



Darshan Patil

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15400 OF 2024

Krishna Babaji Bhavar,]
Age: 39 years, Occ.: Service as]
Deputy Conservator of Forest]
(Territorial), Office of East Division,]
Nashik, Op. Sharanpur Police Chowki,]
Trambak Road, Nashik-422002.] ...Petitioner

VERSUS

1. **The Union of India,**]
Through Secretary,]
Ministry of Environment,]
Forest and Climate Change of]
India, Indira Paryavaran Bhawan,]
Jorbagh Road,]
New Delhi - 110 003.]
(Copy to be served on the standing]
counsel on behalf of Union of]
India)]
2. **The Chief Secretary,**]
State of Maharashtra,]
Mantralaya, Mumbai-32.]
3. **The Principal Secretary**]
(Forest)]
State of Maharashtra,]
Revenue and Forest Department,]
Mantralaya, Mumbai-32.]
(Copy to be served on the Govt.]

- Pleader, High Court of Judicature]
of Bombay).]
4. **The Principal Chief Conservator]
of Forest,**]
(Head of Forest Forest)]
State of Maharashtra,]
Nagpur, Van Bhavan,]
Ramigiri Road, Civil Lines,]
Nagpur 440 001.]
5. **Umesh Gorkshnath Waware,**]
Age: 43 years, Occ: Service,]
Present Posted as]
Deputy Conservator of Forest]
(Territorial), Nashik East,]
Presently residing at]
Ramsej Bungalow, Trimbak Road,]
Opp. Panchawati Elite Hotel,]
Nashik 422 002.] ...Respondents

APPEARANCES-

Mr Anil Sakhare, Senior Advocate, a/w Mr Jay Sakhare, Mr Nitin Gaware Patil, for the Petitioner.

Mr Vinit Jain, a/w Mr Ashok Varma, Mr Gaurav Mhatre, for Respondent No.1-UOI.

Ms S. D. Vyas, Addl.G.P., a/w Mr Aditya R. Deolekar, AGP, for the Respondent-State.

Mr A. A. Kumbhakoni, Senior Advocate, a/w Mr Rahul Walia i/b. Ms Divya Shetty, for Respondent No.5.

**CORAM : M.S.Sonak &
Jitendra Jain, JJ.**

RESERVED ON : 31 January 2025

PRONOUNCED ON : 03 February 2025

JUDGMENT (Per MS Sonak J):-

1. Heard learned counsel for the parties.
2. Rule. The Rule is made returnable immediately at the request of and with the consent of the learned counsel for the parties.
3. The Petitioner challenges the judgment and order dated 23 October 2024 made by the Central Administrative Tribunal, Mumbai, allowing the fifth Respondent's Original Application No.1024 of 2024 and striking down the transfer order dated 05 September 2024, by which the fifth Respondent was transferred from Nashik to Roha and the Petitioner was transferred from Nandurbar to Nashik.
4. Mr Sakhare, the learned Senior Advocate for the Petitioner, submitted that the Petitioner and the fifth Respondent belonged to Indian Forest Services. He submitted that their service conditions were governed by the All-India Services Act, 1951 and the Indian Forest Service (Cadre) Rules, 1966, [**Central provisions**] as amended from time to time. He submitted that the Tribunal grossly erred in holding that the Petitioner and the fifth Respondent, in the matters of their transfers, were governed by the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (**State Act**) as modified up to 17 July 2018. He submitted that this was an error apparent on the face of the record for which the impugned order warrants interference.
5. Without prejudice to the above, Mr Sakhare submitted that the Tribunal, without any valid cause, cast doubts on the minutes of the Central Civil Services Board's meeting held on

29 August 2024, and, based thereupon, interfered with the transfer order dated 05 September 2024. He submitted that the minutes show that the constitution of the Board was consistent with the prescribed Rules, and the transfer order was made after the competent authority, the Hon'ble Chief Minister of the State, approved the recommendations. He submitted that the minutes should not have been doubted based on surmises and conjectures. He submitted that proper procedures were followed, and there was no infirmity in the transfers made since such transfers were based on the recommendations of the Civil Services Board.

