

## CHAPTER XVI

### **EXAMINATION OF WITNESSES AND ISSUE OF COMMISSIONS**

91. Procedure for examination of witnesses, issue of commissions, etc. – The provisions of Orders XVI and XXVI of the Code of Civil Procedure, 1908 shall mutatis mutandis apply in the matter of summoning and enforcing attendance of any person and examining him on oath and issuing commission for the examination of witnesses or for production of documents.

92. Examination in camera – The Tribunal may in its discretion examine any witness in camera.

93. Form of oath/affirmation to witness – Oath shall be administered to a witness in the following form: -

“I do swear in the name of God/solemnly affirm that what I shall state shall be truth, the whole truth and nothing but the truth.”

94. Form of oath/affirmation to interpreter - Oath or solemn affirmation shall be administered to the interpreter in the following form before his assistance is taken for examining a witness: -

“I do swear in the name of God/Solemnly affirm that I will faithfully and truly interpret and explain all questions put to and evidence given by witness and translate correctly and accurately all documents given to me for translation.”

95. Officer to administer oath – The oath or affirmation shall be administered by the court officer of the Commissioner as the case may be.

96. Form-recording of deposition – (a) The Deposition of witness shall be recorded in Form No. 17.

(b) Each page of the deposition shall be initialled by the Members constituting the Bench or the Commissioner.

(c) Corrections if any, pointed out by the witness may, if the Bench/Commissioner is satisfied, be carried out and duly initialled. If not satisfied, a note to that effect be appended at the bottom of the deposition.

97. Numbering of witness – The witnesses called by the applicant/petitioner shall be numbered consecutively as PWs and those by the respondents as RWs.

98. Grant of discharge certificate – Witness discharged by the Tribunal may be granted a certificate in Form No.18 by the Registrar.

99. Witness bhatta payable - (a) Where the Tribunal issues summons to a Government servant to give evidence or to produce documents, person so summoned may draw from the Government traveling and daily allowance admissible to him as per Rules.

(b) Where there is no provision for payment to TA and DA by the employer to the person summoned to give evidence or to produce documents, he shall be entitled to be paid as bhatta, a sum found by the Registrar sufficient to defray the traveling and other expenses having regard to the status and position of the witness. The party applying for the summons shall deposit with the Registrar the amount of bhatta as estimated by the Registrar well before the summons is issued. If the witness is summoned as a court witness the amount estimated by the Registrar shall be paid as per the directions of the Tribunal.

(c) The aforesaid provision would govern the payment of bhatta to the interpreter as well.

100. Records to be furnished to the Commissioner – The Commissioner shall be furnished by the Tribunal with such of the records of the case as the Tribunal considers necessary for executing the Commission. Original documents will be furnished only if a copy will not serve the purpose or cannot be obtained without unreasonable expense or delay. Delivery and return of records shall be made under proper acknowledgement.

101. Taking of specimen handwriting, signature, etc. – The Commissioner may, if necessary, take specimen of the handwriting, signature or finger print of any witness examined before him.