

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 301/2004

R.A/C.P No.

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SECTION OFFICER (Judl.)

6/11/17
12.11.17

8: -

FORM No. 4

(SEE RULE 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 301/04

Misc. Petition No.

Contempt Petition No.

Review Application No.

Applicants: Soma Bagong

Respondents: K. O. I. Jotes

Advocates for the Applicant: Mr. M. B. Patt, Mr. R. Deka

Advocates of the Respondents: CASE

Notes of the Registry Date

10.12.04

This is a transfer application from the Hon'ble Gauhati High Court to the C.A.T., Guwahati Bench, which is registered as original application No. 301/04.

Laid before the Hon'ble Court for further orders.

for Section Officer

lm

18.01.05

lm

21.2.2005

mb

Order of the Tribunal

Present: Hon'ble Mr. Justice R.K. Batta, Vice-Chairman.

Hon'ble Mr. K.V. Prahladan, Administrative Member.

None for the parties. Adjourned to 18th January, 2005, for admission.

[Signature]
Member.

[Signature]
Vice-Chairman

None for the parties. The matter is already admitted. In view of the order dated 10.3.2000. Hence the matter be listed for final hearing on 21st February, 2005.

[Signature]
Member

[Signature]
Vice-Chairman

List before the next Division Bench.

[Signature]
Member (A)

17.03.2005

Learned counsel for the applicant is not present. However, in fairness to the applicant we adjourn the matter to 5.4.2005.

Case is ready for hearing.

Member

Vice-Chairman

bb

6.4.2005

Division Bench is not available. Hence, adjourned to 9.5.2005 for hearing

Vice-Chairman

bb

9.5.2005

Learned counsel for the applicant is absent. post on 16.5.2005.

Member

Vice-Chairman

bb

16.5.2005

Learned counsel for the applicant is not present. He was also absent on the previous date. However, as a last chance adjourned to 9.6.2005.

Member

Vice-Chairman

bb

9.6.2005

Though this application has come up for hearing on various occasions, neither the counsel nor the applicant was present. On 16.5.2005 when the matter came up we adjourned the case to 9.6.2005 as a last chance. In spite of that nobody has appeared.

The case is accordingly dismissed for default.

Member

Vice-Chairman

nkm

Order dt. 16/5/05
Sent to D/Section
for issuing to
applicant by
regd. A/D post.

17/5/05 D/No-763
Dt. 17/5/05.

Recd copy
APC
13/6/05

16.8.05

Copy of the order
sent to the
D/Sec for issuing
the same to the
applicant by post.

THE GAUHATI HIGH COURT

(High Court of Assam Nagaland, Meghalaya, Manipur, Tripura,
Mizoram & Arunachal Pradesh)

CIVIL APPELLATE SIDE

WP(C) No. 708 (AP) 2001
No. 1183 of 2000

Appeal from W. P (C)
Civil Rule

Sama Bagong

Appellant
Petitioner

Versus

Union of India & Ors

Respondent
Opposite-Party

Appellant
For
Petitioner

Mr. P. K. Hazra Mr. M. Batt
Mr. N. Hazra Mr. R. Deka

Respondent
For
Opposite-Party

Dr. G. S. C. A. K. Choudhury

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4

Noting by Office or
AdvocateSerial
No.

Date

Office notes, reports, orders or
proceedings with signatures

10.3.2000

BEFORE

THE HON'BLE MR JUSTICE DN CHOWDHURY

Heard Mr P K Kalita,
learned counsel for the ^{MAHANTA}petitioner.

Let a rule issue calling upon the
respondents to show cause as to why a writ
should not be issued as prayed for; and/or why
such further or other orders should not be
passed as to this court may deem fit and proper.

Rule is made returnable within 8 weeks

Mr K K Mahanta, learned sr .CGSC accepts
notice on behalf of respondents 1 to 3


JUDGE

① RULE RETURNABLE BY
10.3.2000
② CGSC accepts notice
for 1, 2, 3.

Nandi

13.3.2000

Bygaur
18/3/2000

29. 11. 2000

An affidavit in
opposition on behalf of
the Respondts 1 to 3 have
been filed.

(3)

Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signatures
------------------------------	------------	------	--------------------------------------------------------------

29-11-2001

An affidavit-in-Reply is filed by the petitioner and kept in record (flagged).
Rana

1.2.2002

This case has been received on transfer from Principal Seat, Renumbered as WP(C) 708 AP/2001 and duly notified.

The Rule was issued on 10-3-2000 which was returnable within 8 weeks. The learned C.A.S.C. accepted notices on behalf of the respondent No. 1 to 3. But no office note regarding the communicate of Hon'ble Court order.

However, An affidavit-in-opposition & Affidavit-in-Reply has been filed.

This case is in the order

Stage.

held for the favour of orders.

1.2.2002.

28/12/02

Vakalat nama filed by Mr M. Bat, and Mr R. Deka for the Petitioner.

04-2-2002

BEFORE
THE HON'BLE Mr JUSTICE P.G. Agarwal.


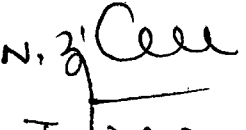
List the matter for hearing in the month of April, 2002.

JUDGE

ms
9-1-02

④

WPC) 708 (40) 201

Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signatures
			<p>BEFORE THE HON'BLE Mr JUSTICE P. K. Sarkar</p> <p>2 $\frac{4}{202}$ As Prayed for by Mrs. J. Chai, Id. Counsel for the Petitioners, list this matter in the month of May, 2002.</p> <p> JUDGE</p>
			<p>BEFORE The Hon'ble Mr. Justice N. S. SINGH</p> <p>28-5-2002</p> <p>List this matter after Summer vacation.</p> <p> JUDGE.</p>

1) Job listed in May/02.

After Summer Vacation

⑤

a

Noting by officer
or Advocate

Date

Office notes, reports, orders
or proceedings with
signature

THE HON'BLE JUDGE S.K. KAR

01-8-2002

Mr. R.L. Yadav, learned
Counsel prays for time to
list the matter in the 3rd
week of Aug, 2002 in which,
the learned Addl. Sr. AA has
no objection.

Prayer is allowed.


List the matter in the
3rd week of Aug, 2002

Judge.

To be listed in 3rd week of
Aug/02 (27/8)
27/8

Noting by officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
		20/01/2003	<p>BEFORE THE HON'BLE MR. JUSTICE S.K. KAR.</p> <p>On the request made by Mr. K. Deha, learned Counsel for the petitioner, the matter is directed to be listed in the next Bench in which the learned Addl. GA has no objection.</p> <p style="text-align: right;">JUDGE</p> <p>S.C.</p>
		21/02/03	<p>BEFORE HON'BLE THE CHIEF JUSTICE MR. P. NAWNEKAR</p> <p>Left over.</p> <p style="text-align: right;">By order</p> <p>S.C.</p>
		18/2/03	<p>BEFORE THE HON'BLE Mr JUSTICE A. Roy.</p> <p>L.O.</p> <p>B.O.</p> <p style="text-align: center;">B</p>

To be listed for hearing in Next Bench.

Noting by Officers or Advocate	Sl.No.	Dated	Office notes, reports, orders proceedings with signature.
1	2	3	4
			<p style="text-align: center;"><u>WP(C) 708(AP) 2001</u></p> <p style="text-align: center;"><u>BEFORE</u></p> <p style="text-align: center;">THE HON'BLE MR. JUSTICE B. LAMARE.</p> <p><u>15.10.2004</u></p> <p>Heard Mr. M. Bat, learned counsel for the petitioner and Mr. M. Pertin, learned CGSC, appearing on behalf of the Union of India/Respondents.</p> <p>The subject matter of this Writ Petition is with regard to the service in SSB, which is a central service. Since the matter relates to the Union of India, the appropriate forum to deal with this matter is Central Administrative Tribunal.</p> <p>Let this petition be transferred to the Central Administrative Tribunal at Guwahati Bench immediately.</p> <p>The Registry shall keep a photocopy of the petition and transfer the original petition to the Central Administrative Tribunal immediately.</p> <p style="text-align: right;"> JUDGE</p> <p>sd</p>

To be transferred to
CAT after retaining
copy of the original
petition in this Registry.
18/10

57. 1111 1111

office notes, reports, orders proceedings with signature.

1

2

3

4.

