

## HIGH COURT OF CHHATTISGARH, BILASPUR

## Order Sheet

WPS No. 1838 of 2021

1. Union of India General Manager South East Central Railway New GM Building, Bilaspur District - Bilaspur Chhattisgarh.
2. Principal Chief Personnel Officer, Divisional Office, South East Central Railway Bilaspur Chhattisgarh.
3. Senior Divisional Personnel Officer Personnel Department, Divisional Office, South East Central Railway, Kingsway Nagpur (MH)

---- Petitioners

**Versus**

Anvarkhan Mohd Yar Khan, S/o Yar Khan, Aged About 60 Years Ex-Loco Pilot / TMR R/o Nehru, Ward, Po- Dewhadi, Tehsil - Tumsar, District - Bhandara (MH).

---- Respondents

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| 17.03.2021 | <p>Shri H.S. Ahluwalia, Advocate for the Petitioners.</p> <p>Shri H.S. Ahluwalia, learned counsel for the Petitioners submits that Annexure P/1 order passed by the Central Administrative Tribunal, Jabalpur Bench, Circuit Sitting Bilaspur, though styled as an 'interim order', virtually amounts to the 'final relief'; insofar as the amount retained pursuant to Annexure A/1 towards the excess payment has been virtually ordered to be released. The learned counsel submits that the relief has been granted by the Tribunal placing reliance on the verdict passed by the Apex Court in <b>State of Punjab and Others v. Rafiq Masih (White Washer) and Others</b> reported in <b>(2015) 4 SCC 334</b>. It is pointed out that the subsequent to the above ruling, the Apex Court has declared the law as per <b>High Court of Punjab and Haryana v. Jagdev Singh</b> reported in <b>(2016) 14 SCC 267</b> to the effect that if at all any 'undertaking' has been obtained from the employee agreeing to refund the excess payment, if any, recovery is quite possible, which cannot be interdicted. The</p> |



learned counsel submits that an undertaking dated 09.08.2016 has been obtained from the Respondent and in the said circumstances, the excess payment is liable to be recovered and it is sustainable in view of the law declared by the Apex Court. It is pointed out that contempt of Court proceedings have been initiated at the instance of the Respondent, alleging willful disobedience of the order passed by the Tribunal

Issue urgent notice to the Respondent by speed post. Process fee be paid as per Rules.

Post the matter after completion of service of notice.

There shall be an interim stay, as prayed for.

Sd/-

(P.R. Ramachandra Menon)  
Chief Justice

Sd/-

(Parth Prateem Sahu)  
Judge