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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 2336 of 2016

Nilotpal Banerjee
Vs
Union of India & Ors.

Mr. Bidhayak Lahiri,
Ms. Bhaswati Lahiri
.... For the petitioner.

Mr. T. K. Chatterjee,
Ms. Nabanita Mondal
... For the respondents.

It is submitted by the petitioner that this Court lacks in jurisdiction to receive, try and determine the instant writ petition in view of the provisions of the Administrative Tribunal Act, 1985. The petitioner, therefor, seeks liberty to withdraw this writ petition and file afresh on the selfsame cause of action before the jurisdictional Tribunal.

A written instruction to that effect is handed over to the Court by the petitioner's advocate which is taken on record.

The writ petition was filed on 9th February, 2016. The affidavit-in-opposition has already been filed. The writ petition has remained pending for more than six years in this Court. There is no difficulty in allowing the withdrawal of the writ petition but there may be complication if the petitioner is granted liberty to file afresh on the selfsame cause of action after six years

although it can be contended that during this period the petitioner was prosecuting a litigation before a Court without jurisdiction. The change in circumstances during the interregnum by such liberty may bestow the writ petitioner with certain rights and privileges, which have been eroded during the period in between. It may also take away the rights, which may have accrued in favour of the respondents during the last six years.

In the aforesaid facts and circumstances, the writ petition is dismissed as withdrawn with liberty to file afresh on the selfsame cause, if permissible and will be entitled to claim all benefits in accordance with law before the appropriate forum.

(Arindam Mukherjee, J.)