

No. 14015/47/2019-AIS(I)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

New Delhi 4th June, 2020.

ORDER

Whereas, inter-alia in the Selection Committee Meeting held on 18.07.2014 for preparation of year-wise Select Lists of 2012 and 2013 for promotion to the IAS of Assam Segment of Joint Assam-Meghalaya Cadre, the Select List of 2012 was prepared against 06 vacancies.

And whereas the name of Shri Moloy Bora was considered at S.No. 1 in eligibility list of 2012. On the basis of his service record, he was assessed as 'Very Good'. and included provisionally at S.No. 2 in Select List of 2012 subject to clearance in the disciplinary proceedings pending against him and grant of Integrity Certificate by the State Government.

And whereas, In the same Selection Committee Meeting the name of Shri Moloy Bora was also considered for the Select List 2013, in addition to normal zone of consideration in terms of 2nd proviso to Regulation 5(5) of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955, and included at S.No. 0B in the Select List of 2013 provisionally, subject to clearance in the disciplinary proceedings pending against him and grant of integrity certificate by the State government.

And whereas, the select lists of 2012 and 2013 were approved by the Commission on 14.10.2014 and acted upon by the Government of India, DoP&T vide Notification dated 24.10.2014.

And whereas, In terms of Regulation 7(4) of the IAS (Appointment by Promotion) Regulations, the validity period of the Select List was up to 31.12.2014. As no communication from the UPSC, for making his name as unconditional from the Select Lists of 2012/2013 was received within the validity period, Shri Moloy Bora could not be appointed into IAS, therefrom.

And whereas, thereafter, the Selection Committee Meeting for preparation of the Select List of 2014 for promotion of SCS officers to the IAS of Assam Segment of Assam - Meghalaya Joint Cadre was held on 17.12.2015. For the Select List of 2014, the State Government intimated that no disciplinary proceedings were pending against Shri Moloy Bora, as he was exonerated, vide order dated 12.11.2015, from the charges framed against him. The integrity certificate was also certified by the State Government. Accordingly, the name of the applicant was included unconditionally at S.No. 01 in the Select List of 2014 and with the approval of this Select List by UPSC on 10.02.2016, Shri Moloy Bora was appointed to the IAS of Assam Segment of Assam Meghalaya Joint Cadre vide Notification dated 10.02.2016.

And whereas, Aggrieved by his non appointment to IAS from the Select List of 2012/2013 Shri Bora filed an OA. No. 040/00363/2016 contending that consequent upon his exoneration from the charges framed against him, he should be given promotion to IAS retrospectively from the date his immediate juniors were promoted and his representation dated 02.05.2016 should not have disposed of mechanically by the Commission.

And whereas, The Hon'ble Tribunal dismissed of the said OA No. 040/00363/2016 vide order dated 30.11.2017.

And whereas, Aggrieved by the said order dated 30.11.2017 of the Hon'ble Tribunal, Shri Moloy Bora filed the WP(C) 8164/2017 before the Hon'ble High Court of Guwahati .

And whereas, Hon'ble Gauhati High Court vide order dated 12.03.2019 disposed of the said WP with the following directions:

".....Accordingly, the respondent No. 2 shall now by way of review keep in view the select list for the year 2012 and reckon the entitlement as on date of their earlier meeting on 18.07.2014 since petitioner was held not guilty of the charge through enquiry report dated 16.04.2014 and since this Court in WP(C) 6666/2014 and connected WP(C) 395/2015 had set aside the order for de novo enquiry dated 08.01.2015. Hence, the subsequent exoneration order and issue of integrity certificate be treated applicable to the select list of 2012. In that circumstance, if the vacancy against which the name of the petitioner was recommended through the select list had continued thereafter his notional benefit to that extent be considered by the Committee.

Needless to mention that on such consideration in the review meeting if the benefit is extended to the petitioner, the same would be only for reckoning the benefit of seniority as per select list, 2012 and for consequential upgradation/promotion if any, and also for the purpose of notional fixation of the appropriate pay scale as on the date the petitioner has been presently given the status of IAS on 15.02.2016 by reckoning for the earlier period.

It is made clear that the actual monetary benefit in terms of arrear would not be admissible. The consideration to review shall be taken by the Committee as expeditiously as possible but not later than 3 (three) months from the date on which a copy of this order is furnished.

In terms of the above, the petition stands disposed of."

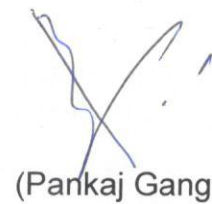
And whereas, In compliance of the above order, a Review Selection Committee Meeting was convened by Union Public Service Commission on 09.12.2019.

And whereas, The Review Selection Committee re-considered the name of Shri Moloy Bora (Date of Birth: 28.08.1961) for the Select List of 2012 in pursuance of aforesaid order dated 12.03.2019 of Hon'ble Gauhati High Court in WP(C) 8164/2017. The Committee noted that the name of Shri Moloy Bora was included provisionally at S.No. 2 in Select List of 2012 subject to clearance in the disciplinary proceedings pending against him and grant of Integrity Certificate by the State Government. Because of provisional inclusion he was not appointed to the IAS from the Select List of 2012. Shri Moloy Bora has now been exonerated, vide order dated 12.11.2015, from the charges framed against him and the integrity certificate has also certified by the State Government. Keeping this in view, the Review Selection Committee recommended that the provisional inclusion of the name of Shri Moloy Bora (Date of Birth: 28.08.1961) at S.No. 02 in the Select List of 2012 prepared by the SCM held on 18.07.2014 may be treated as unconditional for promotion to the IAS of Assam Segment of Assam-Meghalaya Joint Cadre.

And whereas, the recommendations of the Review Committee, have since been approved by the Union Public Service Commission on 27.02.2020.

Now therefore, in pursuance of directions of Hon'ble Guwahati High Court, contained in its order dated 12.03.2019 in WP(c) No. 8164/2017 and in exercise of the powers conferred by sub-rule (1) of Rule 8 of the India Administrative Service (Recruitment) Rules, 1954 read with sub-regulation (1) of Regulation 9 of the Indian Administrative Service (Appointment by Promotion) Regulations, 1955 and Rule 3 of the Indian Administrative Service (Probation) Rules, 1954, the President is pleased to appoint Shri Moloy Bora (Date of Birth: 28.08.1961) to the Assam Segment of Joint Assam-Meghalaya Cadre of the Indian Administrative Service w.e.f. 04.10.2014 i.e. the date on which his immediate junior (Shri Thaneshwar Malakar) included in the Select List of 2012, was appointed to IAS, with consequential benefits. Shri Moloy Bora is also entitled for all notional benefits of pay in IAS accordingly.

(By order and in the name of the President)



(Parkaj Gangwar)

Under Secretary to the Government of India

Copy to:

1. The Chief Secretary, Government of Assam, **Guwahati**. [Kind Attn. Dr. K.K. Dwivedi, Secretary (GAD)]. A copy of the above order may please be communicated to the officer concerned. The State Government is further requested to send a fresh proposal for re-fixation of year of allotment.
2. The Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, **New Delhi** (Kind Attn. Sh. K.V. Gaur, Joint Secretary).

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