

ITEM NO.61

COURT NO.5

SECTION XIV

## S U P R E M E C O U R T O F I N D I A

## RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).11484/2006

(From the judgement and order dated 19/12/2005 in LPA No. 518/2004 of  
The HIGH COURT OF

DELHI AT N. DELHI)

S.M.GUPTA

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

(With appln(s) for permission to place addl. documents on record)

Date: 04/09/2006 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARIJIT PASAYAT

HON'BLE MR. JUSTICE LOKESHWAR SINGH PANTA

For Petitioner(s)

Mr. Deba Prasad Mukherjee, Adv.

Ms. Nandini Sen, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following

O R D E R

Though we are not inclined to entertain the Special Leave Petition,

we find that some of the High Court observations in the impugned order

appear which, if we may say so, are not only inappropriate but also to

have been recorded on a wrong reading of the position in law. They have

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no relevance so far as the present case is concerned. The following

sentences are illustrative :-

"It appears that some other persons went to the Supreme Court, which directed that such persons working in the Postmortem Project in AIIMS would be taken in Safdarjung Hospital as fresh employees, but they would be granted pay protection and their services rendered at AIIMS would be counted only for the purpose of leave, pension and other retirement benefits.

.....The order of the Supreme Court was, therefore, passed on humanitarian considerations.

Often the Supreme Court passes orders on humanitarian considerations and not on any principle of law. Such directions do not amount to a precedent but they are orders passed under Article 142 of the Constitution and they are not binding on the High Courts. Only a principle of law laid down by the Supreme

Court is binding and not a mere direction."

We can only express our anguish because of the inappropriate expressions made by the High Court in the impugned order.

The Division Bench lost sight of the fact that learned single Judge

had granted relief to the petitioner on the basis of earlier order of this

Court.

The Special Leave Petition is dismissed.

(Rajesh Dham)

Court Master

(Vijay Aggarwal)

Court Master