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

+ W.P.(C) 7216/2015

VIKAS KUHAR Petitioner

Through: Mr. R.K. Saini, Advocate

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr. Jitender Kumar Singh,
Standing Counsel for
respondents

CORAM:

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

ORDER

% **02.02.2016**

C.M. 2271/2016 (u/S 151 CPC)

1. The present application has been filed by petitioner praying *inter alia* for permission to withdraw the present petition, with liberty to approach the Allahabad High Court for appropriate relief.
2. A perusal of the petition shows that notice was issued to the respondents on 31st July, 2015. However, counter affidavit has yet to be filed.
3. Counsel for the petitioner states that during pendency of this petition, the petitioner has learnt that some of the candidates, who had participated in the selection process for the post of a Constable in the Railway Protection Force Services have approached the

Allahabad High Court against their termination orders and the petitioner also seeks leave to approach the same Court for appropriate relief.

4. Counsel for the respondents opposes the present application and states that this Court is competent to entertain and decide the present petition, as the Head Office of the Railway Protection Force is located in Delhi and the petitioner, having approached this Court for appropriate relief, cannot be permitted to withdraw the present petition. Reliance is also placed upon a decision of a Coordinate Bench dated 17th November, 2015, in W.P.(C) 5291/2015 entitled "Parveen Kumar Vs. Ministry of Railways & Ors." to oppose the petition on merits. It is contended that the petitioner is now trying to overcome the said judgment by seeking leave to approach the Allahabad High Court.

5. It is settled law that a petitioner is *dominus litis* and if the jurisdiction to entertain a petition on the basis of a cause and action vests in two courts, then he is well entitled to opt for either court for seeking relief.

6. Accordingly, this application is allowed. The respondents are however granted liberty to bring to the notice of the Allahabad High Court, the decision in the case of Parveen Kumar (supra) at the

time of addressing arguments.

7. The application stands disposed of.

W.P.(C) 7216/2015

In view of orders passed in C.M. 2271/2016, the present petition is dismissed as withdrawn. The date of 10th February, 2016 fixed in this petition is accordingly cancelled.

File be consigned to the record room.

HIMA KOHLI, J

SUNIL GAUR, J

FEBRUARY 02, 2016

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