



भारतीय राश्ट्रीय राजमार्ग प्राधिकरण

(सड़क परिवहन और राजमार्ग मंत्रालय)

National Highways Authority of India

(Ministry of Road Transport and Highways)

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No.11041/217/2007-Admn.

Dated: 04.09.2014

Policy Matters: Administration/Finance (142/2014)
(Decision taken in the 204th E.C. Meeting held on 07.08.2014 vide Agenda Item No. 204.10)

1. Certain doubts have arisen about "bunch matter" and clubbing of land acquisition matters. Alterations are being made to the Circular No.NHAI/Legal/Misc./1/2012 dated 24th January, 2012 in respect of definition of "bunch matter". Additionally, application of clubbing in bunch matters with regards to Fees payable for appearance and drafting, etc as per Clause 10 & Clause 3 of the "Schedule of Legal Fee" read with Sl. No.-4 of "Notes" annexed with the Circular No. 11041/217/2007-Admn dated 04.06.2014 for land acquisition matters is sought to be made clear through this Circular and Annexure-I enclosed herewith.

(i) *All matters filed before an Arbitrator under section 3G (5) of the NH Act, 1956, arising from the same award of CALA pertaining to the same village shall be treated as "bunch matter". Similarly, all appeals in the District Court arising from the same award of an Arbitrator pertaining to the same village shall be treated as "bunch matters".*

However, if after examination of draft reply / draft written statement/ draft counter affidavit/ draft rejoinder etc. by PD concerned, it is felt that there is any substantial material change in the said reply / written statement/ counter affidavit/ rejoinder etc. in comparison to other matters being heard against one particular award pertaining to the same village, a proposal for excluding the same from "bunch matters" shall be submitted by PD to RO concerned. Only on approval of the proposal by the Regional Officer concerned, the same shall be considered as excluded from the 'bunch matter'.

2. **Clubbing :**

(i) Case numbers which are heard in the same hearings shall be treated as clubbed cases.

(ii) The case numbers which are mentioned in the Cause List of a particular date of hearing before an Authority (Arbitrator or District Court), shall be considered to be heard in the 'same hearing' mentioned in Sl.No.(i) above.

(iii) The Project Director(PD) shall arrange to club all bunch matter cases for which applications/petitions have been filed before the Arbitrator / District Court within a period of six months from the date of a particular award by CALA / Arbitrator. All bunch matter cases arising from applications filed after the said period of six months and within a subsequent period of six months shall be similarly arranged to be clubbed by PD, if the cases are not already clubbed by the Arbitrator. The process of clubbing bunch matter cases in every six monthly periods shall be continued by PD.

3. **Fees Payable:**

(i) **Fees Chargeable for Appearance:**

Case numbers which pertain to a bunch matter and which are clubbed, shall be treated as a single case for the purpose of "Appearance" mentioned in Clause 10(i) and Clause 3(i) of the "Schedule of Legal Fee" annexed with the Circular No. 11041/217/2007-

Admn dated 04.06.2014. Please refer to the Illustrations under 'Fees for Appearance' mentioned in Annexure-I enclosed with this Circular, for clarity in understanding.

(ii) Fees Chargeable for Drafting, etc.:

The Fees Chargeable for Drafting, etc., as per Clause 10(ii) and 3(ii) of the 'Schedule of Legal Fee' annexed with the Circular No. 11041/217/2007-Admn dated 04.06.2014 shall be applicable to bunch matters irrespective of the time when a bunch matter case / case number was filed before the Authority (Arbitrator or District Court). Clubbing of bunch matter cases/case numbers shall not be a relevant consideration for calculating the fees chargeable for Drafting, etc., as per Clause 10(ii) and 3(ii) of the 'Schedule of Legal Fee' annexed with the Circular No. 11041/217/2007-Admn dated 04.06.2014. The Sl.No.(4) of 'Notes' under the 'Schedule of Legal Fees' of the said circular shall be applicable in respect of Drafting Charges, etc. payable as per the said Clause 10(ii) and Clause 3(ii). It has been stated in said Sl. No.(4) of 'Notes' under the 'Schedule of Legal Fees' that:

'Where the cases are filed in one and the same Court or any Authority and matters are similar (not materially different) which are heard as bunch matters and pleadings like filing of reply, counter affidavits, rejoinders, written statements etc, are also similar, then for first three cases, the payment may be made full as per the captioned Policy Circular's schedule and 50% upto 10 cases and thereafter, 10% for rest of the cases'.