6. Mr Sakhare submitted that the minutes record the presence of Mr Rajesh Kumar, Additional Chief Secretary (Revenue). On the grounds that the minutes do not bear Mr Rajesh Kumar's signature, or because the signatures of some members may not appear on all the pages, there was no reason to interfere with the recommendations of the Civil Services Board and the decision of the competent authority based on such recommendations.

7. Mr Sakhare argued that according to the Rules, the competent authority, namely the Hon'ble Chief Minister, possesses the power to disagree with the recommendations of the Board. Thus, even assuming without conceding that there was no explicit recommendation for the transfer of the fifth Respondent from Nashik to Roha, nothing prevented the competent authority, namely the Hon'ble Chief Minister, from issuing such an order.

8. Mr Sakhare submitted that the Tribunal misdirected itself in law by granting relief to the fifth Respondent on the

basis that no maximum period was prescribed under the Indian Forest Service (Cadre) Rules. He argued that a maximum period is seldom, if ever, provided. In this case, the Rules specified a minimum tenure of two years, which the fifth Respondent had indeed completed at Nashik. Consequently, the Tribunal made an error apparent on the face of the record by stating that the fifth Respondent could not be considered for transfer until he had completed three years at Nashik.

9. Mr Sakhare argued that, as the crucial aspects mentioned above have not been considered by the Tribunal, and it has significantly erred in applying the State Act when the issue of transfer or minimum tenure was actually governed by the Central Provisions, the impugned order requires interference.

10. Mr Deolekar, learned AGP adopted the contents of the affidavit filed by the State before the Tribunal and this Court. He submitted that the State had disclosed all facts and placed all relevant documents on record to reach an appropriate decision.

11. Mr Kumbhakoni, learned Senior Advocate for the fifth Respondent, defended the impugned order based on the reasoning reflected therein. He submitted that this Petition was not an Appeal against the Tribunal's order; therefore, the scope of judicial review was minimal. He submitted that the Tribunal had correctly appreciated the facts and the law. He submitted that the Tribunal had reached the correct decision. He submitted that in any event, even a possible or plausible decision warrants no interference by this Court exercising its

extraordinary jurisdiction under Articles 226 and 227 of the Constitution.

12. Mr Kumbhakoni contended that the transfer order dated 5 September 2024 explicitly referred to State Law. Therefore, it was neither open to the State nor the Petitioner, who was the beneficiary of the transfer order dated 5 September 2024, to argue that the Central Provisions applied to the transfer of Indian Forest Service Officials. He asserted that such an argument was self-defeating, and based on this, the Tribunal's order could not be interfered with.

13. Mr Kumbhakoni submitted that there was no conflict between the Indian Forest Service (Cadre) Rules, 1966, as amended from time to time and the State Act. He submitted that the Central Rules did not deal with tenure. Therefore, the Tribunal correctly applied the tenure fixed for all government servants under the State Act. In any event, he submitted that should there be any conflict, the provisions of the State Act would prevail over mere rules framed by the Central Government in its executive capacity. He submitted that even rules framed under the Proviso to Article 309 of the Constitution were only transitional and subject to legislation by the appropriate legislature. He relied on the **Government of NCT of Delhi Vs. Union of India**¹ to support this contention.

14. Mr Kumbhakoni submitted that the fifth Respondent had questioned the decision-making process leading to the issue of the transfer order dated 05 September 2024. He submitted that the rules, whether State or Central, contemplated the constitution of a Civil Services Board. Such a board had to

¹ (2023) 9 SCC 1

consider the cases of the officials due for transfer and, by giving necessary justification, make recommendations. Based upon such recommendations, it was up to the competent authority, i.e. the Hon'ble Chief Minister, to order the transfers. Though the board's recommendations may not be binding, if the competent authority wishes to deviate or disagree, recording reasons was a must. He submitted that this scheme has its genesis in the decision of the Hon'ble Supreme Court in **T.S.R. Subramanian and others Vs. Union of India and others**².

