

No. 22012/128/2012-AIS(I)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

New Delhi dated the 09th July, 2024

ORDER

Whereas, the name of Shri Chudamani Seth, a State Civil Service officer of Odisha was included, provisionally, at Sl. No. 16 in the Select List of 2010, prepared by the Selection Committee in its meeting held on 08.08.2011 subject to clearance in the criminal proceedings pending against him by the State Government;

And whereas the Select List of 2010 was approved on 24.04.2012 by Union Public Service Commission (UPSC) and notified by this Department in Central Government vide notification No. 14015/17/2010-AIS(I)-A on 01.06.2012. In terms of Regulation 7(4) of the IAS (Appointment by Promotion) Regulations, 1955, the validity period of the Select List of 2010 was upto 60 days from the date of its approval by UPSC i.e upto 24.06.2012;

And whereas as the name of Shri Chudamani Seth was not made 'unconditional' by the UPSC during the validity period of 2010 Select List, he could not be appointed to IAS therefrom;

And whereas the name of Sh. Chudamani Seth was again included provisionally for promotion to IAS against the Select List of 2012. However, as his name was made unconditional by UPSC within the validity period of 2012 Select List, Shri Chudamani Seth was appointed to IAS vide notification No. 14015/17/2013-AIS(I)-B dated 06.02.2014 by this Department in Central Government.

And whereas Sh. Chudamani Seth, filed an OA. No. 452/2012 before Ld. CAT Cuttack Bench seeking direction to appoint him from the Select List of 2010.

And whereas, through the final order dated 17.08.2016 the Ld. Tribunal concluded that Regulation 7(4) is no bar to grant the benefit with retrospective date after the acquittal of applicant in criminal case.

And whereas, the above-mentioned order dated 17.08.2016 of the Ld. Tribunal was challenged by the Central Government, before Hon'ble High Court of Orissa by filing WP(C) No. 2501/2017.

And whereas, the said Writ Petition has been dismissed by Hon'ble High Court of Orissa vide order dated 07.11.2019 with the following observations:

"5. Section 7(4) of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955 which has been canvassed by learned counsel for the petitioner - Union of India, will not come into play. Learned counsel for the opposite party no. 1 relied upon the decision of the Hon'ble Supreme Court in the case of Sulekh Chand and others Vs Commissioner of Police and others, reported in 1994 Suppl. (3) SSC 674, wherein the Hon'ble Supreme Court at paragraph 2 has observed as follows:

"2.....The material on the basis of which has promotion was denied was the sole ground of the prosecution under Section 5(2) and that ground when did not subsist, the same would not furnish the basis for DPC to overlook his promotion. We are informed that the departmental enquiry itself was dropped by the respondents. Under these circumstances, the very foundation on which the DPC had proceeded is clearly illegal. The appellant is entitled to promotion with

effect from the date his immediate junior was promoted with all consequential benefits. The appeals are allowed, No costs."

Since the opposite party no 1 was acquitted, learned Tribunal after considering the evidence on record has rightly directed to give promotion to the opposite party no. 1 from 2010. In our considered opinion, in view of the reasons assigned in the impugned order, we are in complete agreement with the view taken by learned Tribunal.

Hence, this writ petition being devoid of any merit deserves to be dismissed and the same is dismissed."

And whereas, the matter was examined and the State Government and UPSC were requested to convey their opinion / decision on the above-mentioned Hon'ble High Court's order

And whereas, based upon the proposal dated 13.10.2020 furnished by the State Government, the UPSC, vide their letter dated 30.03.2021 have declared the inclusion of the name of Shri Chudamani Seth as "unconditional and final" at S. No. 16 in Select List of 2010 prepared by the Selection Committee in its meeting held on 08.08.2021 for promotion to the IAS of Odisha Cadre.

Now therefore in pursuance of order dated 07.11.2019 of the Hon'ble Orissa High Court, in WP(C) No. 2501/2017 and also consequent upon declaration of inclusion of Shri Chudamani Seth as "unconditional and final" by the Union Public Service Commission, through its letter No. 6/14/2011-AIS dated 30.03.2021, as per the details given alongside the name, which was notified through this Department's notifications No. 14015/17/2010-AIS(I)-A dated 01.06.2012 and further also in exercise of the powers conferred by Rule 8(1) of the Indian Administrative Service (Recruitment) Rules, 1954 read with Regulation 9(1) of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955 and Rule 3 of the Indian Administrative Service (Probation) Rules, 1954, Shri Chudamani Seth (D.O.B.- 07.03.1958) shall be notionally appointed to the IAS Cadre of Odisha from the Select List of 2010 w.e.f. 01.06.2012, the date from which his immediate junior in the Select List of 2010, namely Sh. Gobinda Chandra Sethi, was appointed to the IAS, with all consequential benefits, subject to outcome of the criminal appeal GCRLA No. 12/2016 filled by the State Government of Odisha before Hon'ble High Court of Orissa.

(By order and in the name of the President)


(Sanjay Kumar Chaurasia)

Under Secretary to the Government of India

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Copy to:

1. The Chief Secretary, Government of Odisha, Bhubaneswar. (Kind Attn; Shri Manoj Kumar Mohanty, Additional Secretary) with a request that a copy of the above order may please be communicated to the officer concerned.

2. The Secretary, Union Public Service Commission, Dhoolpur House, Shahjahan Road, New Delhi (Kind Attn. Sh. Rajiv Kumar, Joint Secretary).

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