

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14643 of 2008

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Md. Moizuddin Ahmad, son of Late Ahmad Raza, resident of Mohalla Shahganj, Mahendru, P.S. Sultanganj, District- Patna.

... .. Petitioner/s

Versus

1. Magadh University through the Registrar, Bodh Gaya, District- Gaya
2. The Vice-Chancellor, Magadh University, Bodh Gaya, District- Gaya
3. The Registrar, Magadh University, Bodh Gaya, District- Gaya

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. S.P.Tewari
For the Respondent/s : Mr. Yugal Kishoreyugal Kishore

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

7 17-07-2018 Heard learned counsel for the petitioner and learned counsel appearing on behalf of the respondents.

Petitioner has filed the present writ application for quashing of the order of termination contained in Annexure-1.

Learned counsel for the petitioner submits that the petitioner was condemned unheard. The order of termination was issued by respondent without providing opportunity of hearing to the petitioner. The factual matrix for deciding the present application lies in a narrow compass. Petitioner was appointed as System Programmer in the Magadh University by the order of Vice-Chancellor on 01.08.1995. The office order appointed to the petitioner read as follows:-

Md. Moizuddin Ahmad is appointed as
a System Programmer in Magadh



University Computer Unit in the pay scale of Rs. 2200-4000 plus other allowances as admissible under this University Service on purely temporary basis until further order. His Service may be terminated without prior notice, if his work is not found satisfactory.

From the letter of appointment, it is evident that the appointment of the petitioner was temporary until further order and his service liable to be terminated without any prior notice.

From the pleadings it appears that the petitioner proceeded on leave after dropping application for sanction of leave on 02.05.1997 on the ground that his father was seriously ill as such he has to leave station for treatment of his father at Delhi. The subsequent document indicates that he has made an application on 09.08.1997 for extension of leave for a period of five months. The document enclosed by the petitioner further indicate that on 09.06.1998 i.e. after ten months of the application dated 09.08.1997 he has made an another application for extension of leave for further period of five months again it appears that he has made an application for extension of period of six months on 09.06.1998 and



11.01.1999. He made another application for extension of further period of six months. Similar application for extension of leave was enclosed with the writ application dated 07.07.1999 and 06.01.2000 and document was enclosed to show that his father was undergoing for treatment at Delhi. All the application for grant of leave was sent through UPC.

Learned counsel for the petitioner submits that the petitioner in the compelling circumstance, proceeded on leave. It appears that from the document filed on behalf of petitioner that after the application for sanction for grant of leave for treatment of father, petitioner filed another set of application for sanction of leave as he himself claimed that he has fallen ill during the course of treatment of his father Annexure-6 service starts from 25.03.2000 and continued upto 2005 to show that the petitioner made an application for sanction of leave.

As a matter of fact, the service of the petitioner was dispensed with when there was no response on behalf of the petitioner even after publication of notice in Daily Hindustan and Hindustan Times as petitioner fail to submit his joining. The period of his absence from 1997 to 2000 was the basis of taking decision of termination of service of the petitioner on 01.06.2000 and after the order of termination he kept filing



another set of application for sanction of leave.

Under the University statute leave is admissible only to permanent or temporary employee, who has completed more than two years. The petitioner who was appointed on temporary basis on 01.08.1995 was not entitled to any kind of leave before completion of two years. Admittedly, on proceeding on leave on 27.05.1997 petitioner has not completed of two years of service as such in terms of University statute he was not entitled to grant any kind of leave. The material on record indicate that after termination in 2000 he woke up after long slumber and made application for sanction of leave, further no any kind of leave admissible to temporary employee, who has not completed two years of service.

The present writ petition was filed on 2008 in relation to action to the University to terminate the service of the petitioner in 2000.

The Court is not inclined to interfere with the order of termination as the materials on record would indicate that the petitioner was not entitled to leave yet, he remained absent and despite publication of notice in the Newspaper, he fail to submit his joining as the case is abandonment of the service of temporary employee, who was not entitled to any leave under



the University statute.

Under the aforesaid circumstance, the Court does not find any merit in the writ petition. It is dismissed accordingly.

(Anil Kumar Upadhyay, J)

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