

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW

## INDEX SHEET

CAUSE TITLE TA 788 OF 1990NAME OF THE PARTIES Bharat Bhushan

Applicant

Versus

Union of India Respondent

Part A, B &amp; C

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## CERTIFICATE

Certified that no further action is required to be taken and that the case is fit for consignment to the record room (decided).

Dated.. 01-04-2011 File B/C destroyed on 09-5-12

Counter Signed.....

Section Officer Incharge

Signature of the  
Dealing Assistant

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The Applicant has moved this Misc. Application without mentioning relevant provision of law/rule under which the same has been moved. This is neither a Contempt petition nor review.

C.M. An. No. 254/90(L)  
(T.A. No. 728 & 1987)

2. The case of the Applicant was decided on 28.6.1988 [Flag 'A']. From the present Misc. Appln. it appears that the reliefs granted in the aforesaid case have not been given effect to by the Dept. Rule 24 of CAT (Procedure) Rules, 1987 provides

"The Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice."

Perhaps, the Applicant intends to file this Misc. Appln. under this provision.

Submitted for orders.

W. Ramani  
P.S.  
16.4.90.

19-4-90

Lawyers on strike.

Case is adj. to 25/4/90.

[Signature]

B.O.C.

F.T.  
Sd/-  
7/4/90

4/50  
Sd/-

(A3)

BEFORE THE CAT , ALLAHABAD - LUCKNOW BENCH

THE CMA NO. 254 OF 1990 IN TA NO. 788/1987 DECIDED  
BY HON'BLE TRIBUNAL ON 28TH JUNE 1988

Shri Bharat Bhushan J.D. DE, Ministry of Defence 17 Carrippa  
Road Lucknow Cantonment .....Petitioner

versus

1. Union of India, through Secretary Min. of Def.-  
Shri N.N. Vohra- New Delhi .....Respondents
2. The UPSC , through Sec. - Shri S.K. Lal-  
Dholpur house Shahjahan Rd. New Delhi.
3. The DG, DE, - Shri K.M. Sebastian,- Sector-I  
West Block-IV, R.K. Puram, New Delhi.
4. Cabinet Sec. - appts.cte.- Shri VC Pandey-  
PM Secretariate New Delhi.
5. Hon'ble Defence Minister-Dr Rajaramanna-  
G of I New Delhi

The applicant submits that :-

Annexure 'A'

- (i) Vide decision ibid Annexure 'A' - inter-alia -

Annexure 'B' & 'C'

- (a) The senior administrative grade promotions in 1985  
- Annexures 'B' & 'C' - were all to be reviewed,

- (b) He was to be considered for the senior administrative  
grade upon such review,

Ann. 'B'

- (c) His seniority vis-a-vis one shri S.R. Lakshmanan  
figuring in Ann. 'B' even in the Junior administrative  
grade itself -feeder of the senior administrative grade  
promotions ibid - was to be re-determined a-fresh,

Ann. 'D'

- (ii) Consequently promotion to the LG, DE post of one Shri  
K.M. Sebastian done in 1987 Ann. 'D' before the decision  
ibid directing review of its feeder 1985 senior administra-  
tive grade promotion, was automatically to be reconsidered  
when such review was completed,

- (iii) respondents till date have not reviewed 1985 senior  
administrative grade promotions - shortly called SAG  
hereon - ibid viz. feeder grade for the promotions to the  
higher Director General, Defence Estates-DGDE- post,

- (iv) respondents have till date not considered the applicant  
for the SAG in 1985 - which is feeder grade for higher  
DGDE posts

- (v) seniority of the applicant over shri Lakshmanan is yet

Contd....2/-

Filed today  
16/4/90

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undetermined even in the Junior Administrative Grade - JAG- which itself is feeder grade of the 1985 SAG promotions ibid

(vi) respondents have till date not reconsidered promotion to the DG DE post of Shri Sebastian which is direct consequence of view of 1985 feeder SAG promotions and have not even considered the applicant for SAG promotions in 1985,

vii) respondents particularly respdt. No. 5 Shri Sebastian ; wantonly ignoring these legal requirements, have held further DPC in 1990 or thereabouts for promotion to DGDE post with no review of feeder 1985 SAG promotions, with no consideration even of the applicant for 1985 feeder grade SAG promotion and no settlement of the applicant's seniority over Shri Lakshmanan in JAG ,

viii) said Shri Lakshmanan was wrongly included in zone of consideration for 1990 DGDE promotion DPC proceeding as per list of officers - Ann. 'E' when till date his seniority is yet unfinalised even in the JAG - two steps below the DG DE position,

Ann. 'E'

Anns. 'F' & 'G'

ix) respdts. have ignored applicant's requests dt 22-2-90 & 2-3-90 Anns. 'F' & 'G' not to process/approve 1990 DG DE DPC proceeding in the presence of above legal and factual lacunae, harming his service interests illegally ,

x) Shri Sebastian's promotion to DG DE is further subject to Hon'ble S.C. decision as per para 5 of CAT Jammu decision dt 2-11-87 in another separate OA No. 169- J&K/87, presided over by Hon'ble chairman , CAT himself , and

xi) Shri Sebastian's processing himself 1990 DPC proceeding ibid renders it all the more unlawful.

#### Prayer

The applicant thus respect fully prays that

- i) respdts. be restrained from approving/implementing 1990 DGDE DPC proceedings which they would implement on 1-5-90 with present incumbent Shri Sebastian retiring on 30-4-90 as it is with no foundation and is tantamount to super-structure with no base till date, illegally ignoring the applicant and this prayer would be vindicated if respdts. are directed to produce relevant records including 1990 DPC proceeding ibid,
- ii) respondents be proceeded against for contempt of this tribunal, having consciously acted in disregard of the ~~decisions~~


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AS

decision ibid at every stage ,

- iii) suitable directions at deemed proper be also passed against respdts. in the interest of justice and equity and
- iv) costs be granted in favour of the applicant due to the recalcitrant illegalities of respondents in every respect as submitted.

Date 12-4-1990.

  
Bharat Bhushan  
Applicant

Joint Director, Defence Estates,  
Ministry of Defence, 17 Cariappa  
Road Lucknow Cantonment.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.  
CIRCUIT BENCH AT LUCKNOW.

Registration (T.A.) No. 788 of 1983.

Bharat Bhushan

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Petitioner.

Versus

Union of India &amp; others

\*\*\*

Respondents.

Hon'ble Ajay Johri, A.M.  
Hon'ble G.S. Sharma, J.J.

(Delivered by Hon. Ajay Johri, A.M.)

Civil Misc. Writ Petition No. 702 of 1985 has been received on transfer from the Himachal Pradesh High Court, Simla under Section 29 of the Administrative Tribunals Act XIII of 1985.

2. By this petition the petitioner, Bharat Bhushan, who is working as a Deputy Director (DD), Defence Lands & Cantonments at Lucknow, has sought for suitable directions to be issued to the respondents on the following :-

(1) DPC proceedings of 7.2.1983 should not be implemented.

(2) The seniority list circulated on 2.5.1980 and 12.8.1983 should not be acted upon.

(3) DPC should not be convened for regularising appointments of Dy. Directors/Asstt. Director Generals pending since 1975 till the seniority lists are properly made out.

(4) No DPC for higher grades should be held till the question of seniority is decided and DPC for lower grades which are feeder grades are finalised.

(5) Confidential Reports written by officers, who are candidates of the same DPC, should not be considered in respect of their juniors appearing along with them.

(6) Rules framed in 1981 should be considered only prospectively.



(7) No DPC should be held till the rules are framed under Article 309 as the Rule making clause 280(2)cc has been deleted with effect from 1.10.83.

3. Facts of the case - The petitioner after appointment through Allied Services Combined Competitive Examination (ASCCE), on 17.7.1963 in the Military Land & Cantonments Service Class I worked in junior scale and then in the senior scale upto 9.7.1976. When vacancies arose in the next grade, due to litigation in the matter of seniority, these posts were filled on ad hoc basis. The petitioner was also promoted with effect from 10.7.1976 on ad hoc basis. He continued to work as such till 3.9.80. On 4.9.80 he assumed charge of the still higher grade post of Joint Director (JD) again on ad hoc basis and continued to work on this post till 17.7.83. On the introduction of new pay scales some of the posts of JDs were abolished and only 3 were retained. As a result the petitioner reverted back to the grade of Rs.1500-2000 as DD. When the new rules came into existence in 1981 all the vacancies pertaining to the years 1976 to 1980 were clubbed together for filling them up in accordance with 1981 rules. Earlier these posts were governed by the 1951 Rules. DPC which met on 7.2.83 considered all these posts together and processed the panel on the basis of 1981 Rules. No separate panels were prepared for the vacancies of each year from 1976 onwards but a combined panel was announced. DPC also considered some Confidential Reports written by certain senior officers who were also amongst the candidates being <sup>re-screened</sup> ~~re-considered~~ by DPC for promotion in 1983. The seniority list was also altered in August, 1983 without all the affected parties having been informed. However, the proceedings of 1983 DPC were not implemented because they were in violation of instructions on the subject. In the meantime the 1981 Rules were superseded by the 1985 rules. DPC's for Sr. Adm. Grade have been held in 1985 December and have been implemented. The persons considered in these DPC's were those who were already regularly



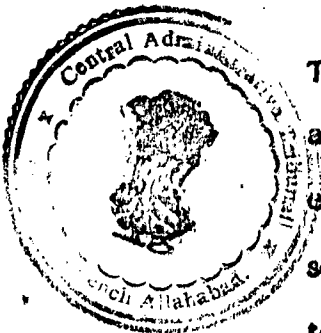
selected for JA grade.

