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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 2440 of 2021**

Sadhna Kunjam D/o Late Shri Narendra, Aged About 32 Years, W/o Shri Kansari Bhardwaj, R/o Aadi Kanya Aashram, Village- Post-Barsoor, Tahsil- Gidam, District- Dantewada, Chhattisgarh

---- **Petitioner****Versus**

1. State Of Chhattisgarh Through The Secretary, Tribal Welfare And Schedule Caste Development Department, Indrawati Bhawan, Atal Nagar, Nava Raipur, Chhattisgarh
2. Director, Tribal Welfare And Ex- Officio Secretary, State Level Tribal Development, Residential And Educational Institutions Committee, Indrawati Bhawan, Atal Nagar, Nava Raipur, Chhattisgarh
3. Collector Dantewada And Ex- Officio President, C.G. District Level Tribal Development, Residential And Educational Institutions Committee, Eklavya Awasiya Vidyalaya, Katekalyan, District- Dantewada, Chhattisgarh
4. Assistant Commissioner And Ex- Officio Secretary, C.G. District Level Tribal Development, Residential And Educational Institutions Committee, Eklavya Awasiya Vidyalaya, Katekalyan, District- Dantewada, Chhattisgarh

---- **Respondents**

For Petitioner	:	Mr. Aniket Verma, Advocate
For State	:	Ms. Sunita Jain, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****16.06.2021**

1. The grievance of the petitioner in the present writ petition seems to be the non availability of channel of promotion for the post of Laboratory

Attendant on which post the petitioner has been working since last more than 6-7 years.

2. According to the petitioner, under the service regulations governing the field, a Laboratory Attendant does not have a channel of promotion and a person who has been appointed as a Laboratory Attendant would retire on the same post without any progress in his/her service career.
3. Counsel for the petitioner submits that in the department there is another post that of Laboratory Assistant which carries higher pay scale than the Laboratory Attendant and the post of Laboratory Assistant has also got a separate channel of promotion. It is also the contention of the petitioner that the nature of the work discharged by Laboratory Attendant and Laboratory Assistant are almost similar if not identical the requirement of the educational qualification also for the two post are the same. Therefore, the post of Laboratory Assistant can and may be considered to be the promotional post from the post of Laboratory Attendant and considering the experience that the petitioner has at least the respondents may be directed to consider the petitioner for promotion to the post of Laboratory Assistant by necessary amendment to the Rules, on account of which she can have her career growth in due course of time.
4. All said and done, the creation of a channel of promotion and switching over from one cadre to another cadre giving preferential right are all matters which are exclusively within the domain of the State Govt. and unless the rules provide for the same, the High Court in exercise of its writ jurisdiction would not be justified in giving any appropriate direction in a nature of mandamus firstly directing the respondents for creating a

channel of promotion, secondly in permitting the petitioner for switching the cadre and thirdly for grant of any preferential right on the post of Laboratory Assistant. Since these are matters as already held one under the domain of the State Govt., it is the state authorities who are the best persons to take a decision.

5. Under the circumstances the petitioner is at liberty, in addition to the representation that she has already made, to make a fresh representation supported with all relevant documents in support of her contention to the concerned authorities and on such representation being made, the state authorities are expected to take a decision at the earliest. While taking a decision by the respondents, it is expected that they would take note of the judgments of the Hon'ble Supreme Court in the case of State of Tripura Vs. K. K. Roy reported in (2004) 9 SCC 65 and also in the case of O. Z. Hussain (Dr.) Vs. Union of India, 1990 supp SCC 688.
6. With the aforesaid observation, the writ petition at this juncture stands disposed of.

Sd/-
P. Sam Koshy
Judge