13

DISTRICT : PAPUMPARE (ARUNACHAL PRADESH)

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA,
MANIPUR, TRIPURA, MIZORAM, & ARUNACHAL PRADESH)

(Civil Extra Ordinary Jurisdiction)

CATEGORY : Other Civil Rules.

CODE : 10080

BENCH : A

WPC) 708 (AP) 2507

Writ Petition (C) No. 1183 / 2000.

Sama Bagang

.. Petitioner.

- Vs -

Union of India & Ors.

... Respondents.

I N D E X

<u>SL. NO.</u>	<u>PARTICULARS.</u>	<u>PAGE NOS.</u>
1.	Writ petition	1 to 13
2.	Affidavit	14
3.	Annexure-A	15
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5.	Annexure-C	17
6.	Annexure- D	18
7.	Annexure -E	19
8.	Annexure -F	20 - 21
9.	Annexure-G	22.



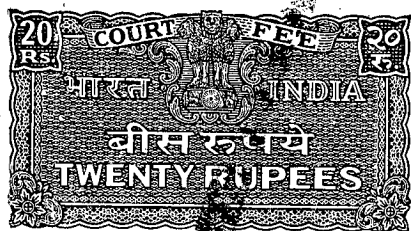
Filed by :

Mitrabaran Karaki

(M. KATAKI)

Advocate.

08.03.2000



14

Filed by:

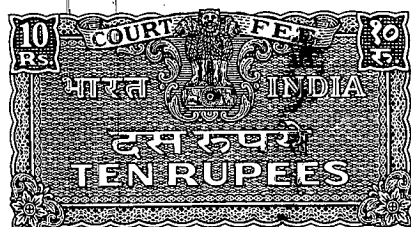
Mitrabaran Ketaki
Advocate

08-03-2000

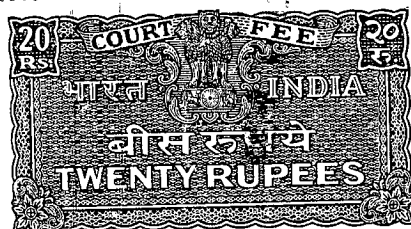
DISTRICT : PAPUM PARE (ARUNACHAL PRADESH)

IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM, MEGHALAYA, NAGALAND,
MANIPUR, MIZORAM, TRIPURA, & ARUNACHAL PRADESH)



(Civil Extra Ordinary Jurisdiction)



CATEGORY : OTHER CIVIL RULES.

CODE : 10080

BENCH : A

WP (C) 708 (AP) 2000

Writ Petition (C) No. 1183 / 2000.

To,

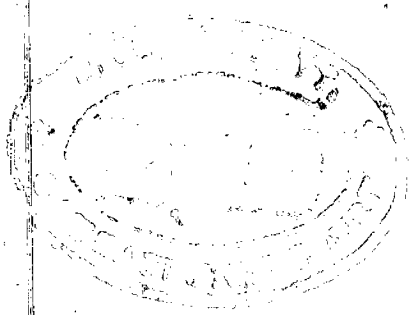
The Hon'ble Shri. Brijesh Kumar, B.A., LL.B.,
the Chief Justice of the Gauhati High Court
and his Lordship's other companion Justices
of the said Hon'ble Court.

IN THE MATTER OF :

An application under Article 226
of the Constitution of India
for issue of a Writ or Direction
in the matter of Mandamus and/or
Certiorari or any other appro-
priate Writ or Order or
direction.

- AND -

Contd...



Signature of Advocate
Mitrabaran Ketaki
Advocate

IN THE MATTER OF :

For enforcement of the petitioner's Constitutional and fundamental rights, guaranteed under Constitution of India and any other legal rights.

- AND -

IN THE MATTER OF :

Violation of the Principles of Natural Justice.

- AND -

IN THE MATTER OF :

An application dated 17.4.96 filed by the petitioner for resignation from service.

- AND -

IN THE MATTER OF :

Letter from the Commandant, Group Centre, SSB Dirang dtd. 30.4.96 directing the petitioner to join his duty for resignation from his service with regard to the application of the petitioner for resignation from his service.

- AND -

Contd...

16
3

IN THE MATTER OF :

An Order dtd. 12.7.96 issued by the Coy. Commander, GCB, SSB, B, Company, Itanagar, releasing the petitioner from his service with effect from 17.7.96.

- AND -

IN THE MATTER OF :

An appeal dtd. 8.11.99 filed by the petitioner for reinstatement in his service.

- AND -

IN THE MATTER OF :

An Order dated 23.12.99 passed by the Commandant GC SSB, Dirang, Arunachal Pradesh.

- AND -

IN THE MATTER OF :

Samā Bagang,
resident of Cheyang Tajo,
Vill. Laching Bagang, P.O. & P.S.
Cheyang Tajo, Dist. East Kameng,
presently residing at Itanagar,
Dist. Papumpare, Arunachal
Pradesh.

... Petitioner.

- Versus -

Contd...

Noted by
[Signature]
[Name]
[Designation]

17
¶ 4 ¶

- 1) Union of India
represented by the Secretary,
Ministry of Home Affairs,
New Delhi.
- 2) The Commandant,
Group Centre, SSB, Dirang,
P.O. Dirang, Dist. West Kameng.
Arunachal Pradesh.
- 3) The Divisional Officer,
SSB, Arunachal Pradesh Division
Kathing Hill, Itanagar,
Dist. Papumpare, Arunachal Pradesh.

.... Respondents.

The humble petitioner named
above.

MOST RESPECTFULLY SHEWETH :

1. That, your humble petitioner is
a citizen of India by birth and is a
permanent resident of Cheyang Tajo,
Village-Laching Bagang, P.O. & P.S. Cheyang
Tajo, Dist. East Kameng, in the state of
Arunachal Pradesh. The petitioner is
presently residing at Itanagar, Dist.
Papumpare in the state of Arunachal Pradesh.
The petitioner is an Arunachali.

2. That the petitioner was appointed
as a constable on 19.3.80 by the respondent
No.2, and he was posted at B. Company,
Dirang. After such appointment, the petitioner

was.....

was posted at B. Company, Dirang. After such appointment, the petitioner was posted at different places and in the month of March, 1989, the petitioner was promoted from the post of constable to lance Naik and again in the month of March, 1991, he was promoted from the post of lance Naik to Naik. Your humble petitioner was serving in B. Company at Itanagar, from January, 1990 to July, 1996.

3. That, in the month of June, 1996, the petitioner was working as Naik at B. Company Itanagar, and he was drawing a salary of Rs. 3875.00 per month.

4. That in the year, 1996, the petitioner was facing from severe domestic problems and he was suffering from several ailments. As the petitioner could not punctually continue his services, he decided to resign from his service and accordingly by an application dated 17.4.96 addressed to the respondent No. 2, he submitted his resignation. When the petitioner approached his Officer-In-Charge, his Officer-In-Charge asked him to think over the matter of his resignation from service again and asked him to submit the resignation in proper format accordingly to Rules. The petitioner immediately thereafter by another letter requested his officer-in-charge to keep the application of resignation in abeyance for two months till 19.6.96. The said letter was dictated by the officer himself.

A copy of the resignation letter is enclosed herewith and marked as ANNEXURE -A.

Contd...

5. That although the petitioner filed his resignation application and subsequently he filed another application for keeping the resignation application, ~~the~~ ~~pe~~ in obedience, The petitioner did not submit any fresh application of resignation in proper format as directed and he changed his mind. The Company Commander forwarded the application for resignation of the petitioner to the respondent No.2, for taking necessary action intimating him that the petitioner was on leave with effect from 4.3.97.

6. That, the respondent No.2, by a letter No.GCD/SSB/ESH/PE-41707/SB/96/4431-32 dtd.30.4.96 addressed to the petitioner intimated him that he has received the application of the petitioner seeking resignation from service with immediate effect. The respondent No.2, intimated the petitioner that for relinquishment from service the petitioner must join in his service giving three months notice as per existing rules and procedures applicable to all Govt. servants. The respondent No.2, further stated the petitioner that his presence is required for getting clearance from all concerned branches for accepting his ~~si~~ resignation and as such, the petitioner is directed to resume his duties at the earliest to fulfil all the norms.

A copy of the said letter is enclosed herewith and marked as ANNEXURE +B.

Contd...

