

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).10193/2006

(From the judgement and order dated 19/05/2006 in CM No. 6815/2004 in
WP(C) No. 9509/2004 of The HIGH COURT OF DELHI AT N. DELHI)

LT.COMMANDER M.P.VERMA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS

Respondent(s)

(With appln(s) for exemption from filing c/c of the impugned Judgment
and prayer for interim relief)

Date: 21/06/2006 This Petition was called on for hearing today.

CORAM :

HON'BLE Dr. JUSTICE AR. LAKSHMANAN

HON'BLE MR. JUSTICE ALTAMAS KABIR

(VACATION BENCH)

For Petitioner(s)

Mr. L.N. Rao, Sr. Adv.

Mr. Sukhjinder Singh, Adv.

Mr. Alok Gupta, Adv.

For Respondent(s)

Mr. Vikas Singh, A.S.G.

Mr. S. Wasim A. Qadri, Adv.

Mrs Anil Katiyar, Adv.

Mr. Mohit Kumar, Adv.

UPON hearing counsel the Court made the following

O R D E R

Mr. Heard Mr. L.N. Rao, learned Senior Counsel for the petitioner and

Vikas Singh, learned Additional Solicitor General for the Union of India.

the interim order This special leave petition has been filed against
passed by the High Court of Delhi in C.M. No.6815 of 2004 in W.P.(C)no.9509/2004
dated 19th May, 2006. By the said order, the High Court in the concluding porti
on of its order have observed thus:

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"Resultantly, in view of the clear stipulation in the terms and conditions of his reemployment which are set out in the Naval Instructions and also in view of the provisions of the Navy Act to which reference is made hereinbefore, we find and hold that the petitioner is subject to Naval Law and therefore could be tried by Court Martial convened under the Navy Act. The aforesaid objection in respect of jurisdiction, therefore, is found to be without any merit and the said plea is rejected. Since the said plea regarding maintainability of the entire proceeding was raised, operation of the sentence was stayed by this Court and since today by this order we have decided that the petitioner is subject to the Naval Law and could be tried by Court Martial convened under the Naval Law, we vacate the aforesaid stay granted by us. The

stay application stands disposed of. We also reject the objection regarding validity of the Court Martial proceedings.

This matter shall now be listed before the regular Bench on 10.7.2006 dealing with the such matters for hearing the remaining pleas raised by the petitioner in the writ petition pertaining to the findings and sentence of the Court Martial."

The High Court of Delhi by order dated 24th March, 2005 directed the Central Government to proceed with the disposal of the representation made by the petitioner under section 162 of the Navy Act. The High Court has clarified

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that the pendency of the writ petition shall not come in the way while disposing of the representation by the Central Government. The learned Addl. Solicitor General for the Union of India, at the time of hearing, placed before us an order passed by the Central Government, Ministry of Defence, dated 4th May, 2005 disposing of the representation dated 22nd May, 2004 under sections 162 & 163 of the Navy Act, 1957. By the said order, the conviction was upheld and the prayer made by the petitioner was dismissed as devoid of merits.

At this stage, Mr. L.N. Rao, learned Senior Counsel appearing for the petitioner, brought to our notice that an application for amendment of writ petition filed by the petitioner in the High Court has already been allowed by the High

Court. The petitioner has filed the amended writ petition in this S.L.P.

The High Court, while disposing of the writ petition, directed the registry of the said court to place the matter before the regular Bench on 10th July, 2006 for hearing the main pleas raised by the writ petitioner pertaining to the findings and sentence of the Court Martial.

Now, since amendment application has also been ordered, we request the High Court to consider the amended writ petition and also the plea raised by the petitioner pertaining to the findings and sentence of the Court Martial on merits and after affording opportunity to both the parties.

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Till the disposal of the writ petition, the order passed by the High Court in the impugned order vacating the stay shall stand stayed. In other words, the petitioner will be not be arrested till the disposal of the writ petition.

The special leave petition is disposed of accordingly. No costs.

(A.D. Sharma)
Court Master

(Phoolan Wati Arora)
Court Master