4. Reference may be made to the Illustration under 'Fees for Drafting of petition/reply/rejoinder/affidavit/interim application/reply to interim application/ additional affidavit/rejoinder to the application etc', mentioned in Annexure-I enclosed with this Circular, for clarity in understanding.

5. The concept of bunch matter in land acquisition cases shall not be applicable for appeals in the High Court / Supreme Court. However, Sl.No.4 of 'Notes' of the Circular No. 11041/217/2007-Admn dated 04.06.2014 {Policy Matters: Administration/ Finance (140/2014)} shall still be applicable for calculating drafting charges for LA cases before the Supreme Court or High Court if the matters are similar (not materially different) and pleadings like filling of reply, counter affidavits, rejoinders, written statements etc, are also similar, even though the said cases do not fall within the bunch matters defined in this Circular.

6. RO shall shortlist a group of Advocates for LA cases after obtaining a recommendation from PD. The cases should be rotated amongst the said short listed Advocates.

7. It is important that before making payments, PDs must insist on daily order sheets/internal orders of the judicial officers on their files indicating the presence of advocates and summary of days' proceedings.

8. Sl.No.7 of 'Notes' in the Circular No. 11041/217/2007-Admn dated 04.06.2014 provides for charges payable to an Advocate for adjournment. Further to the said Sl.No.7 of 'Notes', it is being stated that no payment shall be made for an adjournment if the same is not at the behest of the concerned PD, NHAI. If for some reasons adjournments have been sought by our Advocates and they claim payment for that day, then it should be made only on the written orders of PD explaining the reasons why adjournments had to be sought.

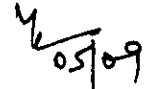
9. It is clarified that Sl.No.4 of 'Notes' in the Circular No. 11041/217/2007-Admn dated 04.06.2014 is for drafting purposes only.

10. Regional Officers shall carryout a review of the implementation of the provisions of this circular and the Circular No. 11041/217/2007-Admn dated 04.06.2014 twice a year in the first week of April and first week of October for the periods September to March and

April to September respectively for LA matter cases to ensure that the guidelines are being observed. A check-list for the purpose is enclosed as Annexure-II.

11. In case any alteration is made in the charges for Appearance or Drafting, etc., in regard to the Clause 10 or Clause 3 of the 'Schedule of Legal Fee' annexed with the Circular No. 11041/217/2007-Admn dated 04.06.2014, the same shall apply mutatis mutandis to this Circular.

12. This issues with the approval of Competent Authority.



(V.K. Sharma)

Chief General Manager (LA & Coord.)

To

All officers and employees of HQ/ROs/PIUs/CMUs/Site Offices.

Annexure-I

A) To illustrate application of the concept of “bunch matter” and clubbing the following examples may be considered as a guideline:-

Fees for Appearance:-

Illustration-1:

There are six cases being heard by the Arbitrator which is from the same award of a particular CALA for the same village (bunch matters). These are case Nos. 1/2014, 2/2014, 3/2014, 4/2014, 5/2014 and 6/2014. In case no. 1/2014 there are four applicants listed, in case no. 2/2014 there are 22 applicant listed, in case no. 3/2014 there is 1 applicant listed, in case no. 4/2014 there are 2 applicants listed, in case no. 5/2014 there are 8 applicants listed, and in case no. 6/2014 there are 32 applicants listed before the Arbitrator. The individual applicants are different persons. All these case nos. pertains to the same award of CALA for the same village. Case No. 1, 3, 4 and 6 of 2014 are being **heard together in the same hearings**, i.e., they are **clubbed cases**. Case No. 2/2014 and Case No. 5/2014 are heard in distinctly separate hearings though they pertains to the same award for the same village (“bunch matter”). Clause 10(i) of the circular No: 11041/217/2007-Admn dated 04.06.2014 (Policy matter Administration/Finance (140/2014)) says that the fees payable for appearance should be Rs. 2,000/- per case per appearance and maximum of Rs. 9,000/- for 5 or more case clubbed together. Therefore, the fees payable for case No. 1, 3, 4 and 6 of 2014 put together shall be Rs. 8,000/- per appearance(Rs.2000x4) as these are clubbed cases and are also “bunch matters”. The fees payable for case No. 2/2014 is Rs. 2,000/- per hearing and the fees payable for case No. 5/2014 is also Rs. 2,000/- per hearing.