15. Mr Kumbhakoni contended that the prescribed procedure was not followed in this instance. He argued that the fifth Respondent's case had not been considered for transfer by the board since the fifth Respondent was not even due for transfer. He asserted that handwritten additions made to the minutes of the board's meeting held on 29 August 2024 gave the impression that the board had recommended the fifth Respondent's transfer from Nashik to Roha. He claimed that if the law stipulates a specific procedure to achieve a particular outcome, then the authorities are bound to adhere to such procedure, as all other procedures, by implication, are prohibited. He referenced **Nazir Ahmad Vs. King-Emperor**³ and **Municipal Corporation of Greater Mumbai Vs. Abhilash Lal and others**⁴.

16. Mr Kumbhakoni referred to the several glaring infirmities and interpolations on the minutes of the board's meeting held on 29 August 2024. He submitted that the

² 2013 (15) SCC 732

³ AIR 1936 PC 253(2)

⁴ (2020) 13 SCC 234

Tribunal upon taking due cognisance of such glaring illegalities and infirmities correctly quashed the transfer order. He submitted that there was no error in the Tribunal's impugned order.

17. For all the aforementioned reasons, Mr Kumbhakoni submitted that this Petition should be dismissed.

18. The rival contentions now fall for our determination.

19. The Petitioner challenges the Tribunal's order dated 23 October 2024 by invoking this Court's jurisdiction under Articles 226 and 227 of the Constitution. In **L. Chandra Kumar vs Union of India and Ors.**, the Constitution Bench has held that such tribunal orders can be judicially reviewed by the Division Benches of the respective High Courts. Therefore, the issue of the maintainability of such a petition is not in dispute.

20. At the same time, the power of judicial review is not akin to that exercised by appellate or revisional courts. The High Court, in exercising its powers of judicial review, will interfere where the tribunal has acted without jurisdiction, has failed to exercise the jurisdiction vested in it, or where its order is arbitrary or perverse. It will also intervene if the tribunal has not observed the principles of natural justice, if there is an error apparent on the face of the record, or if there is no evidence to support the order. Judicial review may also be exercised when there is a lack of evidence, rather than simply insufficient or inadequate evidence, when the order is based on irrelevant considerations, or if the findings recorded are conflicting and inconsistent. Furthermore, if the tribunal's order perpetuates a grave injustice, or if the order is one that

no reasonable person could have made, judicial review can be invoked.

21. The Hon'ble Supreme Court has cautioned that the High Court's jurisdiction to interfere with the Tribunal's orders is neither appellate nor revisional. Therefore, the High Courts should be reluctant to interfere with or disturb decisions or specially constituted Tribunals under a statute because the evidence before the Tribunal was inadequate or insufficient or because no detailed reasons were given. Therefore, this matter will have to be examined, bearing in mind the above parameters of judicial review.

22. Based upon the rival contentions, broadly, two issues arise in this petition: -

(a) Whether the tribunal was justified in concluding that the issue of the transfer of the Petitioner and the fifth Respondent (officers in the All-India Forest Service cadre) was governed by the State Act, as contended by the fifth Respondent, or by the Central Provisions, as argued by the Petitioner?

(b) Was the decision-making process that led to the issuance of the transfer order dated 5 September 2024 was vitiated due to non-compliance with the mandates of the State Act or the Central Provisions and complete non-application of mind?

23. Concerning the first issue regarding the applicability of the State Act or Central Provisions, it is essential to note that the State Government, which issued the transfer order dated 5 September 2024, submitted an affidavit in response to OA No.

1024 of 2024 filed by the fifth Respondent before the Tribunal. In this affidavit, sworn by Dr Ravi Kiran Govekar, IFS, Chief Conservator of Forest (Mantralaya), Revenue and Forest Department, Mantralaya, Mumbai, on behalf of the State Government, the affiant stated the following in paragraphs 4, 5, and 8:

“4. *It is specifically submitted that the present Applicant is All India Service Officer of Indian Forest Service of 2016 Batch and his establishment matters are governed by All India Service Rules.* It is submitted that the impugned transfer order was issued with due approval of the Competent Authority i.e. Hon'ble Chief Minister of the State.