4. We have heard the petitioner in person and the learned counsel for the respondents. The records of the case have become voluminous because of number of applications and affidavits having been filed by both the sides. We had, to be able to look into the grievances of the applicant asked him to confine himself to the contents of the Writ Petition filed by him. This petition has not been amended by him though a number of changes have since taken place. *He did not want to amend it either at this stage. R* The contentions raised by the petitioner before us were briefly as follows :-

- (1) DPC proceedings of 1983 be cancelled and since he was due promotion in 1976 the pre 1981 rules be applied for considering him for promotion. He also contended that *he* he was considered fit by the 1975 DPC so he should have been regularly promoted against the 1976 vacancies instead of being promoted ad hoc. This covers Reliefs 1, 7, 8 of the application.
- (2) Seniority lists should be finalised and the upsetting of seniority in 1980 by which S.R. Lakshmanan was made senior to him be set aside.
- (3) DPC's for higher posts should not be held unless promotions to JAG posts are finalised.
- (4) CR's written by a senior who is competing with the junior in the same selection should not be taken into consideration as they prejudice the case of the junior. This covers reliefs 4, 5, 6 of the application.

The learned counsel for the respondents referred to the counter affidavit and the written arguments filed by respondents. The petitioner also prayed that though he has since been promoted his ad hoc service that has not been taken into consideration should be allowed to be reckoned towards his seniority in JAG.

5. As far as DPC proceedings for the year 1983 are concerned, these have not been implemented because rules in regard to formation of panels had not been followed. This was the first DPC after 1975 and had covered vacancies from 1976 to 1982. Instead

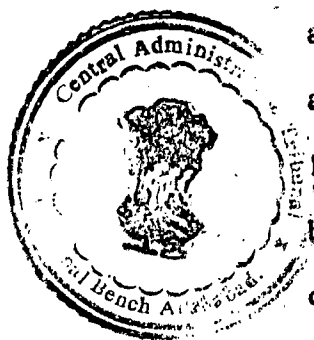




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of making panels for each year one common panel was made. Normally DPC's are held each year to cover the vacancies that may arise. If a DPC is not held at the periodical interval prescribed it has to, whenever it meets thereafter, consider the cases of those who were eligible in the particular year for which it is held. As a corollary it would be evident that if a DPC is held after a number of years, as in this case, it has to consider separately the eligible candidates for the particular year and has to also follow the rules in regard to selection procedure etc. and has to take into consideration such documents as are relevant at that <sup>period of re</sup> time. It cannot consider anything that was not relevant, and if it does its proceedings would be vitiated. In their written arguments the respondents have said that these DPC proceedings have not been implemented because the Government has decided not to implement them as they contravened the Government orders of 24.12.80. Also in Writ Petition No.1503 of 1984, Budhiraja v. Union of India the Delhi High Court had given directions that DPC panel announced in February, 1983 should not be treated as lapsed and in another Writ Petition No.2215 of 1984, M.N. Das v. Union of India again the Delhi High Court had restrained the Government from implementing the panel. The first petition has since been dismissed as withdrawn. So in the net result these DPC proceedings which have not been implemented can be considered as no proceedings and the grievance in this respect does not exist any more. Nothing is required to be done now in this respect. The 1983 DPC proceedings are as good as non-existent. His claim that he had qualified in some DPC held in 1975 is not supported by any documents, hence is not subject to adjudication at this stage.



6. The next contention of the petitioner was in regard to the seniority list. He is aggrieved by the revision of seniority of one S.R. Lakshmanan. According to him the correct seniority list was as was published in 1966 remained intact upto 1980. On

