

(2009) 01 SC CK 0157

In the Supreme Court Of India

Case No : Civil Appeal No. 443 of 2009 (Arising out of S.L.P. (C) No. 12815 of 2007)

Raj Kumar Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 27-01-2009

Acts Referred:

Citation : (2009) AIRSCW 3868 : (2009) AIRSCW 1444 : (2009) 2 JT 58 : (2009) 1 SCALE 73 : (2009) 4 SCC 269 : (2009) 1 SCC(L&S) 805 : (2009) 1 SCR 659 : (2009) 4 Supreme 75 : (2009) 1 Supreme 644

Hon'ble Judges : Asok Kumar Ganguly, J;Arijit Pasayat, J

Bench : Division Bench

Advocate : S.C. Paul, Resham Singh, Roopa Paul, Reema Chopra, Satyendra Kumar, for the Appellant; A. Sharan, A.S.G., Amit Anand Tiwari, Subash Kaushik, S.N. Terdol, Sushma Suri, for the Respondent

Final Decision : Allowed

Judgement

Arijit Pasayat, J.—Leave granted.

2. Challenge in this appeal is to the judgment passed by a Division Bench of the Guwahati High Court dismissing the writ appeal filed by the appellant. Appeal was directed against the judgment and order dated 19.5.2003 passed by the learned Single Judge in Civil Rule No. 3053 of 1996. Appellant's case in the writ petition and the writ appeal was that while serving as Rifleman in the Assam Rifles he was removed from service on the ground of desertion and that too without serving any notice to him as required under law and without holding any disciplinary proceedings. The respondent-Union of India took the stand that the writ petitioner and others got themselves involved in some controversies whereupon the writ petitioner was given punishment of quarters guard. Thereafter he submitted a letter of resignation which was accepted by order dated 18.12.1995 to be effective from 29.2.1996. But before that date the writ petitioner deserted whereupon he was declared as deserter and notices were

served on him along with others. Learned Single Judge held that the appellant was not removed from service on the ground of desertion but on the ground that he had sought for voluntary discharge from service which was accepted.

3. Learned Counsel for the appellant submitted that there was, in fact, no voluntary resignation and his signatures were taken on blank papers while he was in illegal detention.

4. Learned additional standing counsel referred to the letter dated 21.11.1995 wherein the appellants clearly stated that he wanted the resignation from service due to domestic problem as there was nobody in the family to look after it. Three persons including the appellant had submitted for discharge from service at own request and the same request was accepted on 23.11.1995 and the same was to be effective from 29.2.1996.

5. We find that the authorities placed on record original letter dated 23.11.1995. By order dated 18.12.1995, the DG, Assam Rifles passed the order and accepted the resignation on compassionate ground to be effective from 29.2.1996. The appellant has taken the stand that he has not given voluntary resignation and the blank signatures were taken from him. The plea is clearly unsustainable. There is no material on record and, in fact, it is not the stand of the appellant that he made any grievance about the aforesaid act before any authority. Whether he had signed the letter voluntarily or signatures were taken on blank papers involves disputed questions of fact which cannot be decided in a writ petition. Learned Single Judge and the Division Bench noted that the authorities have acted on the basis of the letter of resignation. That being so, there is no scope for interference in this appeal.

6. Learned Counsel for the appellant stated that the appellant may seek appropriate remedy for declaration that the letter was not voluntarily given. We have expressed no opinion in that regard. If and when such remedy is availed, the question has to be decided in its proper perspective.

7. The appeal fails and is dismissed. No costs.