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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 5609/2015 and CM APPL. 10105/2015

NAWAB WAZID ALI & ORS Petitioners
Through: Mr. Anuj Aggarwal, Advocate

versus

UNION OF INDIA & ORS Respondents
Through: Mr. Vivek Goyal, CGSC

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
23.03.2016

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1. The present petition has been filed by 40 petitioners praying *inter alia* for directions to the respondent No.1/Ministry of Home Affairs, UOI and respondents No.2 and 3/SSC to include their names in the select list and issue letters of appointment to them for the post of Constable (GD) in BSF, CISF, CRPF, SSB, ITB or Assam Rifles.
2. At the outset, counsel for the petitioners states that the petitioner No.2 has already been selected by the respondents and therefore, his name may be deleted from the array of the petitioners. Counsel for the respondents confirms the said position.

3. Accordingly, the name of the petitioner No.2 is deleted from the array of petitioners.

4. The grievance of the remaining petitioners is that upon completing the written and oral examinations and clearing the medical examination, their candidature was rejected merely on the ground that they had not exercised all the options in Column 17 of the examination form, pertaining to the force-preference. In support of his submission that non-filling of the column could not be a ground to turn down the candidature of the petitioners, learned counsel for the petitioners places reliance on the decision of the Division Bench of this Court in **W.P.(C) 7651/2012** entitled Vinay Kumar vs. UOI and Ors., that was followed in the judgment dated 23.12.2014, passed in **W.P.(C) 9212/2014** entitled Amit Kumar Singh and Ors. vs. UOI and Ors.

5. Counsel for the respondents states that the contention of the other side that the petitioners were not selected on the ground that they had failed to exercise their option in Column 17 in the examination form pertaining to force preference is incorrect and the correct position is that their

non-selection is on the ground that they were ineligible merit-wise for inclusion in the select list for any of the CAPF against vacancies allotted to the general area of UP, in their respective categories. He states that even otherwise, the present petition is not maintainable in this Court as all the petitioners are residents of Uttar Pradesh and they had taken their examination at Allahabad and therefore, no part of the cause of action had arisen in Delhi for them to have approached this Court for relief.

6. Counsel for the petitioners concedes that the petitioners are residents of Uttar Pradesh and had taken their examination for recruitment to the post of Constable (GD) in the year 2011, at Allahabad, UP. Even their medical examination was conducted in Allahabad. He states that he may be permitted to withdraw the present petition while reserving the right of the petitioners to approach the High Court of Allahabad for appropriate relief.

7. The petition is dismissed as withdrawn alongwith the pending application, with liberty granted to the petitioners to file a fresh petition before the High Court of Allahabad within eight weeks from today.

8. Needless to state that in case the petitioners file a fresh petition before the Allahabad High Court assailing their non-selection, both sides shall be entitled to take all the pleas that may be available to them, both on facts and in law.

HIMA KOHLI, J

SUNIL GAUR, J

MARCH 23, 2016

rkb/mk

