

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5638 of 2017

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Professor Sheikh Mujtaba Hussain Son of Late Sheikh Basharat Ali, Resident of Shaheen Lodge, Opposite Khuda Bakhsh Library Ashok Raj Path, P.O. Bankipur, Police Station- Pirabahore, Town and District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Higher Education, Government of Bihar, Secretariat Buildings, Patna- 800001.
3. The Patna University, Ashok Raj Path, Patna 800005, through its Registrar.
4. The Vice Chancellor, Patna University, Ashok Raj Path, Patna 800005.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Najmul Hoda, Advocate
For the University	:	Mr. Manish Dhari Singh, Advocate
For the State	:	Mr. Sunil Kumar, AC to GA12

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 29-03-2018 Heard learned counsel for the petitioner and the respondents.

From the tenor of the order dated 12.9.2007 impugned in the present writ petition, it appears that it has been made effective from a date 5 years anterior to the date of its issuance.

Mr. Manish Dhari Singh, learned counsel for the University with reference to statements of facts submitted that the petitioner is not entitled to any relief as he has approached the Court after 11 years. His termination order was passed in accordance with law considering the conduct of the petitioner of voluntarily abandoning his service.

In view of the settled principles of law that termination



order cannot operate from retrospective date, the order contained in Annexure-5 dated 12.9.2007 cannot sustain. It is accordingly, quashed.

However, liberty shall be available to the respondents to take appropriate action in accordance with law after giving opportunity of hearing to the petitioner and following the rules contained in the service statute applicable for the teachers of the University within a period of 60 days from the date of receipt/production of a copy of this order.

However, considering the time gap of more than 10 years in challenging the order the Court is constrained to hold that quashing of order dated 12.9.2007 will not automatically confer any consequential right and the same shall abide by the fresh decision taken by the University.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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