5. It is submitted that vide Government of India notification dated 28.01.2014 (Copy of which is annexed at ANNEXURE-R-I) the Central Government has constituted the Indian Forest Service (Cadre) Amendment Rules, 2014 wherein rule 7(3) specifies that *the a cadre officer appointed to any cadre post shall hold office at least two years unless in the meantime he or she has been promoted, retired or sent on deputation outside the state or training exceeding two months.*

In the present case the applicant has completed his normal tenure of two years in the month of March, 2024 on the post of Deputy Conservator of Forests (Territorial) East Nashik Division.

8. Accordingly Respondent No.5 i.e. Shri. Krishna Babaji Bhavar name was considered by the Civil Service Board for his transfer as his tenure was completed on the post of Deputy Conservator of Forests (Territorial), Nandurbar and recommended him to transfer at post of Deputy Conservator of Forests (Territorial), Roha. However, the decision of changing his posting to Deputy Conservator of Forests (Territorial), East Nashik has been taken by the Competent Authority as the cadre officer working on this post i.e. the present applicant who has completed the mandatory tenure of the two years. Thus his transfer is well within law.”

24. From the above, it is evident that the State Government believed the Central Provisions governed the issue of transferring officers of the Indian Forest Service. However, Mr Kumbhakoni, the learned counsel for the fifth Respondent (applicant before the Tribunal), referred to the transfer order dated 5 September 2024 and highlighted that it specifically referenced the State Act; therefore, the State Act applied even to the transfer of All India Service Forest Officers.

25. Mr Kumbhakoni contended that there was no conflict between the State Act and the Central Provisions, as the State Act provided a minimum tenure of three years, while the Central Provisions merely referred to All India Service Forest Officers holding a post for a minimum of two years. He noted that no maximum period for holding a post was prescribed under the Central Provisions.

26. The Tribunal has not adequately addressed the issue of the applicability of the State Act or the Central Provisions. It has adhered to the definition of “government servant” under Section 2(f) of the State Act, which includes All India Service Officers and employees (excluding judicial officers), and concluded that the State Act would govern the transfer of All India Forest Service Officers. This is only one aspect of the matter.

27. There is no dispute that the Petitioner and the fifth Respondent belong to an “All India Service” as defined under Section 2 read with Section 2-A of the All-India Services Act, 1951. Section 2-A specifically includes the Indian Forest Service. Section 3 of the 1951 Act empowers the Central Government, after consultation with the governments of the

States concerned and by notification in the official gazette, to make rules for the regulation, recruitment and conditions of service of persons appointed to in All India Service. In exercising these powers, the Central Government has made the Indian Forest Service (Cadre) Rules, 1966, which have been amended from time to time. The relevant amendment to the issue at hand would be the Indian Forest Service (Cadre) Amendment Rules, 2014, published in the Government gazette dated 28 January 2014.

28. The State Act deals generally with the issue of transfer of government servants. Section 3(1) of the State Act provides that for All India Service Officers, the *normal* tenure in a post shall be 3 years. Section 4(1) provides that no government servant shall be *ordinarily* transferred unless he has completed his tenure of posting as provided in Section 3. Based on these provisions, the fifth Respondent contended, and the Tribunal accepted that since the fifth Respondent had not completed three years at Nashik, he was not due for transfer in September 2024.

29. The Tribunal has, however, not bestowed sufficient consideration to the Central Provisions in the All-India Services Act, 1951, the Indian Forest Service (Cadre) Rules, 1966 and the Indian Forest Service (Cadre) Amendment Rules, 2014. In terms of the last referred rules, Rule 7(3) provides that a cadre officer appointed to any cadre post shall hold office for at least two years unless, in the meantime, he or she has been promoted, retired or sent on deputation outside the State or training exceeding two months. Similarly, Rule 7(5) provides that the Central Government or the State Government, as the case may be, may transfer a cadre office

before the minimum specified period on the recommendation of the Civil Services Board as specified in the schedule annexed to these rules. Therefore, the issue of the applicability of the State Act and or the Central Provisions required a deeper consideration.