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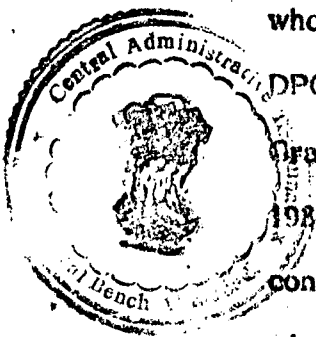
31.10.66 the petitioner's name was at Sl.No. 57 while S.R. Lakshmanan occupied 68th place. On 1.5.76 the positions of the two were at Sl.No.37 and Sl.No.46 respectively. On 1.5.80 the positions became Sl.Nos. 18 & 25. By the letter of 28.4.83 the seniority of S.R. Lakshmanan was revised but no notice was given to the petitioner. The respondents' case is that S.R. Lakshmanan was granted his original seniority vide order dated 17.8.83 which was a subject matter of transfer application 83 of 1986 at the Central Administrative Tribunal Bombay S.R.Lakshmanan Vs.Union of India. This application was dismissed as withdrawn because Lakshmanan had been given the relief by the department. According to the respondents, the petitioner got superceded in the feeder grade by S.R. Lakshmanan in 1974 and if at all the position should have been contested then. The petitioner had made an ~~attempt~~ <sup>effort</sup> to intervene. His application was decided by CAT, Bombay on 12.9.1986. The petitioner cannot raise this question now. The petitioner has already made an effort to challenge this supercession and the same was not allowed to be raised on account of delay and laches. So, according to the respondents, his grievance regarding change of seniority of S.R. Lakshmanan, who was junior to him upto 1980 and who became senior later cannot be considered at this stage. The main thrust of the petitioner's arguments regarding the change in the seniority was vis-a-vis Lakshmanan and he himself is responsible for not agitating the matter <sup>at the appropriate</sup> ~~at that~~ time. We, however, find that the respondents had revised the list as a result of some decision by the Delhi High Court but they did not give any notice to the petitioner on the ground that he was not being affected by it. This position is evidently not correct. They should have heard the petitioner also as he was earlier senior to S.R. Lakshmanan. They should do so now and then take a de novo decision and finalise the seniority list. Till then this seniority list will be considered as provisional. If any relief accrues to the petitioner as a result of this review he would be entitled for the same



Normally seniority matters are not raked up after long periods. They should receive some finality at some stage.

7. The next contention of the petitioner is regarding DPCs of the higher grades. He has prayed that these DPCs should not be held till the promotions of JAG are finalised. The petitioner's case is that his eligibility was not considered because his ad hoc service has not been counted while promoting him to JAG. So in case the petitioner becomes eligible or comes within the Zone of consideration as a result of this petition he will lose to those who are being considered for promotion to Sr. Administrative Grade. There is some substance in this pleading and we will consider it at the appropriate stage.

8. In regard to the writing of confidential reports, the relief is rather vague and it is not possible to appreciate as to whom the petitioner is referring to, who are those who wrote his CRs and are also appearing in the selection for JAG grade for which the petitioner is seeking his promotion. In the absence of any specific mention we find it difficult to adjudicate on this point. We can only observe that if such a situation exists at any time it is the duty of the authorities to take suitable steps to correct such a situation. As far as DPC for higher grade is concerned, according to the respondents, it was held in 1985 and those who had been regularly working in JAG grades were considered. The petitioner, according to them, would have been considered in 1985 but he lost 9 positions in 1983 DPC and he did not make the grade for DPC for Sr. Administrative Grade held in February, 1988 based on service records of the years 1986, 1985, 1984, 1983 & 1982. If in 1987 the petitioner could be considered fit for JAGs grade and then further to the selection grade, what stands in his way for consideration for the Sr. Administrative Grade is not brought out. To our mind it could be the length of service in JAG grade as his service from 1976 onwards which was ad hoc was not counted.



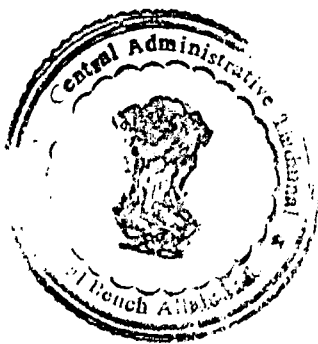
4. In their written arguments the respondents have said that DPC that met on 21.9.1987 for promotions to JAG has made yearwise panels. The rules that have governed DPC proceedings are the 1985 rules. Once the panels have been made yearwise the purpose of such an exercise will be lost if the promotions are regularised only from 1987. The very idea of formation of yearwise panels is to consider only those who were eligible at that time and to regularise them ~~also~~ from the dates that DPC should have normally met in the ordinary course or the person was put to officiate ad hoc because DPC could not meet in time for administrative reasons. An employee cannot be made to suffer for the fault of the administration. The Government O.M. No. 22011/6/75-Est Estt. of 30.12.1976 lays down the rules for normal functioning. It does not take care of any abnormal situation. No DPC was held from 1976 to 1987, i.e. over a period of 11 years. Indirectly by applying these instructions laid in O.M. of 30.12.1976 for those who are empanelled against 1976 vacancies, they stand to lose nearly 11 years of service which would have given them benefit for consideration to further promotions for such posts where minimum period of service is laid down in the feeder grades. Also they will have to now compete with their juniors who would have not been in the zone of consideration earlier. In Registration (O.A.) No. 1204 of 1987, S.K. Nayyar & others v. Union of India & others, the Principal Bench of this Tribunal allowed the application with the direction that the seniority of the applicants and all other officers of CIS similarly circumstanced in the various grades should be revised by taking into account their entire period of continuous officiation, ad hoc or temporary, which was followed by regular appointment. The applicants in this case were