[Handwritten signature]
 Charan Singh Chauhan
 Member

7. That, before acceptance of the resignation letter, the petitioner submitted another application immediately through proper channel to the respondent No.2, to let him withdraw his resignation letter seeking time for another two months whether to give assent to his earlier resignation or not.

8. That the Company Commander by his letter dated.12.7.96 vide letter No.GCD/SSB/ESH/B-25/96/937-938 stated that the respondent No.2, has accepted the petitioners unconditional resignation from service with effect from 17.7.96. By the said letter, it was further intimated that the period of unauthorised absence of the petitioner with effect from 4.3.96 has been regularised by granting 86 days H.P.L and 23 days E.C.I by the respondent No.2, and the petitioner was directed to resume duties immediately for proceeding on voluntary discharge after obtaining clearance from all corners. The C/L sanctioned by the authority has been cancelled.

A copy of the said letter is enclosed herewith and marked as ANNEXURE-C.

9. That, thereafter, the Company Commander by another letter dated 15.7.96 issued a No Demand certificate.

A copy of the said No.Demand certificate is enclosed herewith and marked as ANNEXURE -D.

Contd...

10. That, after receipt of the aforesaid letter from his Company Commander, the petitioner was suffering from serious illness and he was hospitalised in Rama Krishna Mission Hospital, Itanagar, and his ailment continued for the last 3 years. On or about October, 1999, when the petitioner recovered from his illness and when the Doctor allowed him to rejoin his duties the petitioner went to the office of his employer and requested the respondent No.2, to consider the withdrawal of his resignation letter. The respondent No.2, expressed his inability to reopen the matter and as his resignation was already accepted in July, 1996.

A copy of the medical certificate dated 14.10.99 is enclosed herewith and marked as ANNEXURE-E.

11. That, thereafter, the petitioner consulted his lawyer at Itanagar who advised him to file an appeal before the authorities concerned for reinstatement in service. The petitioner in his appeal stated the entire facts that although he filed an application for allowing him to resign from his service under respondent No.2, immediately thereafter, he submitted another application for withdrawal of his application for resignation. The authorities concerned considered his earlier applications and asked the petitioner to join his duty first and then to give 3 months notice as per existing rules and procedures....

and procedures for resigning from service; the petitioner was under the impression that the subsequent application for withdrawal will be considered as he had not submitted any application in proper format for resignation, that the petitioner has not submitted any resignation letter in proper format under the law and as such on the face of withdrawal of resignation letter, the application for resignation ought not to have been considered. So the petitioner prayed to consider the appeal and to review the Order of termination.

A copy of the said appeal petition is enclosed herewith and marked as ANNEXURE - F.

12. That, the respondent No.2, by his Order dated 23.12.99 rejected the appeal of the petitioner on the ground that it is barred by limitation and intimated that no action can be taken at this belated stage. The Order was communicated to the petitioner vide Memo No. GCD/SSB/Estt./SB/SB/99/18178-79 dated. 23.12.99 of the respondent No.2.

A copy of the said Order is enclosed herewith and marked as ANNEXURE - G.

Contd...

2009-10-10 10:10:10

13. That, the petitioner states that due to the serious illness, the petitioner was not in a position to attend his duties and due to his family problems, the petitioner decided to resign from his service. The petitioner was working in a disciplined service and as the petitioner could not maintain his regularity in service he submitted his resignation to his higher authority. The officer-in-charge appreciating the conditions and the circumstances for which the petitioner had decided to resign, advised him to rethink over the matter. The officer-in-charge further states that although he was keeping the application for resignation, but the application could not be considered as the same was not in proper format according to the Rules. He further intimated the petitioner that if the petitioner again decided to submit his resignation from service, then he may file his resignation ~~from~~ only in proper format. The petitioner immediately wrote another application as dictated by his officer-in-charge to keep his resignation application in obedience.

14. That thereafter, instead of filing any resignation in proper format, the petitioner submitted another application for withdrawal of his resignation letter filed earlier.

15. That the petitioner respectfully, submits that the Company Commander without

considering...

considering the application of the petitioner for keeping his resignation application in abeyance, sent the resignation application for necessary action by the respondent No.2. The respondent No.2 by his letter dated 30.4.96 directed the petitioner to join his duties and to file resignation application giving three months notice as per Rules and Procedures. The petitioner thereafter, joined in his service with the intention to work as he was under the impression that his application for withdrawal of the resignation letter would be considered.

16. That the petitioner respectfully, submits that the respondent No.2, did not consider the application of the petitioner for withdrawal of his application of resignation but considered the application for resignation only which was not in proper format and not in accordance to Rules. In view of such a position, the Order of accepting the resignation of the petitioner which was not in accordance to Rules is bad in law and the respondents ought not to have accepted the resignation letter of the petitioner.

17. That the petitioner respectfully submits that although he filed the application for resignation, but later on, on the advice of his superior he decided not to resign from his service and he filed another application for withdrawal of his service resignation application. The employer of the petitioner considered his resignation application but failed to consider the subsequent application.

Contd...

18. That the petitioner respectfully submits that after receiving the letter of his discharge, he was seriously ill and as such, could not file any appeal in time and ~~time~~ immediately after his recovery from illness he filed an appeal..The appeal was not considered as being time barred.

19. That the petitioner respectfully submits that justice and equity demands consideration of the application for withdrawl of the resignation letter filed by the petitioner. The respondents did not consider this application although the same was filed immediately after filing of his resignation letter. As such, the discharge of the petitioner from his service is not warranted.

20. That the petitioner respectfully submits that on the date of discharge, the petitioner was aged about ²⁸~~23~~ years only and more than 20 years of service was left for retitement. As the petitioner was a disciplined employee, due to his family problems and physical unfitness filed his resignation application but ~~the~~ subsequently withdraw his resignation application. In view of such a position, the Order of discharge of the petitioner is illness and violative of the principles of Natural Justice and hence liable to be set aside.

21. That the petitioner demanded justice and the same was denied to him.

Contd...

13

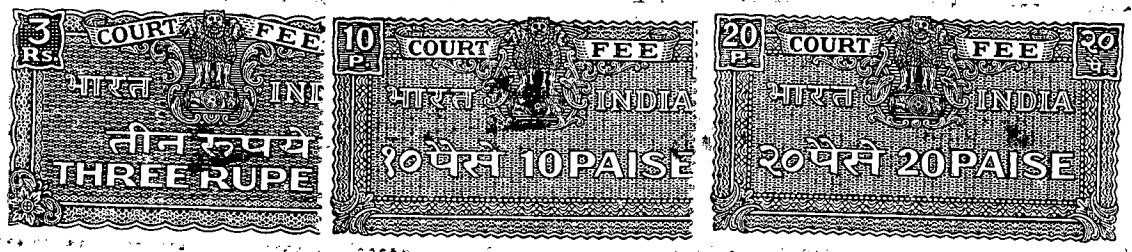
22. That the petitioner has no other alternative and efficacious remedy and the remedy sought for is just and proper.

23. That the petition is filed bonafide and for the ends of justice.

Under the circumstance it is most respectfully prayed that Your Lordships may be pleased to issue a Rule calling upon the respondents to show cause as to why the Order dtd. 12.7.96 issued by the Coy. Commander, GCB, SSB, B. Company, Itanagar, releasing the petitioner from service with effect from 17.7.96 (Annexure-C) shall not be set aside, ~~any other Order or Orders as Your~~ and after hearing the causes that may be shown the Rule may be made absolute and/or pass any other Order or Orders as Your Lordships may deem fit and proper shall ~~not~~ be passed in the facts and circumstances of the case.

And for this the petitioner as in duty bound shall ever pray.

Contd...



14

A F F I D A V I T

I, Sama Bagang, son of Sri. Taje, aged about 42 years, resident of village-Laching Bagang, P.O. & P.S. Cheyang Tajo, in the district of East Kameng and presently residing at Itanagar in the district of Papumpare in the state of Arunachal Pradesh do hereby solemnly affirm and state as follows :-

1. That, I am the petitioner of this case. As such I am well acquainted with the facts and circumstances of the case.

2. That the statements made in paras 1 to 5, 7, 10 to 12 are true to my knowledge; those made in paras 6, 8, 9, are true to my information derived from records and the rest are my humble submissions before this Hon'ble Court.

The contents of paras 1 and 2 of this affidavit are true to my knowledge and I sign this affidavit today the 9th day of March, 2000.

Identified by me :

Bhupen Sarma
9/3/2000.
Advocate's Clerk.