30. At least prima facie, merely adhering to the “Government Servant” definition under Section 2(f) of the State Act was insufficient. The issue of whether the special rules applicable to All India Service Forest Officers would take precedence over the general provisions regarding the normal tenure of postings needed to be adequately addressed. Additionally, the tribunal has not sufficiently considered the implications of the Central provisions in the All-India Services Act, 1951, the Indian Forest Service (Cadre) Rules, 1966, and the Indian Forest Service (Cadre) Amendment Rules, 2014. Notably, the consequences of the provisions in Rules 7(3) and 7(5) of the 2014 amended Rules have also not been adequately addressed.

31. As discussed later, even the notification constituting the Civil Services Board referenced the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training Notification F.No. 11033/1(C)/2014-AIS-II dated 28 January 2014 and in accordance with sub-rule (1) of Rule 7 of the Indian Forest Service (Cadre) Amendment Rules, 2014, i.e. the central provisions. The implications of all these circumstances needed adequate consideration, which, with respect, is lacking in the tribunal’s order.

32. For all the above reasons, at this stage, we doubt the correctness of the view that the State Act, not the Central Provisions, would govern all issues of transferring All India Forest Service Officers. However, we are reluctant to express any final view on the above issue because, in this case, we are satisfied that the transfer order dated 5 September 2024, in so far as it concerns the Petitioner and the fifth Respondent, is vitiated on account of the infirmities in the decision-making process. This is irrespective of the issue of applicability of the State Act or the Central Provisions. Therefore, independent of the applicability of the State Act or the Central provisions, the tribunal's decision to strike down the impugned transfer order warrants no interference.

33. At this juncture, therefore, we shall leave the question of whether the State Act or the Central Provisions apply to the transfers of All India Service Forest Officers unresolved. Such a question can always be determined in a suitable case whenever the situation arises. The observations we have made above are merely prima facie and are in no way final. These observations were deemed necessary as we found that the tribunal did not adequately consider all circumstances and provisions impacting this issue. Therefore, we are reluctant to approve the Tribunal's view on this issue.

34. Concerning the second issue, we note that both the State Act and the Central Provisions mandate the establishment of a Civil Service Board to recommend transfers. This development aligns with the directives and observations in paragraphs Nos. 33 to 36 of T.S.R. Subramanian (supra), which are transcribed below for the convenience of reference:

“33. CSB, consisting of high-ranking in-service officers, who are experts in their respective fields, with the Cabinet Secretary at the Centre and Chief Secretary at the State level, could be a better alternative (till Parliament enacts a law), to guide and advise the State Government on all service matters, especially on transfers, postings and disciplinary action, etc., though their views also could be overruled, by the political executive, but by recording reasons, which would ensure good governance, transparency and accountability in governmental functions. Parliament can also under Article 309 of the Constitution enact a Civil Service Act, setting up a CSB, which can guide and advise the political executive transfer and postings, disciplinary action, etc. CSB consisting of experts in various fields like administration, management, science, technology, could bring in more professionalism, expertise and efficiency in governmental functioning.

34. We, therefore, direct the Centre, State Governments and the Union Territories to constitute such Boards with high-ranking serving officers, who are specialists in their respective fields, within a period of three months, if not already constituted, till Parliament brings in a proper legislation in setting up CSB.

35. We notice, at present the civil servants are not having stability of tenure, particularly in the State Governments where transfers and postings are made frequently, at the whims and fancies of the executive head for political and other considerations and not in public interest. The necessity of minimum tenure has been endorsed and implemented by the Union Government. In fact, we notice, almost 13 States have accepted the necessity of a minimum tenure for civil servants. Fixed minimum tenure would not only enable the civil servants to achieve their professional targets, but also help them to function as effective instruments of public policy. Repeated shuffling/transfer of the officers is deleterious to good governance. Minimum assured service tenure ensures efficient service delivery and also increased efficiency. They can also prioritise various social and economic measures intended to implement for the poor and marginalised sections of the society.

