

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 2722 of 2010**

1. Manmohan Das S/o Late Laxman Das, aged about 39 years, posted as Chainman in underground mines, Chirimiri, District Korea Chhattisgarh.
2. Ramsai S/o Mathura Prasad, aged about 40 years, posted as Electrician in underground mines, Chirimiri, District Korea Chhattisgarh.
3. Itwari S/o Late Firtu, aged about 41 years, posted as Electrical Helper in underground mines, Chirimiri, District Korea Chhattisgarh
4. Mahadeo Prasad S/o Raghunath Prasad Sao, aged about 42 years, posted as Senior Overman in Opencast mines, Chirimiri, District Korea Chhattisgarh
5. Nirmal Singh S/o Fakir Singh, aged about 40 years, posted as Drake Line Operator in opencast mines, Chirimiri, District Korea Chhattisgarh
6. Roshanlal Tiwari S/o Late Ayodhya Tiwari, posted as Cableman in opencast mines, Chirimiri, District Korea Chhattisgarh
7. Sahar Singh S/o Late Goverdhan Singh, aged about 55 years, posted as Drill Operator, in opencast mines, Chirimiri, District Korea Chhattisgarh
8. Ravi Kumar Dubey S/o Beniprasad Dubey, aged about 46 years, posted as Mining Sardar, in open cast mines, Chirimiri, District Korea Chhattisgarh
9. Mishri Lal S/o Late Chutua aged about 43 years, posted as Mechanical Fitter in underground mines, Chirimiri, District Korea Chhattisgarh
10. Sunil Kumar Das, S/o Late Kalipad Das, aged about 46 years, posted as Cableman in opencast mines, Chirimiri, District Korea Chhattisgarh
11. Devidin Kashyap S/o Late Maniram Kashyap, aged about 48 years, posted as Senior Clerk in underground mines, Chirimiri, District Korea Chhattisgarh
12. Kailash Prasad S/o Harihar Prasad, aged about 48 years, posted as Khalasi in underground mines, Chirimiri, District Korea Chhattisgarh
13. Baijnath Vishwakarma S/o Late Tahlu, aged about 48 years, posted as Mechanical Fitter in NCPH Colliery, Chirimiri, District Korea Chhattisgarh
14. Badal Kumar Das S/o K.P.Das, aged about 54 years, posted as Timber Mistry in underground mines, Chirimiri, District Korea Chhattisgarh
15. Santosh Tiwari S/o Ramlakhan Tiwari, aged about 42 years, posted as Mining Sardar in underground mines, Chirimiri, District Korea Chhattisgarh
16. Sunil Kumar Sen S/o Mahesh aged about 33 years, posted as Cable man in underground mines, Chirimiri, District Korea Chhattisgarh
17. Bhura Singh S/o Manna Singh, aged about 59 years, posted as Mechanical Fitter in underground mines, Chirimiri, District Korea Chhattisgarh

18. Rajesh Kumar S/o Late Narbada aged about 40 years, posted as Cable man in Opencast Mines, Chirmiri, District Korea Chhattisgarh.

All the Petitioners are residing in area of SECL Chirimiri Area and they have been allotted non standard quarters.

---- **Petitioners**

Versus

1. South Eastern Coalfields Ltd. through the Chief Managing Director, SECL Bhawan, Seepat Road, Bilaspur, Chhattisgarh.
2. The Chief General Manager, Chirimiri Area, Malviya Nagar, Chirimiri Tahsil Baikunthpur, District Korea, Chhattisgarh.
3. Chief Personnel Manager, Chirimiri Area, SECL Chirimiri, District Korea, Chhattisgarh.
4. The Sub Area Manager, Chirimiri Underground Sub Area, Chirimiri District Korea.

---- **Respondents**

For Petitioners	:	Shri Rakesh Pandey, Advocate.
For Respondents	:	None.

Hon'ble Shri Navin Sinha, Chief Justice

Order on Board

05/02/2016

1. The Petitioners are aggrieved by order dated 3.4.2010 making deductions of the house rent allowance (hereinafter called the HRA) paid to them at 10% of basic pay.
2. Learned Counsel for the Petitioner submits that the Petitioners were holding Class III and Class IV posts. There are no allegations for any misrepresentation by the Petitioners. According to the counter-affidavit, the payments were made due to fault of the Respondents themselves by an erroneous interpretation of their own order dated 16.4.2008. Even though recovery from their salaries have already been made, it is required to be refunded to them for which reliance was placed on (2015) 4 SCC 334 (State of Punjab v. Rafiq Masih).
3. The writ petition appears to be silent with regard to the nature of posts held by the Petitioners except for stating that they are in non-executive cadre. They were allotted non-standard quarters. In accordance with the rules, they were

entitled to Rs. 100/- as HRA. By an erroneous interpretation of the order dated 16.4.2008 for grant of HRA at the rate of 10% of basic pay of Class 'C' cities given to others in the Chirimiri Area classified as 'C' class city, the Petitioners were erroneously paid monetary benefits ranging from Rs. 11,399/- to Rs. 56,620/- each as detailed in paragraph 8.7 of the petition.

4. Once the Petitioners acknowledge non-entitlement to the monetary benefit under the order dated 16.4.2008, what was paid to them having been disbursed from public funds, recovery already having been affected way back in 2010, the Court is not persuaded to issue mandamus today to refund the amount to them. Had it been a case where recovery was still to be made, undoubtedly considerations would have been entirely different. Once recovery has been made, it would not be appropriate exercise of discretionary jurisdiction to direct refund even though it is an admitted and undisputed fact that they were not entitled to the same.

5. The writ petition is dismissed.

Sd/-

(Navin Sinha)
CHIEF JUSTICE