Sama Bagang.
DEPONENT

9th March/2000
B. Sarma
x/c
29/3/2000
Court Clerk

Copy

To.

The Commandant,
GC (SSB) Dirang
Through proper channel

Dated the 17th April '96.

Subject : -Request for resignation from Service.
Sir,

With due respectfully to state that some of unavoidable domestic problem to maintain my family in the society stand with me in the political, economical ground, I unable to do my service continuously in the SSB Organisation.

It is therefore, I am submitting my resignation from service wilfully, which may kindly be granted at the earliest please.

I shall be remained ever greatfull for your kind of act, Sir.

Yours faithfully

sd/-14/4

(JAMA BAGANG)
B/No.8041707 Rank-NK
SSB B Coy, Itanagar

All annexures are certified to be true copies.

M. Karahi
Advocate
08.03.2000

16/29

ANNEXURE - B

Copy

Reqd. with A/D
NO.GCD/SSB/ESTT/PF-41707(SB)/96/4431A
Directorate General of Security -32
Office of the Commandant,
Group Centre SSB Dirang,
Post: Dirang, Via: Bomdila,
Dist:-West Kamang (A.P)

Dated. 30/4/96.

MEMORANDUM

Sub :- RESIGNATION FROM SERVICE

Application dated 17.4.96 received through CC 'B' Coy letter No.GCD/SSB/ESTT/B-25/96/540 dated.18.4.96 submitted by you seeking resignation from service with immediate effect i.e. from the date of wilful absent from leave has been considered, but you must join duty to get relinquish from the service giving 3 months notice as existing Rules and procedure applicable for all Govt. Servant.

More-over, your presence is required for to get clearance from all concerned/branches. You are therefore, directed to resume duty at the earliest to ful-fill all the norms.

/
Commandant
Group Centre SSB Dirang

To.

No. 41707 NK(GD)
Sama Bagang
(Through CC 'B' Coy)

Copy to :-

CC 'B' Coy :-w.r.t. this letter No.GCD/SSB/ESTT, B-25/96/540 dated 18.4.96 for information.

Sd/-29/4
Commandant
Group Centre SSB Dirang.

Copy.

IMMEDIATE

NO.GCD/SSB/ESTT/B-25/96/937-38
Directorate General of Security
Office of the Company Commander
GCD SSB B Coy, Itanagar (A.P)

Dated the 12.7.96

" MEMORANDUM "

NK/GD Sama Bagang may please to his application dated 17.7.96 submitting therein the resignation from service on unavoidable domestic ground.

Your application in original was forwarded to Commandant, GC (SSB) Dirang vide this Office letter No.GCD/SSB/ESTT/B-25/96/540 dated 18.4.96 for further consideration.

Commandant, GC (SSB) Dirang has accepted your unconditional prayer for resignation from service wef. 17.7.96 (FN) as intimated vide GC Hqr, W.T. Signal No. 6358 dated 11.7.96.

It is further intimated that your period of un-authorized absence from leave/duties wef. 4.3.96 FN has been regularised by granting 86 days HPL and 23 days E.C.L. by Comdt. GC (SSB) Dirang as intimated vide above mentioned W.T. Signal.

You are therefore, directed to rejoin duties immediately for proceeding on voluntary discharge after obtaining clearance from all corners.

Your 8 days C/L sanctioned by the undersigned wef. 11.7.96 AN to 22.7.96 AN has been hereby cancelled.

Sd/-

To.

(N. C. SHARMA)

Coy Commander

No.8041707 NK/GD
Sama Bagang-Ita,

GCD SSB B Coy, Itanagar.

Copy to :-

The Commandant, GC (SSB) Dirang-for favour of kind information please. NK/GD Sama Bagang is on 8 days C/L wef. 11.7.96 FN to 22.7.96 AN on domestic ground. He has been asked to report on duties immediately for proceeding on voluntary discharge wef. 17.7.96 (FN). On rejoining duties the NCU will be sent to GC Hqrs for obtaining clearance from all sides.

Sd/-

(N. C. SHARMA)

Coy Commander

GCD SSB B Coy, Itanagar

ANNEXURE - D M. G. D/843/ESD/B-25/96/953
NO DEMAND CERTIFICATE Dated:- 15/7/96

discharged from service. Vide GC.HQ Sig. NO. 8558
12-7-96 He has been cleared all the dues from the
 following heads :- *same Tel 96*

- - Group
- - 14796
- - All Govt. KIF with individual, for /
- - ATTORNEY OR BELONG TO G.O. HRS (P.G.) 14796
- - [Signature]
- - 14796

E.L.

C.L.

1. Date of enrolment :- 13-3-80
2. Date of Birth :- 30-4-61
3. Blood Group :- 'A'
4. Education Qualification :- DEAF. And class passed.
5. Courses done :- (1) BASIC (2) INT (3) J.P.C. (4) UAC
6. Identity Card No. :- 05740
7. Caste :- Bumong.
8. Home address :- Village Luching Bagong
P.O. Chayung Pajo
P/S Sehpa
District East Khamti
9. NOK Address :- Smt. Sanyo Bagong
10. GPF No. :- XYJ-1762

To, The Commandant,
GC (SM) Dirang.

7/5/7196

Itanagar - 791 113
Arunachal Pradesh



No. : 10097

Date : 14.10.99

Annexure E

19

32

Certified that Shri/Smt

S. Dordum (Bagang)

of

OPD Reg/MRD No. 52500/99 who signs as

is/was under treatment of this Hospital as Out-Patient from 22.7.96 to 21.11.96 -

and/In-Patient from to for treatment of kidney

main active: electron off/on in d/c of Koch's

He/She was discharge from the hospital on

He/She has been examined in the out-door last on 14.10.98

and found fit/~~not~~ fit to join duty, with the advice to :- normal duty

(a) continue treatment prescribed and

(b) take rest for 1 days.

Countersigned

~~Secretary/Assistant Secretary~~

[Handwritten signature]
1
EDWIN TAN
Registrar
Nancod 791113

To,

The Divisional Organiser,
S.S.B, Arunachal Pradesh Division,
Kathing Hill, Itanagar.

Dated 8th November '99.

Sub: Re-instatement in Service.

Sir,

Respectfully begs to state that due to some sudden developed of problems in regard to me and my family I happened to submit resignation letter to the Commandant, G.C, SSB, Dirang through proper channel on the date 17-4-96 from my then posting as NKO/SSB "B" Coy Itanagar.

That my application on being received by my Controlling Officer concerned advised me to think over the matter on one hand and told me that the application though will be forwarded but the Head Office shall not consider it for not being in proper format and rules.

That before acceptance of my resignation letter I submitted an another application immediately through proper channel to the Commandant, G.C, SSB, Dirang to let me withdraw my resignation letter and seek time for one two months whether to assent my earlier resignation or not.

That after submission of my resignation letter of the date 17-4-96 and subsequent withdrawal letter to, I was intimated by the Commandant Group Centre, SSB Dirang vide letter dated 30-4-96 that I must join the duty first and then to give 3 (three) months notices as per existing rules and procedures.

That self being on the presumption that in view of subsequent submission of the withdrawal letter as aforesaid though my authority concerned make subsequent correspondent with me to the fact of regularising my 86 days Half pay leave, 23 days Extra Ordinary Leave and directing me to rejoin my duty

Contd...2...

immediately for proceeding voluntary discharge after obtaining clearance from all concerned, my authority has not taken note of my resignation withdrawal letter which I happened to submit immediately after submission of my resignation letter.

That self being a Personnel of discipline Force and for remaining all along duty bound to Senior and also for being under presumption that after submission of the resignation letter the same cannot be withdrawn I keep silent.

That the service which I resumed duty as per direction and for resignation I have not submitted 3(three) months notice as was directed to me vide Memorandum NO.GC/SSB/ESTT/PF-41707(SB)/96/4431 dated 30-4-96 my resignation ought not to have considered in view of above infirmities and my withdrawal resignation.

That consequent upon my resignation letter I have been given movement order by my Company Commander on the date 15-7-96 and bring to an end of my service career even on the face of my withdrawal resignation right in time. That for self being under medical treatment w.e.f. 22-7-96 till date due to suffering from backache pain, etc I was not in a position to submit an appeal before your good self nor was aware as to my Constitutional protection to keep alive my Fundamental right for the purpose of keeping alive my service.