36. We, therefore, direct the Union State Governments and Union Territories to issue appropriate directions to

secure providing of minimum tenure of service to various civil servants, within a period of three months.”

35. On 29 May 2014, in pursuance of the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training Notification F.No. 11033/1(C)/2014-AIS-II dated 28 January 2014 and in accordance with sub-rule(1) of Rule 7 of the Indian Forest Service (Cadre) Amendment Rules, 2014, the State Government constituted following Civil Services Board to recommending posting/transfer of Indian Forest Service Officers of Maharashtra Cadre:-

1.	Chief Secretary	Chairman
2.	Senior most Additional Chief Secretary in the State of Maharashtra or an officer of equivalent rank and status	Member
3.	Principal Secretary (Services), General Administration Department, Government of Maharashtra.	Member Secretary
4.	Additional Chief Secretary / Principal Secretary / Secretary (Forests), Revenue and Forests Department, Government of Maharashtra	Member
5.	Principal Chief Conservator of Forests (Head of Forest Force), Maharashtra State.	Member

36. The notification dated 29 May 2014 (Exhibit 'M' at page 135) provides that the Board will make recommendations, and the competent authority will make the final decision to approve transfers. While making recommendations, the Board shall consider the norms annexed to the notification regarding administrative exigencies, nature and duties attached to the post, place of posting, seniority and age and service profile of the officer concerned. Further, the procedure and function of

the Civil Services Board will be as laid down in the Indian Forest Service (Cadre) Amendment Rules, 2014.

37. Incidentally, the Tribunal, when holding that the State Act applies, also failed to consider the Government Resolution (GR) dated 29 May 2014 on the Constitution of the Civil Services Board. This GR specifically invokes the Indian Forest Service (Cadre) Amendment Rules, 2014, to determine the constitution of the Board and the procedures that such a Board must follow when making recommendations for posting/transferring Indian Forest Services Officers of Maharashtra Cadre.

38. However, irrespective of the application of the State Act or the Central Provisions, none of the parties disputed those transfers had to be made on the recommendations of the Civil Services Board. The competent authority may disagree with the recommendations, but the competent authority would be obliged to record reasons for the disagreement. This means that there is no question of the competent authority directly transferring any Indian Forest Service Officers of the Maharashtra Cadre without there being a recommendation of the Civil Service Board. The recommendation may not bind the competent authority. Still, in the absence of the Board first considering the transfer issue, there was no question of the competent authority directly transferring an Indian Forest Service Officer of the Maharashtra Cadre.

39. The Civil Service Board, while making recommendations, is bound to consider the norms annexed to the notification/GR dated 29 May 2014, the administrative exigencies, the nature and duties attached to the post, the

place of posting, seniority and age and service profile of the officer concerned. Thus, the Board must consider all these parameters before recommending transfers. When the original application was instituted before the Tribunal, the fifth Respondent did not have a copy of the minutes of the Civil Services Board. The fifth Respondent obtained such a copy through RTI during the pendency of the original application before the Tribunal. Therefore, the copies of the actual minutes were produced on record under an affidavit by the fifth Respondent. The affidavit pointed to the several infirmities in the minutes, and based upon them, the fifth Respondent claimed, and the Tribunal has accepted that there were serious flaws in the decision-making process.

40. The Civil Services Board met on 29 August 2024. The minutes state that the following officers attended the meeting:

-

1. Smt. Sujata Saunik, Chief Secretary, Government of Maharashtra Chairman
2. Shri Rajesh Kumar, Additional Chief Secretary, (Revenue), Revenue & Forest Department ... Member
3. Smt V. Radha, Additional Chief Secretary (Services), GAD ... Member-Secretary
4. Shri B. Venugopal Reddy, Principal Secretary (Forests) R & FD ... Member
5. Smt. Shomita Biswas, PCCF (HOFF), Maharashtra State Member.

