

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition No.2368 of 2004

1. Smt. Sushma Wakde, W/o B.R. Wakde, Aged about 43 years, R/o Quarter No.H/60, Irrigation Colony, Shanti Nagar, Raipur (C.G.)
2. Kamal Bhan Singh, S/o Achhe Lal Singh, Aged about 48 years, R/o Room No.26, Block No.10, Sector-2, Kansiram Nagar, Raipur (C.G.)
3. Smt. Rikta Banerjee, W/o R.P. Banerjee, Aged about 48 years, E-16, Gaamli Nagar, Raipur (C.G.)
4. Ranjit Singh, S/o Shri Viswanath Singh, Aged about 43 years, R/o Quarter No.H/56, Irrigation Colony, Shanti Nagar, Raipur (C.G.)
5. Hemant Singh Sizodia, S/o Shri Ashok Singh, Aged about 32 years, Room No.66, Block-3, Sector-3, Kansiram Nagar, Raipur (C.G.)
6. Kamalesh Kumar Mishra, S/o Shri Vishnupal Singh, Aged about 36 years, Room No.20, Block No.1, Sector-3, Kanshiram Nagar, Raipur (C.G.)
7. S.P. Pandram, S/o Shri B.L. Pandram, Aged about 35 years, Room No.22, Block No.4, Sector-3, Kanshiram Nagar, Raipur (C.G.)
8. Dominic Panna, S/o Late H. Panna, Aged about 39 years, Room No.79, Block No.8, Sector-2, Kanshiram Nagar, Raipur (C.G.)
9. L.S. Netam, S/o Late Faggu Ram Netam, Aged about 31 years, Room No.29, Block No.8, Sector-2, Kanshiram Nagar, Raipur (C.G.)
10. K.S. Diwan, S/o Maya Ram Diwan, Aged about 39 years, Room No.29, Block No.1, Sector-1, Kanshiram Nagar, Raipur (C.G.)

---- Petitioners

Versus

1. State of Chhattisgarh, Through Principal Secretary, Water Resources Department, D.K.S. Bhavan, Raipur (C.G.)
2. Rejina Toppo, Under Secretary to Government of C.G., Water Resources Department, D.K.S. Bhavan, Raipur (C.G.)
3. Engineer-in-Chief, Water Resources Deptt., Raipur (C.G.)
4. Kum. K.S. Khan, Asstt. Gr. II, Office of E In C, Water Resources Deptt., Raipur (C.G.)
5. Smt. Purnima Narayan, Asstt. Gr. II, Office of E In C, Water Resources Deptt., Raipur (C.G.)

---- Respondents

For Petitioners: Mr. K.R. Nair, Advocate.
For Respondents No.1 and 3 / State: -
Mr. Arun Sao, Deputy Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

12/02/2018

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).

Sd/-
(Sanjay K. Agrawal)
Judge