That acceptance of my resignation letter in an unconstitutional way on the facts and circumstances aforesaid become a Gross violation of my Fundamental right in the matter of giving me opportunity to allow me remaining/continuing in service.

Therefore it is prayed that your good self be kind enough to look into my appeal, to call for the records and after perusal of the same to set aside the order of termination at an early date.

Submitted for your kind perusal and necessary action please.

Yours Faithfully

(Sama Bagang)

NO.8041707 Rank-NK
SSB "B" Coy, Itanagar.

.....

GCD/SSB/ESTT/SB-SB/99/18178-79
Office of the Commandant,
Group Centre (SSB) Dirang,
P.O. Dirang, West Kameng,
Arunachal Pradesh.

MEMORANDUMDated the 23rd Dec 99.

With reference to your application dated 8.11.99 addressed to the D.O. AP Itanagar and copy to Commandant GC SSB Dirang regarding reconsideration of your resignation from service, it is intimated to you that your application/appeal has become time barred and no action can be taken at this belated stage. as per CCS CCA Rules 26 & Swamy's Hand Book 1999 Section 19 P-253.

To

Shri Sama Bagang,
S/O Shri Taje,
Vill. Laching,
P.O. Cheyangtajo,
Via Seppa, Dist. East Kameng,
Arunachal Pradesh.

COMMANDANT
GC SSB DRG

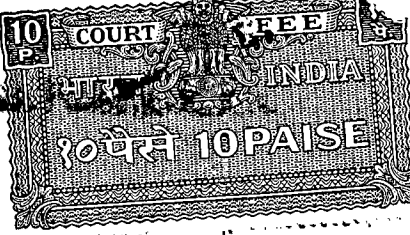
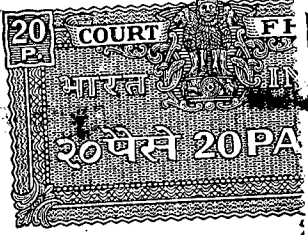
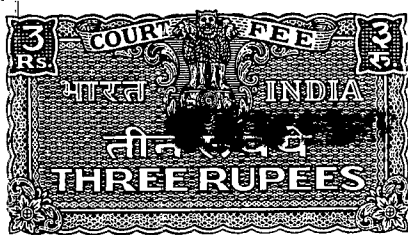
Copy to:

The Area Organiser(s), : For information wrt Div
O/O the Divl Organiser(SSB), HQ memo ending No. 216
A.P. Divn, Itanagar dtd 16.11.99.

COMMANDANT
GROUP CENTRE SSB DIRANG

td/3

Received
on 29/11/2000
S. J. J.



Filed by
Dy. Insp. Genl.
Advocate
19/6/2000



DISTRICT - PAPUMPARE

IN THE GUWAHATI HIGH COURT

(The High Court of Assam, Nagaland, Meghalaya,
Manipur, Mizoram, Tripura and Arunachal Pradesh)

Civil Extra-ordinary Jurisdiction
WP(C) 708 (AP) 2000
W.P.(C) No.1183/2000

In the matter of

Sri Sama Bagang

... Petitioner

-VS-

Union of India & others

... Respondent

--AND--

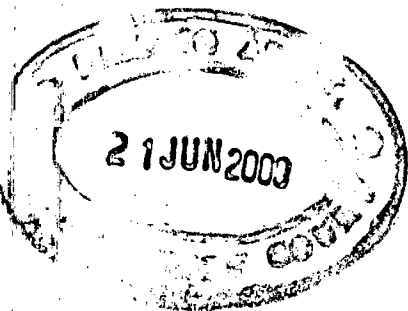
In the matter of

An affidavit in opposition filed
on behalf of the respondents No.
1 to 3 in W.P.(C) No.1183/2000.

AFFIDAVIT IN OPPOSITION

I Sri Santosh Kumar Chakrabarti,
S/o Dr.Ashutosh Chakrabarti aged about 59 years,
resident of New Delhi by profession service, do
hereby solemnly declare on oath and affirm as
follows -

Contd..P/2



8149/61

Dy. Inspector General
SSB/A.P. Division
Itanagar

27/6/2000
District Magistrate, Papumpare
Itanagar (A.P.)

37



That I am the Deputy Inspector General of A.P. Division and being the Deputy Inspector General I am competent and authorised to swear this affidavit before this Hon'ble Court.

That a copy of the writ petition was handed over to me by the Counsel and I have gone through the same and understood the contents thereof. That being the Deputy Inspector General I am conversant with the facts and circumstances of the case. That I denied all the avernment made in the writ petition save and except those specifically admitted are given below:-

2) That with regards to the avernment made in paragraphs 1 of the writ petition the deponent begs to offer no comments as the same are the factual portion of the case record. However, it is submitted that the writ petitioner was appointed in SSB, Dirang on 19/3/1980 and voluntarily resigned from the service on 17.7.1996. At the time of resignation he was in the rank of Naik (General duty).

3) That with regards to the avernment made in paragraphs 2 of the writ petition the deponent begs to offer no comments as the same are factual portion of the case.

4) That with regards to the avernment made in paragraphs 4 and 5 of the writ petition the deponent has emphatically denied the avernment made in these

[Signature]
Deputy Inspector General
SSB/A.P. Division
Itanagar

[Signature]
07/6/2000
Magistrate 1st Class
Public Peace
Itanagar

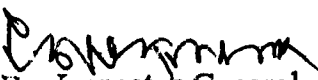
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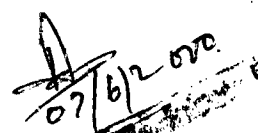
paragraphs save and except to the extent of the records and begs to submit that the writ petitioner has submitted his resignation from service at his own volition on 17.4.1996. It is false and fabricated that the resignation of the writ petitioner was kept in abeyance till 19.6.1996. It is fact that the writ petitioner never turned up to his duties after submitting the resignation. The deponent is ready to produce the record of the case at the time of hearing before this Hon'ble Court.

The deponent further begs to submit that since the writ petitioner did not join his duties the Company Commander forwarded the application of the writ petitioner for necessary action.

5) That with regards to the avernment made in paragraph 6 of the writ petition the deponent denies the same and begs to submit that since the writ petitioner did not join the duty, which was issued to him asking him to rejoin duty immediately. It is submitted that the writ petitioner was on leave with effect from 7.2.1996 to 3.3.1996 and continued to remain absent with effect from 4.3.1996 and he voluntarily submitted his resignation. It is made clear that the writ petitioner was asked to rejoin his duty and also directed to obtain the clearance from all concerned branches but the writ petitioner did not care for it.

Contd..P/4


Dy. Inspector General
SSB/A.P. Division
Itanagar


07/6/2000
M. K. Kulkarni
B. K. Kulkarni
M. K. Kulkarni

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6) That with regards to the avernments made in paragraph 7 of the writ petition the deponent denies the same as incorrect and begs to s-ubmit that there is no record available in the office that the writ petitioner has withdrawn his resignation as averred by the writ petitioner in the aforesaid paragraphs. It is submitted that the office of the responuent has not received any such application to withdraw resignation of the writ petitioner.

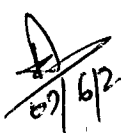
7) That with regards to the avernments made in paragraphs 8 and 9 of the writ petition the deponent has emphatically denied the correctness of the avernment made in the paragraphs 8 and 9 of the writ petition to the extent of record and begs to submit that the resignation of the writ petitioner has been accepted by the Commandant on 17.7.1996 and the same was intimated to the writ petitioner vide letter dated 12.7.1996 being letter No.GCD/SSB/ESTT/B-25/96/937-938 and it is made clear that the unauthorised absence of the writ petitioner with effect from 4.3.1996 has been regularised by granting leave. The deponent is ready to produce the relevant service recofds of the writ petitioner before this Hon'ble Court at the time of hearing.