41. However, Mr Rajesh Kumar, the Additional Chief Secretary (Revenue), has not signed the minutes. At the end of pages 1, 2, and 3, only Ms V. Radha, Shri B. Venugopal Reddy, and Ms Shomita Biswas have signed the minutes. Mr Rajesh Kumar and the Chief Secretary, Ms Sujata Saunik, have not signed the minutes.

42. The above are by no means the only infirmities in the minutes. The state government could have explained the absence of such signatures by filing a proper affidavit, and the chairperson of the Civil Services Board could have also explained these matters. However, no such affidavit was filed.

43. The most glaring circumstance that prompted the Tribunal to interfere is the handwritten names on the last page of the minutes. The scanned copy of this last page is transcribed below for the convenience of reference: -

185

29	Shri Harvir Singh (2020) ACF Ramtek	DCF (T) Wardha	(presently on maternity leave) By transfer; and promotion to DCF; Vice Shri Rakesh Sepat
30	Shri Varun B. R. (2020) Sub-DFO Sironcha at Ahēri	DCF (T) Javhar	By transfer, vice Shri Niranjan Diwakar

Shomita Biswas
29/8/24
Shomita Biswas
PCCF (HOFF) MS
(Member)

B. Venugopal Reddy
29/8/24
B. Venugopal Reddy
Prin. Secretary, Forests
(Member)

V. Radhar
29/8/24
V. Radhar
ACS (Services) GAD
(Member-Secretary)

Rajesh Kumar
Rajesh Kumar
ACS (Revenue) R & FD
(Member)

Sujata Saunik
Sujata Saunik
Chief Secretary
Chairman

May be approved with following change
in postings:

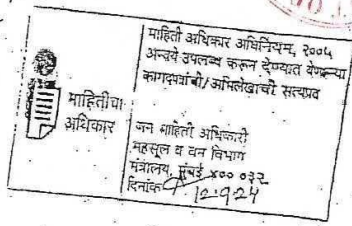
- | Sr. No | Posting |
|----------------------|---|
| 1) 11 | Shri. Rakesh Sepat - DCF (T) |
| 2) 18 | Shri. Krishna Bhavār - DCF (T) Bramhapur |
| 3) 22 | " Sajpur Shaikh - DCF (T) Javhar |
| 4) 23 | " Kiran Jagtap - DCF (W) Javhar |
| 5) 26 | " Sachin Repal - DCF (T) There |
| 6) 27 | " Shailendra Jadhav - Not to be transferred |
| 7) 30 | " B.R. Varun - DCF (T) Madgaon |
| 8) Shri. Umesh Wante | - DCF (T) Madgaon |

Submitted for approval,
Sujata Saunik
29/8/24
Sujata Saunik
Chief Secretary

Hon. Minister (Forest)

Hon. Chief Minister

pr. secy (Forests)
ccf/cm



44. In the list of thirty officers whose cases were considered for posting and transfers by the Civil Services Board, there was a reference to the Petitioner at serial No.18, who was then posted at Nandurbar. His proposed posting was indicated as “DCF(T) Roha”. The column “Justification for posting/transfer” stated, “**By transfer; vice Appasaheb Nikat**”.

45. However, there was no reference to Shri Umesh Waware, the fifth Respondent herein in the list of thirty officers whose cases were considered by the Civil Services Board for transfers and posting. Mr Umesh Waware’s name is in the list of the eight handwritten names on the minutes. The handwritten portion reads as follows: -

“May be approved with following change in postings :

	Sr. No.	Posting
1)	11	Shri. Rakesh Sepat – DCF(T). Bramhapuri
2)	18	Shri. Krishna Bhavar – DCF(T) Javhar
3)	22	“ Saipun Shaikh – DCF(T) Javhar
4)	23	“ Kiran Jagtap – DCF(WF) K’pur wil
5)	26	“ Sachin Repal – DCF(T) Thane
6)	27	“ Shailendra Jadhav – Not to be transferred.
7)	30	“ B. R. Varun – DCF(T), Wadsa.
8)		Shri Umesh Wavre – DCF(T), Roha”