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also given all consequential benefits on the basis of their revised seniority in accordance with rules. The facts in O.A. No. 1204 of 1987 were that CIS was formed in 1960. At the time of initial constitution a selection committee was to determine the suitability of candidates. The officers though they were eligible to be promoted to next grade were continued in an ad hoc capacity for long time. The DPC's did not meet regularly. Those who were directly recruited were placed above them because the service of ad hoc appointees prior to regularisation was not taken into account even though they were promoted subsequently on regular basis.

10. The circumstances in this petition are similar. The respondents have said in their written arguments that they have regularised the petitioner from September, 1987 and the ad hoc service has not been taken into account. We do not agree to this contention. It is their own averment that the panels have been formed by the respondents yearwise. Hence for purposes of seniority in the grade the yearwise panel will determine the position and also entitle the incumbents - even in case of those who are not party in this petition - to all consequential benefits in the shape of consideration for further promotion, etc. specially in the background that it is the total length of service in the feeder grade that brings a person into the zone of consideration for further promotion. So if the petitioner is empanelled for the 1976 vacancies he will count his seniority in JAG from the date of his ad hoc promotion in 1976 as he has been put on the 1976 panel by the 1987 DPC which is the first DPC for JAG that has met after 1975, the 1983 DPC proceedings having been set aside.



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11. Hence based on our directions regarding counting his ad hoc service for seniority purposes, it would seem that a review DPC will need to be held to consider the petitioner for Sr. Administrative Grade in 1985. We order accordingly. The objections raised by the petitioner in regard to the confidential reports having been written by those who are also participating in the selection will have to be kept in view by DPC to moderate these reports, if necessary. We realise that in the course of service it is possible that a person of the same batch may officiate in a higher grade and may control his own batch fellows who remain in the lower grade. In such circumstances he may also write the Confidential Roll and they may become subjective. These are, of course, hazards of service but the duty devolves on DPC to moderate these if they find that there is an adverse influence in the reports written by the senior batchmate or by one who is being considered for the same selection. In normal course we find nothing wrong in the instructions issued by the Himachal Pradesh Department of Personnel letter of 15.2.1975 (App. 26 of the application) on this subject. No similar instruction has been brought to our notice by the respondents. In our opinion such instructions would be a welcome step to ensure fairness and impartiality in selections. The submission made by the respondents that the petitioner was ad hoc JAG and those who wrote the report were far senior to him may be as the situation existed then, but may need review now in view of what we have observed above.



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*Re Conclusion*  
12. This petition is disposed of in terms of the above observations and directions. We make no order as to costs.

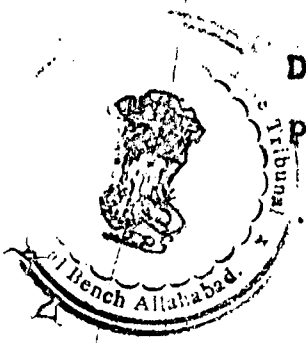
*Self*  
MEMBER (J).

*Self*  
MEMBER (A).

Dated: June 28<sup>th</sup>, 1938.

PG.

*Re*  
1-7-88



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(...)  
General Administrative Tribunal  
Allahabad.

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SECRET

1. Shri K.M. Sebastian
2. Shri P.K. Kurian
3. Shri A. Mitra
4. Shri L.R. Dulla
5. Shri T.P. Koor
6. Shri R. Srinivasan
7. Shri S. R. A. Ishmanan
8. Shri P. R. Sundaram
9. Shri R. Subramanian

3. The above appointments will be subject to judgment of the Delhi High Court in case No. LP/75 of 1981 Union of India Vs. Srinivasan and others.

( M. C. J. )  
Under Secretary to the Govt of India.

CCNY CCNY

1. Do read with 50 spare copies for circulation amongst all officers concerned and CADA/CAS concerned, etc.).

2. Secretary, UPSC, W. R. to his letter No. P.1/55(55)/35-SI.5 dated 12.12.55.

Attested  
Reservatory.

21/09

॥ ॐ नमो भगवते वासुदेवाय ॥

4-14 6-17-57 30 g.

एव आम्हार बापुकि, खानक

Attested

P. Skoh.

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12/4/90

**Dor Chief Engineer**  
**Lucknow Zone, Lucknow**



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No. 11(3)/65/X (App'ts)  
Government of India,  
Ministry of Defence,  
New Delhi, the 31st December, 1965.

