

**RULES REGULATING THE PAYMENT OF EXPENSES TO
COMPLAINANTS AND WITNESSES IN CASES COMING
BEFORE CRIMINAL COURT**

Notification No. 8598-J

the 30th March, 1981

In exercise of the power conferred by section 312 of the Code of Criminal Procedure, 1973 (2 of 1974) and in supersession of all previous rules, orders and Memoranda on the subject, the Governor is pleased hereby to make the following rules :—

Rules

1. (1) These rules may be called the **West Bengal Complainants and Witnesses (Diet Allowance, Conveyance charge and Compensation) Rules, 1981.**

(2) They shall come into force with effect from the 1st April, 1981.

2. The Criminal Courts are authorised to pay at the rates prescribed by these rules the expenses (a) of complainants or witnesses, whether for the prosecution or for the defence, (i) in cases in which the prosecution is instituted or carried on by, or under the orders or with the sanction of Government or of any Judge, Magistrate or other public officer, or in which it shall appear to the presiding officer to be directly in furtherance of the interests of the public service and (ii) in all cases entered in column 5 of Schedule II appended to the Code of Criminal Procedure, 1973 (hereinafter referred to as the Code) as not bailable; and (b) of witnesses in all cases in which they are compelled by the Magistrate of his own notion to attend under the provisions of section 311 of the Code.

3. If the witness is summoned at the instance of the complainant or accused under section 254 of the Code his expenses shall not be withheld from him except on the ground of failure to do his duty as a witness when summoned.

4. The Criminal Courts are authorised to pay to the complainant or witnesses diet allowance at the following rates, namely :—

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| (a) For persons without any income and agricultural labourers | — | Rs. 4/- per day. |
| (b) For others earning below Rs. 400/- per month. | | Not exceeding Rs. 8/- per day. |
| (c) For others earning between Rs. 400/- and Rs. 899/- per month. | — | Not exceeding Rs. 12/- per day. |

- (d) For others earning Rs. 900/- and above per month. — Not exceeding Rs. 15/- per day.

5. Complainant and witnesses performing journey by different kinds of conveyance may be allowed conveyance charges at the following rates, namely :—

- (a) when the journey is performed by road, actual bus fare,
- (b) when the Journey is performed by rail, the actual 2nd class train fair for those earning below Rs. 600/- per month and actual 1st class train fare for those earning Rs. 600/- or above per month,
- (c) when the journey is performed by any other kind of conveyance, the actual reasonable conveyance charge having regard to the circumstances necessitating the use of such conveyance.

6. The Court may allow any person reasonable compensation for the loss of earning by reason of his attendance in a Court as a complainant or witness if the Court is satisfied that such loss has actually occurred :

Provided that where such loss is found to have exceeded Rs. 32/- per day or Rs. 160/- in all where the complainant or witness attends Court for several days, the case shall be reported to Government for orders along with a full statement of the facts and of the proof adduced in support of the claim.

Note.—The Court shall be competent to pay compensation for loss of earning to landless labourers and bargadars at a rate not exceeding the minimum wage rate for farm labourers that may be fixed for the local area from time to time.

7. Notwithstanding anything contained in these rules, Government employees when summoned to give evidence in their public capacity shall receive no payment from the Court on account of travelling or daily allowance, but shall be entitled to draw such allowance under the rules framed by Government on producing a certificate of attendance granted by the Court. Any fees or expenses which may be deposited in the Court for the travelling and subsistence allowance of Government employees summoned to give evidence in their official capacity shall, in the case of Government employees, serving in connection with the affairs of the State, be credited, subject to the provisions of rule 8, to the State Revenues :

Provided that when a Government employee is required to give evidence in his public capacity at a Court situated not more than five miles from his headquarters, the Court shall be authorised, where it considers it necessary and notwithstanding anything contained in this rule, to pay the actual travelling expenses incurred.

8. In the case of employees of the Government of India or a Government Railway or any other Commercial Department of Government summoned to give evidence in their public capacity in Criminal cases, fees or expenses deposited for the travelling and subsistence allowances referred to in rule 7, shall be credited in the treasury in the case of an employee of—

(i) the Government of India, to that department of the Government of India to which he belongs ;

(ii) a Government Railway, to that railway to which he belongs, and

(iii) any other Commercial Department of Government, to the department to which he belongs ;

and to enable this to be done the following particulars shall be inserted in the chalan :—

(1) Number of case.

(2) Name of witness.

(3) Official designation.

(4) Office in which employed.

(5) Name of court in which he appeared.

(6) Date of hearing.

(7) Names of parties in the case.

(8) Total amount.

Note.—A timely intimation shall be given to the Nazir or the Magistrates, cashier, as the case may be, of the Court concerned that the statement of the Government employee appearing as a witness has been duly recorded so that there may be no avoidable delay in crediting the fees or expenses deposited for the travelling and subsistence allowances referred to in rule 7 into the treasury under the relevant head and before the record of a decided case is consigned to the record room. An additional copy of the chalan crediting the money by the Nazir into the treasury shall be attached to the record of a decided case. The record-keeper shall not receive any record to which the chalan is not attached.

9. Notwithstanding anything contained in rules 4 and 5, whenever the Court requires the expenses of a Government Officer, summoned as witness in his official capacity, to be deposited in advance, the term "expenses" shall be interpreted to mean the travelling and daily allowance admissible under the rules framed by Government.

10. Government employees when summoned to give evidence in their private capacity, shall be paid by the Court such travelling allowance

as is paid to persons of similar status in the manner provided under rule 5 but they shall not be entitled to any diet allowance, nor shall they receive any travelling allowance under the rules framed by Government.

11. These rules shall apply also to witnesses summoned to give evidence in enquiries held by Civil Courts under Chapter XXVI of the Code.

12. Notwithstanding anything contained in these rules, the expenses of witnesses in Sessions Courts shall not be paid if such witnesses are not examined, unless, after such summary enquiry as he may consider necessary, the presiding Judge of the Court considers that such witnesses, if they had been examined, would have been in a position to give relevant and material evidence in the case in which they had been summoned, or unless in the opinion of such Presiding Judge there are such special circumstances as would justify the payment of their expenses.

Nothing in this rule shall be deemed to authorise the withholding of the expenses of witnesses in cases in which they are compelled by the Court of its own motion to attend under the provisions of section 311 of the Code except on the ground of failure to do their duty as witnesses when summoned.
