

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA
REDDY**

AND

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

WRIT PETITION No.6176 of 2016

**-
26.02.2016**

Between:

Smt.Mortha Lakshmi

..Petitioner

And

The State of Andhra Pradesh,
represented by its Principal Secretary,
Law and Justice Department, Hyderabad and others

..Respondents

Counsel for the petitioner: Mr.B.Prakasam

Counsel for respondent No.1: Assistant Government Pleader
for Home (AP)

Counsel for respondent Nos.2 and 3: --

The Court made the following:

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ORDER: *(Per the Hon'ble Sri Justice C.V. Nagarjuna Reddy)*

This writ petition is filed for a *mandamus* to declare the action of respondent No.3 in issuing notification, dated 28.01.2016, for the post of Stenographer Grade III under Andhra Pradesh Judicial Ministerial Services in the unit of District Judge, West Godavari District, Eluru, without giving age relaxation to the eligible employees working in Fast Track Courts on contract basis as illegal, arbitrary and contrary to the judgment of the Supreme Court in **Brij Mohan Lal vs. Union of India**^[1].

2. The brief facts of the case are that the petitioner was appointed as a Stenographer on contract basis in the V Additional District Judge's Court (Fast Track Court), Eluru, West Godavari District, on 23.07.2013. Respondent No.3, by the impugned notification, called for applications for the post of Stenographer Grade III under the Andhra Pradesh Judicial Ministerial Services in his unit. Out of the seven vacancies notified by respondent No.3, one post is reserved for O.C. women, to which category, the petitioner belongs. As per the said notification, a candidate must have completed 18 years of age and must have not completed 34 years of age as on 01.07.2016 and in respect of BCs, SCs and STs, PHs and Ex-Servicemen, age relaxation is provided. The petitioner has completed 36 years and 10 months as on 01.07.2016 and therefore, she was not eligible to apply for the post. Hence, she has filed this writ petition for the above noted relief.

3. We have heard Mr.B.Prakasam, learned counsel for the petitioner, learned Assistant Government Pleader for Law and Justice (AP) appearing for respondent No.1 and learned standing counsel for the High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh appearing for respondent No.2.

4. It is not in dispute that the upper age limit for selection and appointment to the post of Stenographer Grade III under the impugned

notification issued under the Andhra Pradesh Judicial Ministerial Services Rules is 34 years in case of OC candidates and the petitioner is admittedly age barred. The only basis on which, the petitioner claimed relief is a Division Bench order of this Court in **G.Yadagiri and others vs. Government of Andhra Pradesh, Law Department, Hyderabad and others**^[2].

5. We have carefully read the aforesaid Division Bench order.

The petitioners in the said writ petition, who are Fast Track Court employees appointed on contractual basis, filed that writ petition seeking relief of their absorption and regularization on par with the Fast Track Court Judges, in terms of the judgment of the Supreme Court in **Brij Mohan Lal** (1 supra). In the context of the said relief, the Division Bench started the order with the following observations:

“We are just amazed to see to what extent a citizen can assert his so called right of justice. We think that there must be some limit. Therefore, we culled out the real grievance of the petitioners instead of sailing with them in their utopian idea. The petitioners have rendered services, of course, on contractual basis in the Fast Track Courts for a good number of years. Now, the respondents are proposing to recruit the persons like the petitioners in the regular District Courts. First of all, it has to be observed that neither of the petitioners has any subsisting legal right for enforcement of the same. While rendering services in Fast Track Courts, they cannot claim any equity to be brought for getting any benefit in the matter of getting any recruitment in the other Courts.”

(emphasis added)

Having made those observations, the Division Bench rejected the relief claimed in the said writ petition for absorption and regularization.

It, however, directed that the respondents therein, who evidently included the State of Andhra Pradesh and the High Court, may consider the cases of the petitioners therein along with other eligible candidates “condoning the age bar if necessary”. In our opinion, the abovementioned order cannot be relied upon by the petitioner as there was no precedential value as far as the aspect relating to age relaxation is concerned, for the issue in the said writ petition pertained

only to the claim made by the petitioners therein for absorption and regularization and not the age relaxation. The law is well settled that a decision is an authority only for what it has actually decided and a decision operates as a binding precedent on an issue arising in the case. (See **General Manager, Northern Railway vs. Sarvesh Chopra**^[3], **Ambica Quarry Works vs. State of Gujarat**^[4], **Krishena Kumar vs. Union of India**^[5], **Caledonion Railway Co. vs. Walker's Trustee**^[6] and **Arasmeta Captive Power Co. (Pvt.) Ltd. vs. Lafarge India (Pvt.) Ltd.**^[7]).

6. In **Quinn vs. Leathem**^[8], Lord Halsbury held "Every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found.". Dealing with *ratio decidendi*, the Supreme Court held that reasons for the decision constitute *ratio decidendi* (See **Sanjay Singh vs. U.P.P.S.C.**^[9] and **Sumtibai vs. Paras Finance Co., Mankanwar**^[10]).

7. The issue relating to age relaxation has not arisen in **G. Yadagiri** (2 supra). Therefore, with due respect to the Division Bench, the order in **G. Yadagiri** (2 supra) does not operate as precedent. We are unable to make the same observations as made by the Division Bench, in this writ petition, for the reason that the Rules do not envisage any such relaxation in favour of O.C. candidates and therefore, neither a direction nor an observation could be made by us contrary to the statutory Rules.

8. We have also carefully gone through the judgment of the Supreme Court in **Brij Mohan Lal** (1 supra) and we find that the said judgment predominantly dealt with the constitutional validity of the Fast Track Courts and the procedure for appointment of Judicial Officers to

the said Courts. The said judgment does not contain any direction in relation to age relaxation to be given to any of the functionaries including judicial ministerial personnel falling under the Andhra Pradesh Judicial Ministerial Service Rules.

9. For the aforementioned reasons, we do not find any merit in this Writ Petition and the same is, accordingly, dismissed.

10. As a sequel to dismissal of the writ petition, W.P.M.P.No.7848 of 2016 filed by the petitioner for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

M.S.K.JAISWAL, J

26th February, 2016

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[\[1\]](#) (2012) 6 SCC 502

[\[2\]](#) Dated 30.01.2014, in W.P.No.9375 of 2013

[\[3\]](#) (2002) 4 SCC 45

[\[4\]](#) (1987) 1 SCC 213

[\[5\]](#) (1990) 4 SCC 207

[\[6\]](#) (1882) LR 7 AC 259

[\[7\]](#) (2013) 15 SCC 414

[\[8\]](#) (1901) AC 495

[\[9\]](#) (2007) 3 SCC 720

[\[10\]](#) AIR 2007 SC 3166