In pursuance of the provisions of the Indian Defence Estates Service (Genl. Rl) Rules, 1965, as a one time measure, due to non-availability of Deputy Directors General/Directors (Level II) with 2 years' service in the grade rendered after appointment thereto on a regular basis, and on the recommendation of the Departmental promotion committee held in the Union Public Service Commission on 29th December, 1965, the President is pleased to appoint the following officers to the grade of Adml. Director General/Director (Level I) (Scale of pay: Rs. 2500-1750) (Senior Administrative Grade Level I) in the Indian Defence Estates Service on regular basis with effect from the afternoon of 29th December, 1965:-

1. Shri P. M. Sebastian.
2. Shri P. K. Kumaran.
3. Shri A. Mitra.
4. Shri L. R. Jullia.

2. The above appointments will be subject to judgement of the Delhi High Court in case No. 174/73 of 1964 Union of India vs. R. Srinivasan and others.

( H. C. Jooja )  
Under Secretary to the Govt of India

Copy to:-

1. HQ, DAE (with 15 spare copies for circulation amongst all officers concerned and HQ/DAEs concerned etc).

2. Secretary, DAE with reference to his letter No. P. 1/33(67)/65-III.5 dated 20-12-1965.

Attested

Rasvirastana  
26/3/89

( रासवीरस्तान अधिकारी (व)  
सहायक निदेशक रासवीरस्तान  
आयुक्तियुक्त (प्रशा.) उ० ५.  
एव-आयुक्तियुक्त, लखनऊ

Attested  
P. K. Jooja

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12/4/80

For Chief Engineer  
Lucknow Zone, Lucknow

(AS)

The Director,  
Defence Estates,  
Ministry of Defence,  
Central/Eastern/Western/Northern/Southern Commands/NIMA  
LUCKNOW/CANQUETA/RANCHHILA/JAMMU/PUNE/MADRAS.

Subject :- Appointment of Shri K.M. Sebastian to the  
post of Director General, Defence Estates  
on regular basis.

Shri K.M. Sebastian has assumed appointment of the  
Director General, Defence Estates on regular basis  
with effect from 23rd September, 1987 (E/M).

Authority : Ministry of Defence Order No. 11(1)/85/  
D(Appts), dated the 23rd September, 1987.

ADDL. DIRECTOR GENERAL (ADM)  
DEFENCE ESTATES.

C.E.D. New Delhi. C.D.A., HQ, New Delhi.

to Defence Secretary/Addl. Secretary.

JS(E).

DS(M), DS(CP), DS(E), DS(O&M)

D(Lab), D(Vig), D(Civ-I), D(Civ-II)

Copy also to :-

The Jt. Director, DE, Shillong.

All Jt. DEOs/ADDEOs (Indep)

Officers in Dte. General, Defence Estates.

File.

Attested  
S. K. S. 13/9/87

All ops may be

Attested  
P. K. S.

So-1  
12/9/80

For Chief Engineer  
Lucknow Zone, Lucknow.

LIST OF OFFICERS

1. Shri K.M. Sebastian - retiring on 30-4-90
  2. Shri P.K. Kumaran
  3. Shri A. Mitra
  4. Shri L.R. Julka
  5. Shri Y.P. Kapoor - since left the service for the last few years.
  6. Shri R. Srinivasan
  7. Shri S.R. Lakshmanan
- and so on

based on, the unrevised SAG promotions in Annexure 'B' with the applicant remaining even un-considered for the SAG and Shri Lakshmanan's seniority un-finalised so far even in JAG- two steps below the DG DE position in defiance of this Hon'ble tribunal decision ibid

Attested  
*P. Shukla*  
So - 1  
12/4/90

For Chief Engineer  
Lucknow Zone, Lucknow

ann 'F' 10  
(820)

REGISTERED/AD  
Court decision  
No. 48246/Lucknow  
Directorate of Defence Estates,  
Central Command, Lucknow Cantt.  
Dated 2 Feb. 1990.

To,

1. The Hon'ble Defence Minister, -(Dr. Rajaramanna-  
Government of India, New Delhi.
  2. Shri Naresh Chandra, Defence Secretary,  
Govt. of India, New Delhi.
- Through  
Proper  
Channel

*Not implementing/-*  
SUB :-NON-HOLDING AND NON-APPROVAL - DG DE AND SAG POSTS DPC  
INDIAN DEFENCE ESTATES SERVICE.