46. The list of thirty officers the Board considered for transfer and postings includes the officers numbered 1 to 7. The changes mainly interchange the places of proposed transfers. One of the officers, Shailendra Jadhav, is proposed to be retained as DCF of Mangrove Cell. However, there was never any reference to the fifth respondent. Therefore, we cannot say the Tribunal’s finding about his case never being considered by the Board as required by the law is vitiated by any perversity.

47. As the Petitioner was previously recommended for transfer from Nandurbar to Roha and given the handwritten proposal for transfer from Nandurbar to Nashik, an officer from Nashik needed to be transferred. Consequently, Respondent No. 5, whose case was not even considered for transfer by the Board, was ordered to be transferred to Roha, where the Petitioner was initially meant to be transferred. The evidence on record supports this conclusion of the Tribunal.

48. As pointed out earlier, neither the State Government nor any of the members of the Central Services Board have filed any affidavit explaining who made the handwritten insertions and at what stage such handwritten insertions were made. Suppose the handwritten insertions represent the decision of the competent authorities, i.e. the Hon'ble Minister (Forest) or the Hon'ble Chief Minister. In that case, this should have been disclosed by filing an affidavit. If this were to be disclosed, then it would be evident that the political executive disagreed with the Board's recommendations. In such a situation, reasons had to be recorded for disagreement. For the first time, the political executive cannot consider an officer's transfer without the same being considered by the Board or without any positive or even negative recommendation from the Board. The affidavit filed by the State Government had neither bothered to place the copy of the minutes on record nor explain these insertions.

49. The minutes clearly show that the Board did not even consider the fifth Respondent's case. Column 4 of the minutes in which cases of 30 officers were considered reads, "justification for posting/transfer". Some reasons justify the posting and transfer of all such officers. Since the fifth

Respondent's name was not included, no justification was recorded for posting/transfer. As noted earlier, the Civil Services Board is obliged to make recommendations after due application of mind to various parameters referred to in the GR dated 29 May 2014 and the Annexures to the same.

50. Without the Central Services Board considering the case of the fifth Respondent for transfer, there was no question of transferring the fifth Respondent from Nashik to Roha even though the fifth Respondent may have completed the minimum tenure of two years at Nashik. Though not clearly worded, the Tribunal's observations suggest that the Central Provisions had not provided for any maximum period at a particular posting. This means that merely upon completion of two years at Nashik, there was no question of transferring the fifth Respondent even without his case for transfer being adequately considered by the Civil Services Board or in the absence of any recommendation of the Civil Services Board to that effect.

51. The State Government or the Chairperson of the Board did not file an affidavit explaining the insertions before the tribunal or this court. In the absence of any explanation and even by overlooking infirmities like Rajesh Kumar not signing the minutes or only three out of the five members signing the pages of the minutes, we agree with the Tribunal that there were serious flaws in the decision-making process warranting interference. The findings and the inferences drawn cannot be said to be perverse or based on no material on record.

52. The Tribunal's assessment of the serious flaws in the decision-making process and its observations regarding the

insertions made in the minutes of the Central Services Board meeting held on 29 August 2024 warrants no interference. Such findings can scarcely be described as perverse or unsupported by adequate evidence. The perspective adopted by the Tribunal on this issue was certainly more than merely plausible. Considering the limited parameters of judicial review in such cases, we are disinclined to interfere with the tribunal's impugned judgment and order, though we have expressed our reservations on the issue of the State Act entirely governing the transfers of All India Forest Service Officers in the Maharashtra Cadre.

53. Accordingly, we dismiss this petition for the above reasons. However, we clarify that the applicability of the State Act or Central Provisions for transferring all India Service Forest Officers in the State is expressly left open.

54. The rule is discharged without any costs orders.

(Jitendra Jain, J)

(M. S. Sonak, J)