8) That with regards to the avernments made in paragraph 10 of the writ petition the deponent has denied the same and begs to submit that the avernment of the writ petitioner is totally false and



to submit that the writ petitioner was suffering from illness and he was hospitalised at Ramakrishna Mission Hospital as averred by the writ petitioner. It is to be mentioned that had the writ petitioner been seriously ill he would have been admitted there but the medical report shows that the writ petitioner was an out-patient with effect from 22.7.1996 whereas he was discharged from service as per his resignation on 17.7.1996. It is crystal clear that if the writ petitioner was willing to continue in service at that time as soon as he received the discharge order he should have approached the office of the Commandant either personally or through letter which he never did for last three years till 8.11.1999 nor the writ petitioner ever tried to inform this office of the deponent about his treatment for a long period. However, the writ petitioner has forwarded one letter dated 8.11.1999 addressing the Divisional Organiser for re-instatment in service. The deponent begs to make it clear that from the source available to the deponent the writ petitioner was actively involved in Contract works/business during the above period of three years and the writ petitioner was duly informed by the deponent that it is not possible on the part of the deponent to re-instat him in service as the application of the writ petitioner has been received on 8.11.1999. It was too late on the part of the writ petitioner to approach the authority for in-instatment in service. The deponent is ready to produce the relevant records of the case before this Hon'ble court at the time of hearing.


Dy. Inspector General
SSB/A.P. Division
Itanagar


27/6/2000
Dy. Inspector General
SSB/A.P. Division
Itanagar



That with regards to the avernments made in paragraphs 11 and 12 of the writ petition the deponent has emphatically denied the correctness of the same save and except to the extent of the records available in the office and begs to submit that the deponent has never received any application from the writ petitioner with regard to the withdrawal of the resignation letter. It is contended that the resignation letter of the writ petitioner was accepted in terms and accordance with the rules and instructions on this issue. It is further submitted that after receiving the application of the resignation from the writ petitioner, the officer in Charge of the deponent has advised the writ petitioner to think over it and urged him to submit the resignation in prescribed format and rules. The deponent is ready to produce the records of the case before this Hon'ble Court at the time of hearing.

[Signature]
Dy. Inspector General
SSB/A.P. Division
Itanagar

10) That with regards to the avernments made in the paragraphs 13 and 14 of the writ the deponent has denied the same and begs to submit that the allegation and avernments made in these paragraphs are false as the deponent has never received any application from the writ petitioner regarding withdrawal of the resignation of the writ petitioner and the deponent is ready to produce the relevant records in this regard before this Hon'ble Court at the time of hearing.

[Signature]
07/6/2008
Hon'ble Magistrate, Itanagar
Dy. Inspector General
SSB/A.P. Division
Itanagar




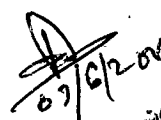
That with regards to the avernments made in paragraph 15 of the writ petition the deponent denies thesame that the writ petitioner was given a movement order by the Company Commander 'B' Coy on 15.7.1996 to report the Commandant, GC SSB, Dirang for proceeding on voluntary resignation but the writ petitioner did not report at GC Dirang and remained absent from duty. The deponent is ready to produce the records before this Hon'ble Court at the time of hearing.

12) That with tegards to the avernments made in paragraphs 16 and 17 of the writ petition the deponent has denied the same as the same are false and fabricated. The writ petitioner has averred such statement to mislead this Hon'ble Court.

13) That with regards to the avernments made in paragraph 18 of the writ petition the deponent begs to submit that the writ petitioner has submitted his appeal dated 8/11/1999 which has become time-barred and cannot be considered as per rules followed by the organisation. Hence the appeal of the writ petitioner was rejected under the rules followed by the Department.

14) That with regards to the avernments made in paragraph 19 of the writ petition the deponent denies the same and there is no question of equity as the writ petitioner has voluntarily submitted his resignation at his own volition and made some false avernments before this Hon'ble Court. Hence the petition of the writ petitioner is liable to be dismissed.


Dy. Inspector General
SSB/A.P. Division
Itanagar


07/02/2000
Regional Registrar
Bd. No. 1200
Bd. No. 1200

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15) That with regards to the avernments made in paragraphs 20 to 23 of the writ petition the deponent denies the same and begs to submit that it is clear from the service reconfds of the writ petitioner that he is unwilling to continue in service and has taken up some other avocation voluntarily and thereby he submitted his resignation. However, he continued to avail the leave and he remained absence which was regularised a s leave in kind EOL. The authority has taken a very lenient view with regard to the writ petitioner but the writ petitioner showed his reluctance to continue in service and lastly he voluntarily applied resignation from service and when he failed other avocation which was in his mind, he came before the authority fo r reinstatment after a period of more than three years which cannot be admissible under the rules of a disciplined force. The deponent is ready to produce the relevant records of the writ petitioner's case before this Hon'ble Court at the time of hearing.

16) That the statement made in the foregoing paragraphs of the Affidavit in paragraph 1,6, 8, 12, 14 & 15 are true to my knowledge and those made in paragraph 2,4,5,7,9,10,11 & 13 are matters of records available before this Hon'ble Court.

And accordingly I sign this Affidavit on this 21st day of June, 2000 at Itanagar.

[Signature]
Dy. Inspector General
SSB/A. P. Division
Itanagar

Sworn in my presence of this day
7th of June 2000

Identified by me
[Signature]
Arunachal Pradesh District
Itanagar-791111

[Signature]
(IST) JUDGE
Din. P. J. (A. P.)
MAGISTRATE

Petition Filed by
Mudang Bat.
Advocate
28-11-2001

DISTRICT :: PAPUM PARE

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM :: NAGALAND :: MEGHALAYA ::
MIZORAM :: MANIPUR :: TRIPURA & ARUNACHAL PRADESH)
(ITANAGAR PERMANENT BENCH)

WRIT PETITION (C) NO. 708 (AP) / 2001.

WRIT PETITION (C) NO. 1183 / 2000 (PS).

IN THE MATTER OF :

Sri Sama Bagang ... Petitioner

- VRS -

The Union of India
and others ... Respondents.

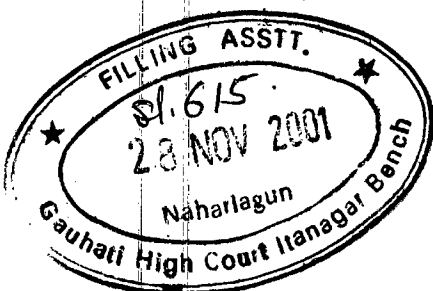
- AND -

IN THE MATTER OF :

An Affidavit - In- Reply against the
Affidavit-in-Opposition filed by the
Respondents.

AFFIDAVIT - IN - REPLY

I, Sama Bagang, Son of Sri Taje Bagang, aged
about 43 years, resident of village Laching Bagang, P.O.
& P.S. - Cheyang Tajo, in the District of East Kameng
and presently residing at Itanagar, in the District of
Papum Pare, Arunachal Pradesh do hereby solemnly affirm and
state as follows :



28/11/01
Commissioner of Affidavits.
Gauhati High Court
Itanagar Bench Naharlagun

Contd.....

1. That, I am the petitioner in the instant Writ Petition. A copy of the Affidavit-in-Opposition filed by the Respondents have been served upon my counsel. I have gone through and understood the contents therein.

2. That the deponent does not admits the statements made in the Affidavit-in-Opposition filed by the Respondents which are not specifically admitted herein this Affidavit-in-Reply.

3. That with regards to the statement made in Paragraph No.1 of the Affidavit-in-Opposition, the deponent though has not made any statement in paragraph No.1 of the Writ petition that he was appointed in SSB Dirang on 19.03.1980 and voluntarily resigned from service on 17.07.1996, however the deponent who was appointed on 19.03.1980, has not submitted any resignation from service on 17.07.1996.

4. That with regards to the statement made in paragraph No.4 of the Affidavit-in-Opposition, the deponent states that, he submitted the resignation on 17.04.1996. However the resignation letter of the date 17.04.1996 was not accepted and to the contrary the Respondent Authority Vide a Memorandum dated 30.04.1996 directed besides others to submit the resignation as per Rules and Procedures and giving 3 (three) months prior notice. The deponent on receipt of the memorandum of the dated 30.04.1996, on one hand has not submitted any fresh resignation letter giving 3 (three) months notice period and on the other hand he has in lawful reason to belief that his earlier resignation letter become invalid for want of procedural defect.


5. That with regards to statement made in paragraph No.5 of the Affidavit-in-Opposition, the deponent states that, the allegation of the Respondent that the deponent


not rejoined duty as per their direction is a misleading statement. It be evident from Annexure - 'C' of the Writ Petition that deponent was sanctioned 8 (eight) days Casual leave by the concerned Respondent Authority with effect from 11.07.1996 to 22.11.1996. However, the same was cancelled by the respondent authority in view of alleged accepting prayer for resignation from service with effect from 17.07.1996. The deponent who joined his duty at Itanagar he was given a movement order by the Company ^{1st} ~~Commander~~ SSB, Itanagar on 15.07.1996 for movement from Itanagar to G.C. Dirang. This order clearly reflect and evident that the deponent was in his normal service.

Annexure herewith a copy of the movement order dated 15.07.1996 and marked as Annexure - 'H'.

6. That with regards to the statement made in Paragraph No.6 of the affidavit-in-Opposition, it is not correct to say, that the deponent has not submitted application for withdrawal of his resignation. The deponent after submission of his resignation on 17.04.1996 and before acceptance of his resignation by the respondent authority another application ^{1st} ~~was~~ immediately filed for withdrawal of the resignation was submitted by the deponent to the Commandant, SSB, Dirang. The Respondent Authority may be for not allowing the deponent to withdraw the resignation letter of the date 17.04.1996 wilfully

misplaced the subsequent submission of the application for withdrawal of resignation and seems to have come with a plea before the Hon'ble Court that the Respondent has not received any such application to withdraw resignation from the deponent.

Annexed herein a copy of the application for withdrawal of resignation letter  and marked as Annexure 'I'.

7. That with regards to the statements made in paragraph No.7 of the Affidavit-in-Opposition, the deponent state that his resignation letter of the date 17.04.1996 was not accepted by the Respondent nor the deponent submitted any fresh resignation letter subsequent to that as per direction of the Respondent. To the contrary the deponent immediately withdrawn the resignation of the dated 17.04.1996 vide an application  Therefore, the question of accepting the resignation by the Respondent with effect from 17.07.1996, which shows given coverage of a period of 3 (three) months with effect from 17.04.1996 not at all arises. Because, as per Memorandum dated 30.04.1996, it was to be the deponent who was to give 3 (three) months notice period to Respondent and it was not the Respondent to give the 3 (three) notice period to the deponent. Furthermore no such 3 (three) months notice, was given by the respondent to the deponent. Had there been issue of such 3 (three) months notice by the Respondent in terms of the order dated 30.04.1996, the same also would not be the tenable in the eye of Law. Since the question of resignation was arised from the deponent and not from the Respondents to terminate the

service of the deponent. Hence the deponent's fundamental rights to be in regular service cannot be interfered by the Respondent's malifide activities vide the impugned order No. GOD/SSB/ESTT/B-25/96/937-38 Dated 12.07.1996.

8. That with regards to the statement made in paragraph No.8 of the Affidavit-in-Opposition, the deponent states that, during relevant period from 22.07.1996 to 14.10.1999 the deponent was seriously ill and was suffering from giddiness, backache, chest pain and of cochis. It is denied that he was actively involved in contract work/business. Had the deponent was to engage him in such contractual/Business work, he was not to be interested in service. The question of non-consideration of the representation dated 08.11.1999 on plea of being submitted by the deponent after a lapsed of one year not at all arises. Because the deponent has not submitted any application for resignation on 17.07.1996. His application of the date 17.04.1996 was not accepted and prior to issue of the impugned order dated 12-7-96 the deponent already submitted application in before hand expression his desire not to resign from service. Furthermore, question of submitting the representation on the date 08.11.1999 and not to accept the same in view of being too late clearly reflect the discriminatory and bias activities of the Respondent Authority to remain adhere to the impugned order of accepting resignation letter which ab-initio void and illegal.

9. That with regards to the statement made in

Contd....

AMM
28/11
Commissioner of Affidavit.
Gauhati High Court
Managar Bench Nahariaganj

paragraph No.9 of the Affidavit-in-Opposition, the deponent states that he has reason to believe the Respondent Authority wilfully keep suppressed or misplaced the withdraw of resignation letter submitted by the deponent for the purpose of giving effect to the resignation letter date 17.04.1996, which the respondent vide letter dated 30.04.1996 clearly stated that, said resignation letter not in proper format and directed to submit a fresh resignation letter giving 3 (three) months notice which however the deponent not submitted. Therefore, it cannot be said that the respondent received any resignation letter from the deponent in-terms and accordance with the Rules and Instruction in this issue.

10. That with regards to the statement made in paragraph No.10 of the Affidavit-in-Opposition, the deponent submits the reply in forgoing paragraph No.7 above.

11. That with regards to the statement made in paragraph No.11 of the Affidavit-in-Opposition, the deponent admits as to his non reporting the company Commander "B" Coy on 15.07.1996. The deponent was granted casual leave with effect from 11.07.1996 to 22.07.1996 on domestic ground. The deponent availed the leave due ^{to} unavoidable domestic affairs. In such event to cancel the leave and call back the deponent for the purpose of accepting his resignation from service with effect from 17.07.1996 clearly reflect the malafide activities of the respondent. Furthermore, the deponent here to add that the Respondents alleged that the deponent was absent from duty with effect from 04.03.1996 for a total period of 109 days (86+23) days. However, it be counted the total period of 109 days

DM
28/11
Commissioner of Affidavits.
Gauhati High Court
Itanagar Bench Nakhilagar

Contd....

expired with effect from 04.03.1996 on the date 20.06.1996. In such event the subsequent period thereto clearly shows the deponent was in duty and as such he was granted 8 (eight) days casual leave with effect from 11.07.1996.

11. That with regards to the statement made in paragraph No.12 of the Affidavit-in-opposition, the deponent not admits that he has made false and fabricated statements for the purpose of misleading the Hon'ble Court. To the contrary it appears the Respondents has keep suppressed the actual facts and attempting to mislead the Hon'ble Court on the basis of the statements which are not tenable in the eyes of law.

13. That with regards to the stat ments made in paragraph No.13 of the Affidavit-in-Opposition, the deponent submits that, he could not preferred the appeal earlier to 08.11.1999 on ground of his illness as aforestated. Furthermore, the deponent has reasons to submits that though his appeal was time bared as alleged, however it was mandatory duty on the part of the Appellate authority not to make out right rejection of the appeal on the ground of time bared. To the contrary it was obligatory on the part of the Appellate authority to go through the contents of the appeal and after finding of the feason that acceptance of resignation letter by the Lower Authority was not proper and Lawful one. Therefore, the said order of the date 12.07.1996 was to set aside by the Appellate authority for the sake of maintaining equity and justice in favour of the deponent.

Contd...

However, it is found the Appellate authority failed to exercises responsibility and duty vest upon him by law and accordingly also denied justice to the deponent.

14. That with regards to the statement made in paragraph No.14 of the Affidavit-in-Opposition, the deponent admits submission of his resignation on 17.04.1996 and also to state here that he withdrawn the same immediately before acceptance. Therefore, for therebeing no submission of fresh resignation letter as per direction of Respondent Authority, the Respondent authority has no lawful authority to pickup and acted upon the earlier resignation letter which they stated to be not in proper format and not as per Rules and procedures. Therefore, the submission of the Respondent that the Writ petition is liable to be dismissed appears to be an futile attempt on their part to keep deprive the deponent from proper justice from this Hon'ble Court.

15. That with regards to the statements made in paragraph No.15 of the Affidavit-in-Opposition, the deponent already replied in forgoing paragraph No.6 and 9 and further to state that the Respondent at any no length of time taken any lenient view in favour of the deponent in regards to allowing him to remain in service. To the contrary from the facts and circumstances of the case, it clearly transpire the Respondent authority not only acted unlawfully and discriminately against the deponent but at the same time make out the deponent from service on the basis of an alleged resignation letter of the date 17.07.1996 which the deponent never submitted to the Respondent authority.

16. That the deponent most respectfully begs to submit that from the facts and circumstances of the case as stated above, it is apparently clear that the deponent have been able to make out a case for invoking jurisdiction under Article 226 of the Constitution of India and as such Your Lordship may be pleased to allow the instant Writ Petition.

17. That the statements made in this Paragraphs and in the paragraphs 2,3,4,7 to 11 and 15 are true to the deponent knowledges, the statements made in paragraphs 5 and 6 are true to information derived from records and rests are my humble submission before this Hon^{ble} Court.

And I sign this Affidavit on this 28th day of November¹ 2001 at Naharlagun.

Identified by

Mudang Batt.

(Mudang Batt)
Advocate.

Sama Bagang.

Deponent.