Sir,

In the Defence Estates Department, Senior Administrative Grade promotions were done in the Ministry of Defence letters No. 11(2)/85/D (Appts) dated 13-12-85 and 11(3)/85/D (Appts) dated 31-12-85. I was even not considered for these posts when I had practically ten years' service in the feeder Junior Administrative Grade. Unfortunately, these 1985 Senior Administrative Grade promotions; having other a number of illegalities therein; were made basis for promotion to the post of DG, DE, as per the Directorate general No. 102/179/ADM/L&C dated 23-9-87.

2. The Hon'ble Central Administrative Tribunal Allahabad, inter alia decided on 20-6-88 that these 1985 senior administrative grade promotions should be redone considering me now as one of the candidates for these posts. This decision given in TA No. 788 of 1987 is further re-iterated in the Hon'ble Central Administrative Tribunal Allahabad interim order dated 21-12-89. Re-consideration of the DG, DE, promotion in the letter dated 23-9-87 is thus axiomatic which also additionally follows from para 5 of the decision in an other separate case OA No. 169-J&K of 1987 decided on 2-11-87 by the Hon'ble Central Administrative Tribunal Jammu presided over by Hon'ble Chairman. Even the Hon'ble Supreme Court is seized of this aspect.

3. Directorate General Defence Estates; without review of 1985 senior administrative grade promotions where I am yet to be considered for the senior administrative grade post; made these very promotions basis of further DPC for the post of Director General in 1990 recently. Also in the 85 senior administrative grade promotion; still to be redone; name of Shri SR Lakshmanan figure whose promotion and seniority even in the lower Junior Administrative grade is yet to be settled according to law. Case of/person seniority over said sri Lakshmanan in the Junior Administrative grade is awaiting decision of the Hon'ble Central Administrative Tribunal Lucknow Bench OA No. 1/89(L).

4. As per depts. of personnel and training Govt. of India letter No. 22011/3/76/-estt(D) dt. 24-12-1980 for one post of DG, DE, five senior administrative grade officers were to be considered Directorate general Defence Estates processed 1990 DG, DE DPC including Sri Lakshmanan in the zone of consideration.

5. It looks that the directorate general defence estates hid these legal facts from the all the authorities concerned and processed the recent 1990 DPC for DG, DE post. Their action lacks bonafide and constitutes contempt of the Hon'ble Central Administrative tribunal. You are requested to please call for all the

Contd.....2/-

papers and not repeat not approve any DPC proceeding for the post of DG,DE till basic Hon'ble Central Administrative tribunal legal requirements are first completed on the above and all other connected aspects of the decisions cited otherwise this illegal position adopted by the directorate general defence estates / the Govt. would have to be brought to the specific notice of the Hon'ble Central Administrative Tribunal for legal action. please respond as early as possible in the interest of equity.

Yours faithfully,



(Bharat Bhushan)

Joint Director,  
Defence Estates, Min. of Def.,  
17 Carrippa Road, Lucknow  
Cantonment.

Advance copy to :-

1. Dr. Rajaremanna ,  
Hon'ble Defence Minister  
Govt. of India,  
New Delhi.
2. Shri Naresh Chandra,  
Defence Secretary,  
Govt. of India,  
New Delhi-

With respectful request not  
to approve / get approved  
any DPC proceedings for the  
post of DG,DE in view of the  
above legal position.

COURT DECISION/URGENT

No. 48246/Lucknow/

Directorate of Defence Estates,  
Hqrs. Central Command, Lucknow.

Dated 2 March 90.

To,

1. Dr. Rajaramanna,  
Hon'ble Defence Minister  
C. of I. New Delhi.

2. Shri Nareesh Chandra,  
Defence Secretary,  
C. of I New Delhi.

3. Shri Irwind Nath,  
Jt. Secretary,  
C. of I Defence,  
New Delhi.

4. Shri S.K. Lal, Secy, UPEC,  
New Delhi.

5. Cabinet Secy.,  
P.M. Secretariate,  
New Delhi.

THROUGH PROPER CHANNEL.

SUBJECT : NOT IMPLEMENTATION AND NOT APPROVING OF 1990 DFC  
PROCEEDINGS FOR DIRECTOR GENERAL, INDIAN DEFENCE  
ESTATES SERVICE AS SUCH PROCEEDING WITH NO  
COMPLIANCE OF HON'BLE COURT'S DECISION, -THE  
HONOURABLE CAT, ALLD DECISION DATED 28-6-1988-  
TA No. 788/1987.

Sir,

That the Directorate General Defence Estates New Delhi has  
processed the subject DFC by suppressing facts and legal develop-  
ments/Court decisions has been brought to your kind notice in  
my even number dated 2-2-1990 since acknowledged by you.

