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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 14 of 1995.

Dated this Wednesday, the 20th day of October, 1999.

T. S. Amre, Applicant.

Shri R. R. Dalvi, Advocate for the
applicant.

VERSUS

Union of India & Others, Respondents.

Shri V. G. Rege, Advocate for
Respondents.

CORAM: Hon'ble Shri B. N. Bahadur, Member (A).

Hon'ble Shri S. L. Jain, Member (J).

(i) To be referred to the Reporter or not ? Yes.
(ii) Whether it needs to be circulated to other Benches
of the Tribunal ? No
(iii) Library. No

B. Bahadur

(B. N. BAHADUR)
MEMBER (A).

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Hon'ble Shri S. L. Jain, Member (J).

1. T. S. Amre,
U.D.C.
O/o. Asstt. Director General(T),
(M.S), Govt. Medical Stores Depot,
Bombay Central,
Bombay - 400 008.
2. V. G. Vaze.
Address as above.
3. K.G. Hiles,
Address as (1) above.
4. P. M. Deshpande,
Address as (1) above. Applicants

(By Advocate Shri R. R. Dalvi)

VERSUS

1. Asstt. Director (T),
General (M.S) Govt.,
Medical Stores Depot,
Bombay Central,
Bombay - 400 008.
2. Director General of Health
Services, Nirman Bhavan,
New Delhi - 110 011.
3. Secretary to the Government
Of India,
Ministry of Health and
Family Welfare, Mantralaya,
New Delhi - 110 011. Respondents. 2

(By Advocate Shri V. G. Rege).

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ORDER (ORAL)

PER : Shri B. N. Bahadur, Member (A).

This is an application made by Shri T. S. Amre and 3 others seeking the relief in substance that since there is a common cadre of U.D.Cs., Stenographers, Pharmacist-cum-Clerk and Comptists and since their next promotion is that of Assistant Superintendents, now re-designated as Junior Superintendent, it is therefore essential that these posts should carry identical time scales. It is also claimed that the disparity in scales between the common cadres are violative of Articles 14 and 16 of the Constitution of India, and that these needs to be corrected.

2. The applicants all belong to the cadre of U.D.C. and have come up by promotion from Lower Division Clerk. It is, their case that they have stagnated over very long period, since they take unusually long time to reach the scale of U.D.C. after joining as L.D.C. It is stated that the need for providing them better promotional avenues was recorded by Internal Work Study Unit (I.W.S.U.) in its report. However, no change was made delinking the Pharmacist-cum-Clerk from Clerk category. It is in this context that the applicants have come up before us. The respondents have filed a reply stating that the prayer is not maintainable, in view of the fact that the Recruitment Rules providing for Pharmacist-cum-Clerk as feeder channel for the post of Assistant Superintendent(Stores) came into force in 1974 and that this decision was taken to provide promotional avenues to

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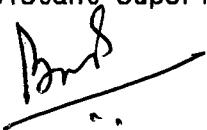
the Pharmacists, since they had no other promotional channel. After describing all details in support of their contention, the respondents have referred to, and filed copies of, two judgements of this Tribunal of the Benches at Hyderabad and Madras, which have been referred to in paragraph 10 of the written statement.

3. We have heard the Learned Counsel on both sides and have perused all papers in the case. The main points made by the Learned Counsel for the applicants related to the long duration that the persons in the category of the applicants took to reach the various levels, particularly, the post of U.D.C., since it was at this stage that the cadre became common, according to him. The position was sought to be succinctly brought to our notice through a well drawn out comparative statement of avenues between U.D.Cs. and Pharmacist-cum-Clerk. The Learned Counsel took us through this statement in great detail, and strenuously made a point that the very nature of promotion is hit by Articles 14 and 16 of the Constitution. He did concede the fact that at the initial stage there was difference in minimum recruitment qualifications, since in the case of Pharmacy-cum-Clerk a diploma in Pharmacy was required. The Learned Counsel for the respondents stated that the case was clearly covered by the judgements cited by him and took us over, the details of the points made in the judgement delivered by the Madras and Hyderabad Benches of this Tribunal. The Madras Bench has decided these issues in its order on O.A. No. 360 of 1988

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delivered on 06.09.1989. We have gone through this judgement in detail and have given opportunity to the Learned Counsel for the respondents to show how this can be distinguished from the present case. Similarly, orders issued in O.A. No. 90/88 by the Hyderabad Bench of the Tribunal have been gone through. A detailed perusal of these two judgements clearly show that the issues raised in the present O.A. are the same as the issues raised in these two applications. These issues have been discussed thread bare by the Madras and Hyderabad Benches and have been decided upon. The Learned Counsel for the applicant sought to state that the issues raised by him, both in argument and in his application, have not been covered in the two judgements cited above. He could not substantiate how this was so. Infact, a detailed perusal of this judgement shows that the issues are very much the same. It has been clearly held, for instance, at internal page 6 of the judgement, by the Madras Bench as follows :.

"It appears that the basis of the present attack by the applicants is that as the Fourth Pay Commission has fixed a higher scale of pay for the para medical staff at Rs. 1350-2200 with effect from 01.01.1986 while a lower scale of Rs. 1200-2040 was fixed for the Upper Division Clerks, Stenographers and Computers after 01.01.1986 it is no longer permissible to retain the post of pharmacist cum clerk as a feeder post for the purpose of promotion to the cadre of Assistant Superintendent. The inclusion of the Pharmacist cum clerks in the category of para medical staff is another ground on which it was urged that the pharmacist cum clerks cannot be equated with the clerical staff. As has been clarified by the respondents the Fourth Pay Commission recommended a higher scale for the para medical staff considering their recruitment qualifications and the duties and responsibilities attached to the post. That cannot in any way jeopardise the opportunity of the pharmacist cum clerks to the already existing promotional avenue to the cadre of Assistant Superintendent."



4. Be that as it may. We have carefully considered the two judgements referred to above and find that the issues raised in the present application has not only been considered carefully but have been decided after full reasoning. The ratios decided in these judgements clearly apply to the present case before us.

5. We are bound to go alongwith them and we are convinced that they apply squarely to the facts of the present case.

6. Consequently, the application is hereby dismissed. There will be no order as to costs.

S. L. Jain
(S. L. JAIN)

MEMBER (J).

B. N. Bahadur

(B. N. BAHADUR)

MEMBER (A).

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