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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CONTEMPT PETITION NO. 224 OF 2024
IN
WRIT PETITION NO. 4130 OF 2018**

Capt. Hemant Kumar Mishra ... Petitioner
V/s.
Dr. Cmde (Retd) Vivek Chawla ... Respondent

Capt. Hemant Kumar Mishra- Petitioner appears in-person.
Mr. Mihir Desai, Senior Advocate for the Respondent.

**CORAM : M.S. KARNIK AND
S.M.MODAK, JJ.**

DATE : 14th JANUARY 2026

PC.:-

1. By this Petition, the Petitioner prays for the following substantive reliefs.

“(a) That this Hon'ble Court be pleased to hold and declare that the Respondent/Contemnor is guilty of deliberate and willful content of the Judgment of this Hon'ble Court dated 06 April 2023 passed in the Wat Petition (Civil) 4130 of 2018.

(b) That this Hon'ble Court be pleased to put the Contemnor in Civil imprisonment / punish as it deems fit for committing the Contempt of Court.

(c) That this Hon'ble Court may be pleased to declare all deductions of Petitioner's pay/salary/leave as mala fide, illegal, without authority and unconstitutional”

2. The Petitioner alleges breach of the order dated 06/04/2023 passed by this Court in Writ Petition No. 4130 of 2018. By a detailed judgment and order, this Court disposed of the Petition. The relevant portion of the said order reads thus :

“(i) The factual position is that the Petitioner was not even given any show cause notice to explain his actions. It was only the monthly memos impugned in the Petition that were communicated to the Petitioner and then too merely informing him that he has been treated as absent and his leave was also being treated as exhausted. The days of purported 'no attendance' were termed as days of 'no pay', despite the fact that the Petitioner was very much attending office. Thus, he was not given an opportunity of being heard. No reply/explanation was sought from him prior to deducting his salary and leave accumulated to his credit. The doctrine of audi alteram partem has clearly been violated. Rules of natural justice have not been followed.

(j) There is a consistent pattern of judicial thought that civil consequences entail infractions not merely of property or personal rights, but also of civil liberties, material deprivations, and non-pecuniary damages. Every order or proceeding which involves civil consequences or adversely affects a citizen should be in accordance with the principles of natural justice. No person can be condemned unheard. Thus, the action taken by the 3rd Respondent University cannot be sustained as it has been taken without following the due process of law.

(k) As noted at the outset, the Petitioner has not challenged the mandate of BAS itself, nor any OM of the Central Government or the IMU. The only relief sought by the Petitioner is recovery of salary deducted by the 3rd Respondent University and the restoration of leave at his credit. The Petitioner has made several allegations of harassment against the IMU administration. It is settled law that writ petition under 226 of the Constitution of India cannot be entertained for recovery of money. The remedy for that lies elsewhere. Similarly, the extraordinary writ jurisdiction of this Court cannot be invoked for relief against harassment by the IMU administration, which entails evidence to be adduced and facts to be proved by parties.

(l) We have already held that due process of law has not been followed by the 3rd Respondent prior to taking penal action against the Petitioner. Leave to the credit of the Petitioner has been treated as exhausted on account of being treated as absent from service. The details of deducted leave placed on record indicate that 321 days of Earned Leave were

deducted by the 3rd Respondent. Hence, we deem it fair in the interests of justice that the leave accruing to the credit of the Petitioner and which has been treated as exhausted on account of him being treated as absent from work must be restored to his credit.”

3. In paragraph 9, the following order came to be passed.

“ For the reasons stated herein above, prayer clause (a) seeking direction to the 3rd Respondent University to pay forthwith all balance pay/salary along with interest stands rejected. Prayer clause (c) seeking compensation for notional loss of his LTC is also rejected. However, we direct the 3rd Respondent University to restore the leave accruing to the credit of the Petitioner which has been treated as exhausted on account of him being treated as absent from work forthwith and to that limited extent prayer clause (a) stands partly allowed.”

4. A reading of the above indicates that this Court had granted the relief directing the Respondent to restore the leave accruing to the credit of the Petitioner which has been treated as exhausted on account of him being treated as absent from work forthwith and to that limited extent prayer clause (a) stands partly allowed. As can be seen from clause (1) reproduced above, this Court has observed that the details of deducted leave placed on record indicate that 321 days of Earned Leave was deducted by the 3rd Respondent. Hence, this Court deemed it fair in the interest of justice that the leave accruing to the credit of the Petitioner and which has been treated as exhausted on account of him being treated as absent from work must be restored to his credit.

5. When the matter was argued yesterday i.e. on 13/01/2026, the Petitioner in-person made various submissions on merits indicating

harassment meted out to the Petitioner. It was further pointed out that almost 95 days of Earned Leave which should have been credited to the Petitioner has not been granted. It is further pointed out that even the calculations made are not correct.

6. During the course of such hearing, we had indicated to Mr. Mihir Desai, learned Senior Advocate appearing for the University that in terms of the order passed by this Court, leave to the extent of 321 days has to be credited. Mr. Desai then submitted that in accordance with rules and regulations, only 300 days of Earned Leave can be credited and hence, the order stands complied with. We had made it clear that what is expected from University is to comply with the orders passed by this Court. Mr. Desai accordingly has placed on record copy of the communication dated 13/01/2026 duly signed by Campus Director (In-charge) that Earned Leave of 19 days is ordered to be credited to the leave account of the Petitioner with revised Earned Leave credited to the leave account of the Petitioner as 321 days. We have also gone through the affidavit in reply filed on behalf of the Respondent. In our opinion, the order passed by this Court stands substantially complied with. It is not possible for us to go beyond the order passed by this Court and entertain the submissions which are advanced by the Petitioner to the extent that Earned Leave credited to the leave account of the Petitioner is not calculated correctly and that he is entitled to more benefits. If at all the Petitioner has any grievance beyond

what is directed by this Court to which if he is entitled, it is for the Petitioner to resort to appropriate remedies in accordance with law. We have restricted our consideration only to the extent of the order that is breached.

7. Considering the scope of the contempt jurisdiction, liberty to the Petitioner to raise appropriate challenge is kept open. As we find substantial compliance of the order in respect of which the breach is alleged, we do not find any reason to take the Contempt Petition any further and the same is accordingly disposed of.

8. The question of law raised by Mr. Desai is kept open.

(S.M.MODAK, J.)

(M.S. KARNIK, J.)