

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 5580 of 2012

- Kumari Kalpanapille D/o Mr. T. Chalaiyapille Aged About 37 years Radiographer, Community Health Centre- Koyalibeda, R/o Village, P.S. & Post Korar(Nakapara), Tah. Bhanupratappur, Dist. Kanker, C.G.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary., Department Of Health Services, Mantralaya Raipur, C.G.
2. The Director (Health Services) Department Of Health Services, Raipur C.G.
3. The Chief Medical & Health Officer Govt. Hospital Dist. North Bastar, Kanker C.G.

---- Respondents

For Petitioner	Shri Aman Kesharwani, Advocate
For Respondent/State	Shri Arvind Dubey, PL

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board By

27/07/2015

1. With the consent of the learned counsel for the parties, the matter is heard finally.
2. The petitioner has preferred this writ petition seeking direction to the respondents to complete the process of appointment in accordance with the advertisement published for Direct Recruitment for the post of Radiographer after considering the case of the petitioner.

3. The material available in the record would reveal that at the end of selection process, a merit list was prepared, wherein the petitioner was placed at Sr. No.16.
4. It would further reveal that out of 30 posts of Radiographer, one post was reserved for SC, 18 posts for ST and 4 posts for OBC candidates leaving 7 posts to be filled up by Open Category candidates, the petitioner competed for vacancy in the Open Category. In the said category, out of 7 vacancies, 2 were reserved for female candidates.
5. In the merit list prepared by the Recruiting Agency, the petitioner was placed just below one Smt. Nisha Masih. By submitting copy of the select list (Annexure-P-6), it has been argued that the name of Nisha Masih is mentioned twice at Sr. No.2 in the Open Category female candidates and then again at Sr. No.15 in the over all merit list. Thus, according to the petitioner, if the name of Nisha Masih is mentioned only once, she would be at Sr. No.15 in the over all merit list and should have been offered appointment.
6. It is the stand of the respondents that the petitioner was placed at Sr. No.16 in the merit list, however, even if, she is treated to be at Sr. No.15 or any place higher than that, she does not come within top 7 Open Category candidates so as to qualify for appointment as Open Category candidate. Even if her case is considered for 2 posts horizontally reserved for Open Category female candidates, there are two candidates namely, Smt. Jigyasa Sahu and Smt. Nisha Masih, who are placed above the petitioner in the over all merit list, therefore, once again the petitioner is not entitled for appointment.

7. At this stage, Shri Kesharwani, learned counsel for the petitioner, would submit that the first candidate in the Open Category female candidates is an OBC Category candidate, however, she has been adjusted against the vacancy reserved for Open Category female candidates, which is illegal.
8. It is settled law that if a candidate, covered under the vertical reservation, is placed in the merit list on his/her own strength, she is treated as Unreserved Category candidate. Although, Smt. Jigyasa Sahu was an OBC Category candidate, yet she was placed at Sr. No.7 in the overall merit list, thus, she occupied one of the posts belonging to Open Category and since she is female candidate, she occupied the post horizontally reserved for Open Category female candidates.
9. For the foregoing, there is no substance in the writ petition, it fails and is hereby dismissed.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA