

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 1659 of 2013**

1. Dayaram Kumhar S/o Muniya Kumhar Aged About 44 Years Post Foreman, R/o. Q.No. 57, Rajgamar Colliery, Post Rajgamar Korba East, Revenue And Civil District Korba, Chhattisgarh
2. Firatram S/o Dhanshay, Aged about 50 years, Post Clipmen, R/o Q.No. DM 69, Rajgamar Colliery, Post Rajgamar, Korba East, Revenue And Civil District Korba, Chhattisgarh
3. Shankarlal S/o Sadhram, Aged about 46 years, Post Support Mistri, R/o Q.No. 840, Ompur Colliery, Post Rajgamar, Korba East, Revenue And Civil District Korba, Chhattisgarh
4. Ramratan S/o Vishram, Aged about 51 years, Post Lodar, R/o Gyatri Nagar, Rajgamar Colliery, Post Rajgamar, Korba East, Revenue And Civil District Korba, Chhattisgarh
5. Sonulal S/o Jhaduram, Aged about 53 years, Post Linemistry, R/o Q.No. M/42, Rajgamar Colliery, Post Rajgamar, Korba East, Revenue And Civil District Korba, Chhattisgarh
6. Kamta Prasad S/o Bikhram, Aged about 59 years, R/o Q.No. M/758, Ompur Rajgamar Colliery, Post Rajgamar, Korba East, Revenue And Civil District Korba, Chhattisgarh
7. Gandram S/o Itwari Aged about 56 years, Post Loder, R/o Q.No.M/770 Ompur Rajgamar Colliery, Post Rajgamar Korba East, Revenue And Civil District Korba, Chhattisgarh
8. Firatram S/o Shantilal, Aged about 57 years, Post Loder, R/o Q.No.DM/80, Ompur Rajgamar Colliery, Post Rajgamar Korba East, Revenue And Civil District Korba, Chhattisgarh
9. Shiv Prashad S/o Bhokalo, Aged about 54 years, Post Loder, R/o Q.No. DM/111, Ompur Rajgamar Colliery, Post Rajgamar Korba East, Revenue And Civil District Korba, Chhattisgarh
10. Sitaram Aged about 52 years, S/o Parasram Post Lodar, R/o Q.No. M/111 Ompur Rajgamar Colliery, Post Rajgamar Korba East, Revenue And Civil District Korba, Chhattisgarh
11. Amarnth Aged about 51 years, S/o Kaleshwar Post Fitter, R/o. Q.No. M/304 Omur Rajgamar Colliery, Post Rajgamar Korba East, Revenue And Civil District Korba, Chhattisgarh
12. Saroj Kumar, Aged about 31 years, S/o Milan Post Belt Operator, Q.No. M/35, Ompur Rajgamar Colliery, Post Rajgamar Korba East, Revenue And Civil District Korba, Chhattisgarh
13. Lachhiram Aged about 57 years, S/o Budhram Post Lodar, R/o Q.No. M/751 Ompur Rajgamar Colliery, Post Rajgamar Korba East, Revenue And Civil District Korba, Chhattisgarh
14. Gujraj Aged about 53 years, S/o Soncharan Post Lodar, R/o Gayatri Nagar, Rajgamar Colliery, Post Rajgamar Korba East, Revenue And Civil District Korba, Chhattisgarh

15. Baldev Aged about 52 years, S/o Nandu Post Conveyer Belt Operator, R/o Prem Nagar, Dhenu Chowk, Rajgamar Colliery, Post Rajgamar Korba East, Revenue And Civil District Korba, Chhattisgarh
16. Gourishankar Aged about 58 years, S/o Harisharan Post General Mazdoor, R/o Q.No.DM/93, Ompur Rajgamar Colliery, Post Rajgamar Korba East, Revenue And Civil District Korba, Chhattisgarh
17. Amrit Lal Aged about 55 years, S/o Skhru Post Cableman, R/o Shanti Nagar Rajgamar Colliery, Post Rajgamar Korba East, Revenue And Civil District Korba, Chhattisgarh
18. Hetram Aged about 55 years, S/o Bhau Post Tramar, R/o Dhenu Chowk, Rajgamar Colliery, Post Rajgamar Korba East, Revenue And Civil District Korba, Chhattisgarh

---- Petitioners

Versus

1. Chairman Cum Managing Director S.E.C.L. SECL Head Office, Sipat Road Bilaspur, District Bilaspur, Chhattisgarh
2. Chief General Manager, SECL Korba, Korba Area East, G.M. Office Korba East, District Korba, Chhattisgarh
3. Chief Personnel Manager SECL Korba, Korba Area East, G.M. Office Korba East, Dist Korba, Cg, District : Korba, Chhattisgarh
4. Chief Finance Manager SECL Korba, G.M Office Korba East, District : Korba, Chhattisgarh
5. Sub Area Manager Rajagarmar, SECL Post Rajgarmar, Korba East, District : Korba, Chhattisgarh
6. Sub Area Manager SECL Delwadih, Post Delwadih, Korba West District : Korba, Chhattisgarh

---- Respondents

For Petitioners	:	Mr. S.V. Purohit, Advocate
For Respondents	:	Mr. Adil Minhaj, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

10/01/2020

1. The present writ petition has been filed seeking for the following reliefs:

“10.1. That, the respondent No.1 should release the whole balance payment of traveling allowances from the month June, 2010 of all the petitioners with @18% interest of per annum from the due date by the order of the Hon'ble High Court.

10.2. That, the Hon'ble High Court should take explanation with the all respondents by which Rule they have not release the balance amount of traveling allowance since last 3 years.

10.3. That, all the respondents are totally failure to perform their duties in a proper way and without showing any reason they stopped th balance payments of traveling allowances of all the above petitioners. In this way they having malice intention as well as prejudice action. Therefore, all the illegal activities for not releasing balance of traveling allowance should be stopped by Hon'ble High Court and give him last warning to release the payments within week from the date of the order passed by High Court. Therefore Hon'ble High Court take necessary action against all the respondents because they have deliberately not released the traveling allowance. So that the imprisonment should be given to all the respondents because they are failure to perform duties honestly in their duration of job.

10.4. That, all the respondents jointly decided not to release the whole balance payment of T.A. Due to this reason petitioners are facing mental, physical injuries as well as they Assistant Engineer facing a financial loss so that the Hon'ble High Court should imposed penalty of Rs.1,00,000/- (one lakh only) separately on every respondents for paying to all the petitioners with 18% interest on balance traveling allowance in the interest of justice.

10.5. That, all the respondents are totally failure to prove that the petitioners were not transferred temporary. Therefore on the basis of this view all the respondents should be penalized according to the provisions of the Indian Penal Code by the precious order of the Hon'ble High Court.

10.6. Any other relief, which may be deemed fit by this Hon'ble Court just and proper in the facts and circumstances of the case may also be provided in favour of all the above petitioners.”

2. The case of the petitioner in nutshell is that all the petitioners before this Court are workers of the respondent-Mining Company. They were all working at the Rajgamar Colliery of the respondents in District Korba. The case of the petitioners is that vide Annexure P/1, the petitioners were temporarily transferred and relieved from their existing Rajgamar Colliery to the Delwadih, Singhali, Bagdeva sub-area with immediate effect vide order dated 05.06.2010. According

to the petitioners, since it was only a temporary transfer made by the respondents and not a permanent transfer, the petitioner were entitled for the transportation allowances for coming to the place of work and going back in terms of the Traveling Allowance Rules of the respondents-company. According to the petitioners, since they were temporarily transferred to Delwadih project, the petitioners did not shift from their original residence from Rajgamar Colliery and they had to travel between Rajgamar to Delwadih that was almost about 98 KMs (to and fro). According to the petitioners, they were entitled for the transportation charges for coming to the work place from their residence as per the T.A. Rules of 2008 and as per the said Rules, the petitioners would be entitled for allowances @ Rs.8 per KM that they traveled for reaching to their work place and back.

3. As per the petitioners, subsequent to the issuance of Annexure P/1, there has been no permanent order of transfer issued, nor was the LPC of the petitioners sent from Rajgamar, therefore for all practical purposes, they have to be treated as if they were employees of the Rajgamar and they were sent to Delwadih as a stop gap arrangement, thus they are entitled for the traveling allowance as claimed for.
4. Per contra, the counsel appearing for the respondent-Coal Company submits that it is a case where for the reason that the mining activities at the Rajgamar Colliery had been closed down and the workers, who were available at the respondent company at Rajgamar Colliery were accommodated at different places. One such order is Annexure P/1, where the petitioners were

accommodated at the Delwadih Mines and thereafter a final order of transfer was also issued. Since it was by way of a transfer that the petitioners were shifted, they would be only entitled for transfer allowance and not traveling allowance traveling from Rajgamar to Delwadih. It was further the contention of the counsel for the respondents that the claim of the petitioners involved disputed questions of facts and law, therefore the same cannot be adjudicated upon exercising the writ jurisdiction of this Court and the petitioners should avail the remedy available to them under the provisions of Industrial Disputes Act. According to the respondents, the petitioners are unnecessarily banking upon the Tour Advance Rules applicable, whereas in the instant case, the petitioners' claim could only be considered under the Traveling Allowance Rules, which in the instant case has been duly considered with and it has been found that the petitioners are not entitled for any allowance for traveling from Rajgamar to Delwadih.

5. Having heard the contentions put forth on either side and on perusal of record what is reflected is that the entire claim of the petitioners revolves around the alleged transfer of the petitioners made from Rajgamar Colliery to Dhelwadih. The record would show that the reason for transferring the petitioners from Rajgamar Colliery to Dhelwadih was on account of the non availability of work at Rajgamar colliery which was on the verge of closure because of non-production of coal. According to the petitioners, they were only temporarily transferred which has been disputed by the respondent Management stating that the petitioners have been permanently transferred.

6. Another aspect is that even if it is a temporary transfer, would the petitioners be entitled for allowance for commuting daily from Rajgamar to Dhelwadih. At the same time, counsel appearing for the Management also submitted that the petitioners have been granted Transfer Allowance that they were entitled for and many of them have not been granted as they have not submitted the requisite bills for the same.
7. From perusal of the reply filed by the Management it is evidently clearly that on account of the stoppage of production at Rajgamar colliery the manpower at Rajgamar colliery was transferred to Dhelwadih. It is also the specific pleading of the Management that the employees have been paid TA advance and which is also reflected in the Last Pay Certificate (LPC) issued to them marked as Annexure R-2. The fact that the petitioners have been granted TA advance is sufficient to draw an inference that the petitioners in fact were transferred from one area to another area and on such transfer being made, it is the Coal India Travelling Allowance Rules, 2008 which would be applicable and which has also been enclosed with the reply as Annexure R-1.
8. Perusal of the said Rules clearly show the differences between the allowance that is given to a person for discharging some additional charge at more than one location where his temporary headquarter has been changed with that of the allowance a person is paid on getting transferred from one place to another. The respondents have enclosed with their reply the copy of the Last Pay Certificate of

each of the petitioners which reflects having availed the TA advance and payment of transfer grant.

9. What the petitioners are claiming is in fact Travelling Allowance for the petitioners commuting from Rajgamar colliery to Dhelwadih daily. The claim of the petitioners does not seem to be justified for the reason that the petitioners except for Annexure P-1 have not been able to show that they were transferred for a short duration whereas the stand of the Management and the Last Pay Certificate produced shows that the petitioners in fact have been duly transferred from one area to another and therefore, the petitioners would not be entitled for Travelling Allowance for daily commuting from Rajgamar to Dhelwadih. If at all if any of the employees are commuting daily from Rajgamar to Dhelwadih, they are doing on their own choice, risk and cost.
10. For the aforesaid reasons, this Court does not find any strong case made out by the petitioners for issuance of any sort of writ or for a direction to the respondents releasing any Travelling allowance to the petitioners.
11. Under the said circumstances, the writ petition fails and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge