

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 628 of 2015**

Kumari Kalpana Pille D/o Shri T. Chalaiya Pille, Aged About 37 Years
Radiographer, Community Health Center, Koyalibeda R/o Village
Police Station & Post Office Korar (Nakapara) Tahsil Bhanupratappur,
District Kanker (Chhattisgarh)

---- Appellant**Versus**

1. State Of Chhattisgarh Through : Secretary, Department Of Health Services Mantralaya Mahanadi Bhawan New Raipur (Chhattisgarh)
2. The Director (Health Service) Department Of Health Service Raipur (Chhattisgarh)
3. The Chief Medical & Health Officer, Govt Hospital, District North Bastar Kanker, Chhattisgarh.

---- Respondents

Appellant:	Shri Varindra Pratap Singh, Advocate.
Respondents/State:	Shri B. Gopa Kumar, Deputy Advocate General.

Hon'ble The Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order On Board**Per Navin Sinha, Chief Justice****11/12/2015**

1. The present appeal filed through the State Legal Services Authority assails order dated 27.7.2015 dismissing W.P.(S) No.5580/2012 holding that according to her rank position in open category, the Appellant was not entitled to any relief for appointment either in the open category on merit or on basis of horizontal reservation for females in the open category.
2. Learned Counsel appearing on behalf of the Appellant, nominated by the High Court Legal Aid Committee, submitted that one Nisha Masih was wrongly granted ten points in Clause – 18(c) of the advertisement as the work experience possessed by her was not with regard to a Government

organization. If the points awarded to her on that basis are rescheduled, the Appellant becomes senior to her and would be entitled to be considered against the open category female candidates.

3. Learned Counsel for the State points out that Nisha Masih was not even impleaded as a party Respondent in the Writ Petition and neither was this ground taken in the Writ Petition.

4. We have heard Learned Counsel for the parties.

5. Any order passed by us on the submission made on behalf of the Appellant will necessarily have adverse consequences on Nisha Masih who was not impleaded as a party Respondent in the Writ Petition. Moreover, it will not be a proper exercise of jurisdiction to test the validity of the order under appeal on a ground not urged before the Learned Single Judge. The allegation made is a question of fact and had to be specifically pleaded along with impleading the concerned as a necessary party where after the matter could have been properly adjudicated.

6. We find no reason to interfere.

7. The appeal is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE