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

+ **RSA 125/2018**

EX CT SURESH KUMAR Appellant

Through: Mr. Sudeep Dey, Adv.

Versus

UNION OF INDIA & ANR Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **25.09.2018**

CM Nos.36172/2018 & 36174/2018 (both for exemptions)

1. Allowed, subject to just exceptions.
2. The applications are disposed of.

RSA 125/2018 & CM No.36173/2018 (for condonation of delay of 99 days in re-filing the appeal)

3. This Second Appeal under Section 100 of the Code of Civil Procedure, 1908 (CPC) accompanied with an application for condonation of delay of 99 days in re-filing thereof impugns the judgment and decree [dated 23rd May, 2017 in RCA DJ-61842/2016 of the Court of Additional District Judge-14, Central] allowing the First Appeal under Section 96 of the CPC preferred by the respondents / defendants viz. Union of India, Ministry of Railways and Director General, Railway Protection Force against the judgment and decree [dated 1st June, 2009 in S-1553/06/03/02 of the Court of Senior Civil Judge-cum-Rent Controller (Central)] allowing the suit of the appellant / plaintiff by setting aside the order of the Disciplinary

Authority of the respondents imposing penalty on the appellant / plaintiff and reinstating the appellant / plaintiff in service with all benefits. Resultantly, the First Appellate Court has dismissed the suit of the appellant / plaintiff.

4. This appeal came up first before this Court on 5th September, 2018 when the counsel for the appellant / plaintiff sought adjournment. While so adjourning the matter to today, the counsel for the appellant / plaintiff was asked to today address this Court as to how the suit impugning termination of employment of the appellant / plaintiff as Constable with Railway Police Force was maintainable and whether not the exclusive jurisdiction in this context would be of Administrative Tribunal under the Administrative Tribunal Act, 1985 or of the Industrial Tribunal under the Industrial Disputes Act, 1947.

5. Today, the counsel for the appellant / plaintiff withdraws this appeal with liberty to pursue the appropriate remedies.

6. Dismissed as withdrawn with liberty aforesaid in accordance with law.

RAJIV SAHAI ENDLAW, J

SEPTEMBER 25, 2018

‘gsr’..