This Director General, Defence Estates, 1990 DFC can  
neither be implemented nor approved by the Competent authority  
due to already stated following position :-

- (a) It is based on the feeder AG promotions done in the Ministry  
of Defence Nos. 11/2/85/D (Apts) dated 13-1-85 and 11(3)/  
85/D (Apts) dated 31-12-85 which have remained till date  
unreviewed despite Hon'ble CAT Allahabad decision dated 28-  
6-88 in my TA No. 788/87 on where I was to be considered for the  
SAG post according to the said decision.
- (b) The dtc General Defence Estates have further allowed the  
feeder 1985 AG promotions to stay unreviewed even when  
the Hon'ble CAT Alld specifically reiterated such review in  
in their order dated 21-12-89.
- (c) Shri K.M. Sebastian, present DG, DE, selected as such as per  
dtc. Jnl. Defence Estates No. 102/179/ADM/LAC dated 23-9-87;  
previous to the decision dated 28-6-88 ibid ; is himself to  
be reviewed when 1985 AG promotions ; on which his promotion  
as D3, D2, was based ; are to be reviewed.
- (d) As no review of 1985 AG promotions has been arranged by the  
dtc. Jnl defence estates, I have yet not even been considered

Contd.....2/-

See ¶ 3 post despite the above stated court orders.

(c) The 1993 J1 promotions are based on the feeder Junior Administrative grade promotion list in the dtc. general no 102/121/ADP/LG dated 12-6-83 and 121/5/ADP/LG/Vol.IV dat 17-6-83 which have been legally faulted in the OA No. 1 of in the Hon'ble CAT filed where in they did give specific interim order and their decision is shortly awaited.

(d) Seniority of one Shri S. Lakshmanan even in the JAG is where he is to be placed below me; is undecided but despite this in the CG, DE, DPC his name has been included illegally in the field of considerations that is an officer whose seniority even in the JAG is yet to be settled has been pushed by the dtc. general in the zone of consideration for a much higher post or two steps above namely the post of director general.

(e) 1990 DE, DE, DPC proceeding is thus based on no proper and legally framed feeder grade list. The directorate general defence estates have steam-rolled the 1990 DE, DE, DPC in disregard of the Hon'ble CAT orders as cited. That pro, of Shri S. Lakshmanan apart from the above facts; is provisional subject to Hon'ble Supreme Court orders further follow para 3 of the decision of the Hon'ble CAT J in another C. No. 169-CEK of 1937 decided on 2-11-87. the bench presided over by the Hon'ble Chairman.

The subject DE, DE, DPC can not be implemented nor approved in view of above positions

If dtc., still approve/implement and process this 1990 DE, DE, DPC proceeding, the Hon'ble CAT would be requested to initiate contempt/legal actions

Yours faithfully,

Jc. Director, Defence Estates,  
Ministry of Defence, 17 Cariappa  
Lucknow Cantonment.

(Sharat Chushan)

Advance copy to all  
addresses as above.

A24

Before the CAT, Allahabad, Lucknow Bench

the misc. application no. 233/1990 (L)  
in regard to the CMA No. 254/1990 in TA  
No. 788/1987 decided by this Hon'ble Tribunal  
on 28th June 1988;.

Shri Bharat Bhushan , JD, DE Ministry of Defence  
17 Cariappa Road, Lucknow Cantt.

Versus

Union of India and others.

In compliance with the Hon'ble tribunal order dated  
25.4.1990, the applicant submits by way of amendment that-

- a) the C.M.A. No. 254/90 is in accordance with rule 24  
of the CAT (procedure) Rule 1987 and
- b) this tribunal has inherent powers to take view on  
merit of this case in the interest of justice.

PRAYER

it is thus, respectfully prayed that in view of the  
above submissions being granted, the prayers requested in  
the C.M.A. No. 254/90 ibid be kindly granted.

Dated at Lucknow

25.4.1990

  
Petitioner

(SHRI BHARAT BHUSHAN)

P.  
f.T.  
25/4/90



(A25)

BEFORE THE HON'BLE CAT. ALLAHABAD LUCKNOW BENCH,

The Misc. Application No. 296 of 1990 (2),  
Regarding CMA No. 254/1990 in TA

No. 788/1987 decided by this Hon'ble Tribunal  
on 28th June, 1988.

Shri Bharat Bhushan, JD, DE Ministry of Defence,  
17, Cariappa Road, Lucknow Cantt.


Versus

Union of India and others,

Due to the urgency explained in the CMA No.  
254/1990 ~~ibid~~ the Applicant respectfully submits  
that — even when this CMA is listed on 15/9 —

P R A Y E R

The ~~subject~~ Subject CMA may kindly be taken up  
today for disposal as also personally submitted,

  
PETITIONER

(SHRI BHARAT BHUSHAN)

Dated at Lucknow

30.4.1990.

*Filed today  
30/4*