

RAJ KUMAR SINGH

v.

UNION OF INDIA & ORS.

(Civil Appeal No. 443 of 2009)

JANUARY 27, 2009.

**[DR. ARIJIT PASAYAT AND ASOK KUMAR  
GANGULY, JJ.]**

*Service Law: Removal from service – Writ petition – Plea of Employer-State that it was not removal but acceptance of resignation – Employee denying having resigned and alleging that his signature were taken on blank paper – Dismissal of petition and Writ appeal by High Court – On appeal, Held: High Court rightly dismissed writ petition – Allegation of taking signature on blank paper since involved disputed question of fact, could not have gone into in a writ petition.*

**Appellant filed a writ petition alleging his removal from service. Plea of respondent-State was that he was not removed but the same was acceptance of his resignation. Appellant denied to have resigned, and alleged that his signatures were taken on blank papers while he was in illegal detention. Single Judge of High Court dismissed the petition holding that the authorities had acted on the basis of resignation. Writ appeal was also dismissed. Hence the present appeal.**

**Dismissing the appeal, the Court**

**HELD: The plea of the appellant that he has not given voluntary resignation and the blank signatures were taken from him, is 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**

A or signatures were taken on blank papers involves  
 disputed questions of fact which cannot be decided in a  
 writ petition. Single Judge and the Division Bench of High  
 Court noted that the authorities have acted on the basis  
 of the letter of resignation. That being so, there is no  
 B scope for interference in this appeal. [Para 5] [661-D-F]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 443  
 of 2009.

From the Judgment and final Order dated 23.02.2007 of  
 C the Gauhati High Court in Writ Appeal No. 261 of 2003.

S.C. Paul, Resham Singh, Roopa Paul and Reema  
 Chopra Satyendra Kumar for the Appellant.

A. Sharan, A.S.G. Amit Anand Tiwari, Subash Kaushik,  
 D S.N. Terdol and Sushma Suri for the Respondent.

The Judgment of the Court was delivered by

**DR. ARIJIT PASAYAT, J.1.** Leave granted.

E 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  
 F 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  
 G 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  
 H 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. A

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. B

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. C

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. D E F

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. G

7. The appeal fails and is dismissed. No costs.  
K.K.T. Appeal dismissed. H