

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CONTEMPT PETITION NO.332/2018

IN

WRIT PETITION NO.157/2018

Dr. Parag Kamlakar Nimishe Vs. Jayant Manohar Khedkar

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Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders
.....

Court's or Judge's order

Shri G. M. Shitut, Advocate for the petitioner.
Shri V. P. Marpakwar, Advocate for respondent.

**CORAM : R.K. DESHPANDE &
AMIT B. BORKAR, JJ.**

DATED : 3rd MARCH, 2020.

. Our attention is invited to the Judgment and order dated 14.08.2018 passed by this Court in Writ Petition No. 157 of 2018 alleging that the direction in paragraph 7 is that if the increments are released, the subsistence allowance paid to the petitioner after suspension may also undergo upward revision and he may in that event entitled to arrears even on that count and accordingly, the amount be worked out and paid to the petitioner within a period of two months.

2] It is urged that there is non-compliance of this order and hence, the respondents have committed the act of willful contempt.

3] In response to notice issued by this Court, it is stated in paragraph 7 of the affidavit filed by the respondents which is reproduced below.

*“That, so far as the revision of subsistence allowance is concerned, upon addition of increments, it has been found that the petitioner was entitled to Rs.42,91,626/- towards subsistence allowance from the date of suspension till July 2019. Instead of Rs.42,91,626/- an amount of Rs.49,33,699/- has been paid to the petitioner from the date of suspension till July 2019. Thus, an amount of Rs.6,42,073/- has been paid in excess to the petitioner, which requires to be recovered from the petitioner. A copy of chart indicating the payment made to the petitioner is enclosed herewith as **ANNEXURE-R-11**. Thus, it will be clear that excess amount has been paid to the petitioner. That, since the date of suspension till today, the petitioner is entitled to Rs.42,91,626/- whereas the petitioner has been paid Rs.49,33,699/-. Thus, the amount paid in excess is required to be refunded by the petitioner. The amount can be adjusted towards upward revision of subsistence allowance and the balance amount should be refunded to the respondent by the petitioner. Even if the upward revision is concerned, the same will be less than the amount actually paid to the petitioner by the deponent.”*

4] According to the petitioner, after completion of six months period of suspension, the petitioner is entitled to full salary, however, the direction of this Court in the Judgment impugned is not to calculate the amount of full salary towards subsistence allowance. Hence, we do not find any disobedience in the order. Contempt Petition is dismissed.

JUDGE

JUDGE