

APPENDIX-21

GAUHATI HIGH COURT LEGAL AID RULES, 1984

PART - I

In exercise of powers conferred by Article 225 of the Constitution of India and all other powers enabling it in this behalf, the Gauhati High Court makes the following Rules with the prior approval of the State Government of Assam, Nagaland, Meghalaya, Manipur, Tripura, Arunachal Pradesh and Mizoram in so far as they relate to payment of Fees to Advocate appearing for the undefended accused in the proceedings before the High Court, namely :

1. Short title and commencement. — (1) These Rules may be called the Gauhati High Court Legal Aid Rules, 1984.

(2) They shall come into force from the date of their publication in the Official Gazette.

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

(a) 'Advocate' means a person enrolled under the Advocates Act, 1961, and entitled as of right to practise in the High Court.

(b) 'Code' means the Code of Criminal Procedure, 1973, as amended from time to time.

(c) 'High Court' means the Gauhati High Court.

(d) 'List' means the list of Advocates prepared and maintained by the High Court under these Rules.

PART-II

3. Report regarding means of the accused. — (1) When a sentence of death is referred by a Sessions Judge to the High Court for confirmation under the provisions of Section 366 of the Code of Criminal Procedure, 1973, the Sessions Judge shall submit a report to the High Court whether the accused persons was represented by a counsel in a court, and whether the accused has sufficient means to engage an Advocate for his defence in the High Court.

(2) When an accused person has been called upon by the High Court to show cause why a lesser sentence should not be enhanced to a sentence of death or imprisonment for life, the concerned District Magistrate, on receipt of notice for service upon the person called upon to show cause, shall submit a report to the High Court whether the accused has sufficient means to engage an Advocate.

(3) When the case of an accused charged with the commission of an offence punishable with death or imprisonment for life, as the case may be in withdrawn by the High Court for trial before itself from any court subordinate to it under Section 407 of the Code, the court from which such case is withdrawn shall

submit a report to the High Court whether the accused was represented before it or has sufficient means to engage a counsel for his defence in the High Court.

(4) When on appeal against the acquittal from a charge of an offence punishable with death or imprisonment for life is admitted by the High Court the District Magistrate on receipt of a notice to that behalf, shall report whether the accused has sufficient means to engage a counsel for his defence in the High Court.

4. Satisfaction of High Court about the means of accused for assignment of an advocate.— If the High Court is satisfied on the report of the Sessions Judge or District Magistrate or the Presiding Judge of any Subordinate Criminal Court, as the case may be, or otherwise it shall assign an Advocate to defend the accused at Government expense.

Provided that the High Court may also assign an Advocate, if it thinks fit, in every case when the accused is unrepresented irrespective of the fact whether the accused has sufficient means to engage an Advocate or not.

5. Preparation of list.— (1) the High Court shall for the above purposes, maintain a list of competent and willing advocate having not less than seven years practice at the Bar ; provided that the Chief Justice may, for any special reason relax the condition of seven years practice to four years with respect to any advocate.

(2) The list shall contain the names of 30 to 40 Advocates, which shall be revised in the month of December every year.

6. Assignment of an Advocate.— (1) When an Advocate is required the Chief Justice or any other Judge to be nominated by him in this behalf, shall assign from the list an Advocate to defend the accused.

(2) Where an advocate is so assigned the Deputy Registrar (Judicial), shall at least 15 days, before the case is listed for actual hearing, arrange to furnish to him the paper book, if any, free of cost and shall also allow, free of cost inspection of the records of the case by the Advocate.

PART-III

7. Scale of Fees.— (1) The ordinary fee payable to an Advocate, engaged for the defence of an accused in the High Court under these rules, shall be Rs.100/- per day and if the hearing lasts more than a day, a fee not exceeding Rs.500/- for the entire case, whichever is less, according as the Judge or Judges, as the case may be, hearing the case may decide in each case.

(2) In special case the Judge who disposed of the case may add to the ordinary fee allowed by sub-rule (1) additional fee not exceeding Rs. 500/-

(3) In any case in which the fee authorised in sub-rule (2) above is manifestly inadequate, the Chief Justice may on the recommendation of the Judge or the

Judges, as the case may be, grant a special bonus which shall not be more than Rs.....per case including the fee, in cases arising from the State of and Union Territories ofand Rs..... in case arising from the State of

(4) No fee shall be payable when a case is adjourned without any proceedings being taken by the Court, except at the first hearing of the case;

Provided that if an Advocate has already ben assigned for the defence of an accused and he is required to retire before the commencement of the hearing owing to the engagement of an Advocate by the accused himself, he will be entitled to get one day's fee as compensation.

8. Payment of fees.—(1) The Legal Remembrancer of the State of and the Advocate General of the State of shall be the Controlling Officer for the payment and audit of all fees due to Advocate engaged under these Rules for the defence of the accused in the proceedings before the High Court.

(2) The Advocate so engaged shall submit heir bills within one month of the final disposal of the case to the Legal Remembrancer concerned in case arising from the State ofand sometime law in a case circuit from the Union Territory ofalongwith a certificate signed by the Deputy Registrar of the High Court.

(3) The certificate to be accompanied alongwith the bill as required by sub-rule (2) above, shall contain the detail of the total amount of fees allowed to the Advocate in each case.
