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**(2018) 02 CHH CK 0209**

**Chhattisgarh High Court**

**Case No:** Writ Petition No.2368 Of 2004

Sushma Wakde And Ors

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

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**Date of Decision:** Feb. 12, 2018

**Hon'ble Judges:** Sanjay K. Agrawal, J

**Bench:** Single Bench

**Advocate:** K.R. Nair, Arun Sao

**Final Decision:** Dismissed

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### **Judgement**

Sanjay K. Agrawal, J

1. The petitioners were working as Assistant Grade-III in the Office of the Engineer-in-Chief, Water Resources Department constituting State Cadre,

whereas respondents No.4 and 5 were working in the Office of the Chief Engineer, Water Resources Department constituting non-State Cadre.

Respondents No.4 and 5 were transferred to the Office of the Engineer-in-Chief by orders dated 10-6-2002 and 24-7-2002, respectively, on their

request and it has been held to be in public interest on 13-2-2004 and in the meanwhile, they were adjusted / absorbed by order dated 8-7-2003 and

they were promoted.

2. Learned counsel for the petitioners submits that the order dated 13-2-2004 is unsustainable and bad in law and respondents No.4 and 5 could not

have been promoted in the Office of the Engineer-in-Chief.

3. Learned State counsel submits that the petitioners have not challenged the orders dated 10-6-2002 and 24-7-2002 as well as the order of

adjustment/absorption dated 8-7-2003.

4. I have heard learned counsel for the parties.

5. By orders dated 10-6-2002 and 24-7-2002, respondents No.4 and 5 were transferred to the Office of the Engineer-in-Chief, those orders have not

been questioned in this writ petition, what has been questioned is the order dated 13-2-2004, the order by which they were transferred on their own

request, has been held to be in public interest. In absence of challenge to the original orders dated 10-6- 2002 and 24-7-2002, the order dated 13-2-

2004 cannot be quashed. The petition also suffers from basic inherent defect that respondent No.4 was absorbed by order dated 8-7-2003 which has

also not been questioned. The petitioners have also not questioned the orders passed by the competent authority promoting the private respondents on

the post of Assistant Grade-II. In absence of challenge to the transfer orders dated 10-6-2002 and 24-7-2002, the order dated 8-7- 2003 and the

orders by which respondents No.4 and 5 were promoted on the post of Assistant Grade-II, the absorption and subsequent promotion of the aforesaid

private respondents cannot be examined in the writ petition and no relief can be granted to the writ petitioners in absence of challenge to those orders,

as challenge to those orders is absolutely necessary to examine the case of the petitioners. The writ petition deserves to be and is accordingly

dismissed. No order as to cost(s).