Illustration – II:-

There are 18 case Nos. from 1/2014 to 18/2014. These are all “bunch matters”. In each case only one applicant is listed. These applicants are different persons from whom land is being acquired in the same village. The cases pertain to the same award for the same village (therefore “bunch matters”). Case No. 1 to 10 are clubbed together and, therefore, heard in the same hearings. Case No. 11 to 14 of 2014 are also clubbed together and are heard together in hearings which are distinctly separate from case No. 1 to 10 of 2014. Case No. 15 to 17 of 2014 are similarly clubbed together and therefore heard together in the same hearings which are distinctly separate from the aforesaid two clubbed matters. Case No. 18/2014 is heard in hearings which are similarly distinct and separate from the other groups (clubbed cases) mentioned hereinbefore. Clause 10(i) of the circular No: 11041/217/2007-Admn dated 04.06.2014 (Policy matter Administration/Finance (140/2014)) says that the fees payable for appearance should be Rs. 2,000/- per case per appearance and maximum of Rs. 9,000/- for 5 or more case clubbed together. The fees payable per hearing for case No. 1 to 10 put together (Clubbed Cases) shall be Rs.9,000/- per hearing. The fees payable also for Case No. 11 to 14 of 2014(Clubbed cases) shall be Rs. 8,000/- per hearing(Rs.2000x4). Similarly, for case no. 15 to 17 taken together (Clubbed cases), the fees payable shall Rs. 6000/- per hearing(Rs.2000x3). The fees payable for Case No. 18/2014 shall also be Rs. 2,000/- per hearing.

Illustration – III:-

There are 18 case Nos. from 1/2014 to 18/2014. In each case more than one applicant are listed. These applicants are different persons from whom land is being acquired in the same village. The cases pertain to the same award for the same village (therefore “bunch matters”). Case No. 1 to 10 are clubbed together and, therefore, heard in the same hearings.

Case No. 11 to 14 are also clubbed together and are heard together in hearings which are distinctly separate from case No. 1 to 10 of 2014. Case No. 15 to 17 of 2014 is similarly clubbed and are heard together in hearings which are distinctly separate from the other groups (clubbed cases) mentioned hereinbefore. Case No. 18/2014 is heard in hearings which are similarly distinct and separate from the other groups (clubbed cases) mentioned hereinbefore. Clause 10(i) of the circular No: 11041/217/2007-Admn dated 04.06.2014 (Policy matter Administration/Finance (140/2014)) says that the fees payable for appearance should be Rs. 2,000/- per case per appearance and maximum of Rs. 9,000/- for 5 or more case clubbed together. The fees payable per hearing for case No. 1 to 10 put together (Clubbed Cases) shall be Rs.9,000/- per hearing. The fees payable also for Case No. 11 to 14 of 2014(Clubbed cases) shall be Rs. 8,000/- per hearing(Rs.2000x4). Similarly, for case no. 15 to 17 taken together (Clubbed cases), the fees payable shall Rs. 6000/- per hearing(Rs.2000x3). The fees payable for Case No. 18/2014 shall also be Rs. 2,000/- per hearing.

Note:

(I) The above mentioned illustrations are meant for clarity. The Project Director(PD) shall, however, arrange to club all bunch matter cases for which applications/petitions have been filed before the Arbitrator / District Court within a period of six months from the date of a particular award by CALA / Arbitrator. All bunch matter cases arising from applications filed after the said period of six months and within a subsequent period of six months shall be similarly arranged to be clubbed by PD, if the cases are not already clubbed by the Arbitrator. The process of clubbing bunch matter cases in every six monthly periods shall be continued by PD.

(II) As can be seen from the illustration, the number of applicants in a particular case number does not have any bearing on the fees payable. The number of applicants can be one or more than one in a particular case number assigned by the Arbitrator or the District Court as the case may be.

