The performance of each empaneled Advocate shall be subject to periodical review in such form as may be prescribed in this behalf by the Competent Authority.
- 32) The empaneled Advocate shall maintain strict confidentiality of the cases or other matters handled on behalf of ESIC and shall not divulge any information to any third party or to the media. Any Advocate who is found to have violated the above condition shall be liable to de-empanelment.
- 33) Refusal of any empaneled Advocate to take up a matter on behalf of ESIC, without proper justification or grounds, shall entail cancellation/withdrawal of engagement.
- 34) ESIC reserves the right to modify or relax the terms and conditions of engagement at any time and also the right to verify the information submitted by the Advocate. The Advocate shall accept the full terms and conditions of the empanelment as determined by ESIC from time to time.
- 35) The Advocate should have an Office at the place where empanelment is sought. The Advocate should have adequate infrastructure in terms of accessible office, chambers, library, manpower, etc. which shall be considered at all times.
- 36) The applications of Advocates shall be shortlisted on such basis as may be decided by the ESIC. The shortlisted Advocates may be called for further interaction before finalization of their empanelment. No TA/DA will be admissible for attending such interaction.
- 37) ESIC reserves the right to accept or reject any application without assigning any reason or to postpone or cancel the entire process of empanelment, if necessary.

#### **7.Fee Structure:**

Advocate will be entitled to reasonable fees as fixed by ESIC Head Quarter Office Delhi and as amended time to time. At present the fee structure is as under;

| <b>Fee Structure per Case including Misc. Application</b> |  |                          |
|---|--|--------------------------|
| <b>Sl. No.</b>  | <b>Court</b>   | <b>Consolidated Fees</b> |
| 1   | High Courts, National Consumer Forum   | Rs.25,000/-              |
| 2   | CAT  | Rs.20,000/-              |
| 3   | State Consumer Forum. District and Subordinate Courts and Other Tribunals  | Rs.12,000/-              |
| 4   | El Courts, Magistrate Courts, District Consumer Forum  | Rs.5,000/-               |
| Note  | a) 50% of the fee shall be paid on the completion of pleadings and balance 50% shall be paid after arguments, finalization of the case and on submission of certified copy of the judgment along with his/her opinion in case the judgment goes against the corporation either in full or part.<br>b) Misc. Expenditure including Court fees shall be paid on actual basis on the submission of bills along with the statements and / or Vouchers. |                          |

The effective/non-effectiveness of the hearing should be ensured as per Ministry of Law & Justice & Co. Affairs OM dated 11/09/2000 while making payment of fees as per Govt. of India rates.

## **8. Documents to be submitted:**

- 1) Resume with a brief profile of experience, background, education, list of clients and nature of cases dealt with;
- 2) Two recent colored passport size photographs,
- 3) Copy of Law Degree and other qualifications,
- 4) Copy of valid Registration Certificate Issued by the Bar Council,
- 5) Copy of Identity Card issued by the Bar Association,
- 6) Copy of Adhaar Card,
- 7) Copy of PAN Card.

## **9. Removal from Panel:**

- 1) Giving false information in the application for empanelment.
- 2) Handing over the case to another advocate, except to a duly appointed Junior Advocate.
- 3) Failing to attend the hearing of the case without sufficient reason and prior Information.
- 4) Threatening, intimidating or abusing any of the Corporation's employees, officers or representatives.
- 5) Committing an act amounting to contempt of Court or professional mis-conduct.
- 6) Conviction of the Advocate in any offense resulting into arrest or detention or disbarment by the Bar Council.
- 7) Passing on information relating to Corporation's case on the opposite parties or their advocates which is likely to cause damage to the Corporation's interests.
- 8) Giving false or misleading information to the Corporation relating to the proceedings of the case.
- 9) Frequent adjournment being obtained or not objecting the adjournment moved by other party without sufficient reason.
- 10) Empanelment shall be liable to be cancelled due to occurring of any of the above disablements on the part of the Advocate.

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