I solemnly affirmed before me
the 28th day of NOV¹, 2001
The declarant is identified by
Shri *M. Batt, Advocate*
personally known to me I certify that
I read over and explained the contents
to the declarant and that the declarant
seemed perfectly to understand them

28/11/01
Commissioner of Affidavits
Gauhati High Court
Nagay Beach, Naharlagun

28/11

MOVEMENT ORDER

NO.8241707, Rank NK(GD), Name- Sama Bagang of 'B' Coy, Itanagar with a party Nil, will move from Itanagar to G.C., Dirang.

Authority for move :- Coy Commander 'B' Coy, Itanagar on arrival he will report to Commandant G.C., SSB, Dirang.

He is proceeding for voluntary discharge from service w.e.f. 17.07.96 vide G.C. H.Q. W.T. Sig No.6358 Dtd.12.7.96.

He is given departure from Coy Hqr on 15/7/96 at Vide RE/Sl.No.-1 with full Govt. Kits and Identity Card bearing No.05740 for final clearnace at G.C. Hqs-Dirang.

(SEAL)

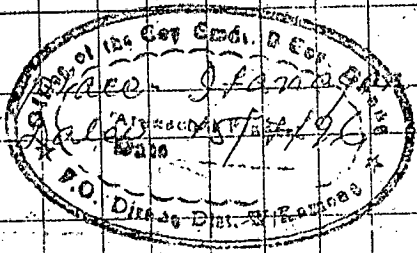
Sd/-

Company Commander

Certified true copy
Mudang Bat
Advocate.

Movement Order

NO 13241707 Rank 1st Lt (G) Name Sama Rajang of 1st Coy
 1st Nagar Waki a party will move from Dinagan
 to G. C. Dinang.
 Authority for move - Coy Commander 1st Coy 1st Nagar
 On arrival he will report to Commandant G. C. Dinang.
 He is proceeding for voluntary discharge from service
 vide 12/7/96 vide 519 H. C. H. R. M. 519 NO 1355
 dt. 12/7/96
 He is given departure from Coy 1st Coy on 15/7/96 at
 vide 12/7/96 NO 1 with full Govt note and identity
 Card bearing NO. 05740 for final clearance at G. C.
 H. C. Dinang.



[Signature]
 1st Coy Commander
 1st Nagar
 15/7/96

Certified true copy.
 Mudang Bat.
 Advocate.

To

The Commandant,
S.S.B., Group Centre,
Dirang,
Arunachal Pradesh.

(Through Proper Channel)

Sub:- Withdrawal of Resignation Letter.

Sir,

Respectfully state that the petitioner happened to submitted resignation letter from service however on being advice by the Group Commandant, the petitioner requires one month time to think over the matter.

Therefore, respectfully submit to your goodself that the resignation letter which the petitioner submitted be kind enough to make withdrawal of the same. Furthermore, I shall be permitted to think over the matter as per direction given on or before 19.06.96 and after thinking over the matter I may submit the fresh resignation letter.

Yours faithfully

Sd/-

(Sama Bagang)
Nayak
No. 41707, 'B' Company,
Itanagar.

Certified true copy.

*Mudang Bat.
Advocate.*

सेना में

- 13 -

श्री मान् सेवा नामक संस्था
सं. सं. की गुप्त सेक्टर
द्वारा (अथ प्र.)

50

द्वारा - उचित मार्ग

विषय - त्याग पत्र वापस लेने हेतु

असु निवेदन इस प्रकार है कि प्राची ने
प्राची देस देन हेतु त्याग पत्र दिया था परन्तु सेवा नामक
द्वारा अनुमान पत्र प्राची ने एक महीना हेतु सोचने
के लिए समय माँगा है।

अतः श्री मान् से निवेदन है कि प्राची
द्वारा दिया गया त्याग पत्र वापस करने की मंजूरी देना
की जाय। और आदेशानुसार और दिया जाय तरीके के
(19/6/96) अंदर से सोच विचार करके फिर अपना त्याग पत्र
प्रेषित करेंगा।

आप का आशीर्वाद ज्ञान

नं - 89606

नाम - राम लाल रामनी

वी. कामधनी इटानगर

Certified by me
Jindang Bat
Advocate

SI. No. 0531

DIST: PAPUM PARE

VAKALATNAMA

IN THE GAUHATI HIGH COURT ITANAGAR PERMANENT BENCH, (NAHARLAGUN) ARUNACHAL PRADESH

WP(C) No. 708 (A.P.) of 2001

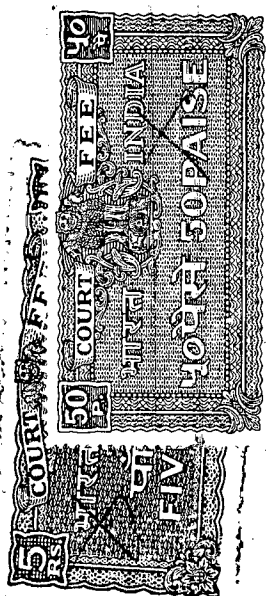
Sama Bagang

Appellant
Petitioner

Versus

Union of India & others

Respondent
Opposite-party



Know all men by these presents that the above named Petitioner
do hereby nominate, constitute and appoint Sri Mudang Batt and R. Deka
Advocate and such of the undermentioned Advocates as shall accept this
Vakalatnama to be my/our true and lawful Advocates to appear and act for me/us in the matter noted above and in
connection therewith and for that purpose to do all acts whatsoever in that connection including depositing or
drawing money, filling in or taking out papers, deeds of composition etc. for me/us and on my/our behalf and I/we
agree to ratify and confirm all acts to be done by the said Advocates as mine/ours to all intents and purposes. In
case of non-payment of the stipulated fee in full, no Advocates will be bound to appear and act on my/our behalf. In
witnesses whereof I/we hereunto set my/our hand on this 28th day of Nov. 2001

✓ Rajeswar Deka

J.K. Pangging

Muk. Pertin

Tumken Bagra

Tayum Son

Goto Ete

Tonning Pertin

Pisi Gam Singpho

Tony Pertin

✓ Mudang Bat

Nane Lowang

Matheim Lingi

Tagia Michi

Nani Tagia

Tayum Siram

Nabum Rama

Ajin Apang

Jawara Miao

Rintu Saikia

Binzum Loya

Yomge Ado

Nani Grayu

Pasang Dorjee Sona

Sm. Jaweplu Chai

Kardak Ete

Sm. Geeta Pangging

Gote Ete

Ito Riram

Taimso Boo

Jimmy Likha

Kalung Tapa

Budhi Habung

Pritam Taffo

Jawang Sumpa

Licha Sera

Todak Ado

Kento Jini

Jakir Hussain

Dani Belo

Minrik Nochi

Hari Taji

Talek Nima

Kapa Rai

Received from the executant
satisfied and accepted

Mr. will lead
me/us in the case

Accepted

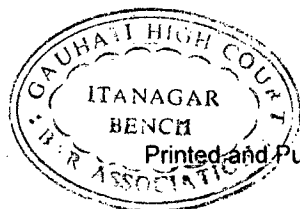
Mudang Batt

Advocate

Advocate

Rayson Deka

Advocate



From: Mudang Bat.
Advocate.

To, Sri Tony Pestin
C.G.S.C.
Gauhati High Court,
Managor Bench.


Sub:- W.P.(C) NO. 708(AP)/2001
Sama Bagang -vs- Union of India & others.

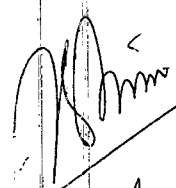
Sir,

Enclosed herewith a copy of
the Affidavit-in-Reply filed by the
petitioner in the aforesaid writ petition
to be served upon the Respondents.

Please acknowledge the receipt.

Yours Faithfully


28/11/01
(Mudang Bat)
Advocate.


Add. C.G.S.C.
28/11/2001

5

In the Central Administrative Tribunal,
Guwahati.

OA 301/04

In the matter of :

O.A.No.301/Of 200 4

Soma Bagang Applicant

Vs.

Union of India & ors.

Respondents

I, A. K. Chaudhuri, Addl. Central Govt. Standing Counsel, Central Administrative Tribunal, Guwahati, hereby enter appearance on behalf of the Union of India & Respondents Nos. 2+3 in the above case.

Given under my hand & seal on this the 3rd day of May 2005.

A.K. Chaudhuri
(A.K. Chaudhuri)
Addl. C.G.S.C. 3/5/05