(B) Fees for Drafting of petition/reply/rejoinder/affidavit/interim application/reply to interim application/ additional affidavit/rejoinder to the application etc.:

Illustration:-

There are a total of 100 cases that have arisen from an award. There are 50 cases from case no. 1 to 50 of 2013 pertaining to the same award of CALA for the same village (Bunch Matters). In each of the 50 cases there are differing numbers of petitioners/applicants listed. Some of these 50 case nos. are clubbed. There are subsequently 50 cases in the subsequent year 2014. The case nos. are from 1 to 50 of 2014 and these also pertain to the same award for the same village as are the said cases pertaining to the year 2013 and therefore, pertain to the same bunch matter. Some of these cases are also clubbed. All the said 100 case nos. of the years 2013-14 pertain to the same award for the same village. The charges for drafting may be taken as Rs.19000/- for the first three cases, Rs. 9500/- for the next seven cases and Rs.1900/- for the rest of the 90 cases. The total payable would therefore be (Rs.57000 + 66500 + 171000) = Rs.2,94,500/-.

Check List to be filled by ROs for reviewing payment to Advocate/Law Firms and to appraise the effectiveness of Advocates/Law Firms representing

NHAI in LA cases before Arbitrators/Courts.

(Two Six Monthly Reviews to be done for the periods April to September and October to March every year.)

- 1 (a)Regional office :
 (b)Name of Project :
 (c)NH No. :
 (d)Period of Review :
 2. List of short listed Advocates/Law Firms:

Sl. No.	Name of Advocates/Law firms	Remarks
(1)	(2)	(3)

3. (A) Check list of number of bunch matter/clubbed cases being defended/represented by each of the Advocates/Law firms mentioned in Sl. No. 2 above and fees and drafting charges paid during the period under review.

Name of Advocate /Law Firm	Reference No. of award of CALA/Arbitrator.	No. of cases pertaining to Col.2 being represented by Advocate/Law firm mentioned in Col.1	No. of cases mentioned in Col.3 which are bunch matters	No. of cases mentioned in Col.4 which are clubbed for the purpose of appearance	Actual amount paid for appearance (other than for cases under Col.8)	Actual amount paid for drafting	No. of Bunch matter cases which have been excluded from bunch matter with the approval of RO. (col.3-Col.4)	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Note:- The total drafting charges under Col.7 as per the No. of cases mentioned under Col.4 shall be checked with respect to actual payment that was to be made as per Circular.

3.(B) Name of Advocate /Law Firm	Reference No. of award CALA/Arbitrator.	Fees payable as per clause 3(i) or 10(i), of circular dated 04.06.2014, as applicable	Figure under Col.5 in the table in 3(A)	Amount that should have been paid for appearance in bunch clubbed matters(Col.3 x Col.4 of this table)	Amount paid for appearance as per Col.6 of table in 3(A) above.	Whether figure under Col.5 is same as that under Col.6	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	

Note:- The figures in Col.5 & 6 of the table above should be same for the same entries in Col.1 & 2 in both the tables in 3(A) and 3(B).
 4. Summary of type of decisions by Arbitrator/Court during the period under review in respect of LA matters defended/represented by Advocates/Law Firms listed in Sl.No. 2 above:

Sl. No.	Name of Advocate/Law Firm.	No. of clubbed cases (mentioned under Col.5 of table in 3(A)) defended/ represented against which decision of Arbitrator/Court is available. (upto 31 st March or 30 th September as applicable).	No. of clubbed cases in Col. 3 which was decided in favour of NHAI.	Remarks.
(1)	(2)	(3)	(4)	(5)

5. No. of adjournments sought by Advocate/Law Firm against all the cases mentioned under Col.5. of Sl. No.3 of this check-list (upto March/September as applicable for this reporting period):
6. Out of the No. of adjournments mentioned in Sl. No.5 above, for how many adjournments fees have been claimed by the Advocate/Law firm:
7. Whether formal explanation of PD is available stating the reason why adjournments have been sought in all the cases in Sl. No.6 above:
8. Whether the aforesaid explanation of PD is as per para-8 of this circular.
9. Whether payment is made as per daily order sheets/internal orders of Judicial Officers (refer para-7 of the Circular).
- Date: _____
- Signature
(with seal)