

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION***

***CIVIL WRIT PETITION NO.15400 OF 2024***

Krishna Babaji Bhavar

.. Petitioner

***Versus***

The Union of India and Ors.

.. Respondents

...

Mr.Nitin Gaware Patil a/w. Mr.Jay Salunke, Advocate for the  
Petitioner.

Mr.Vinit Jain a/w. Mr.Ashutosh Mishra, Advocate for  
Respondent No.1-UOI.

Ms.Sulbha Chipade, AGP for Respondent-State.

Mr.Rahul Walia a/w. Ms.Divya R. Shetty, Advocate for  
Respondent No.5.

...

***CORAM: SANDEEP V. MARNE &  
MANJUSHA DESHPANDE, JJ.  
(VACATION COURT)***

***DATED : 30<sup>th</sup> OCTOBER, 2024.***

**P.C:-**

Heard the learned counsel appearing for the parties. One of the issues that arises for consideration in the Petition is whether the provisions of the Maharashtra Government Servant Regulation of Transfer and Prevention of Delay in Discharge of Official Duties Act, 2005 ("the Transfer Act, 2005", for short), prescribing minimum tenure of 3 years under Section 3 thereof would apply or whether the provisions for the Indian Forest Services (Cadre) Rules, 1966, prescribing tenure of 2 years would govern the impugned transfer order.

It appears that the transfer order itself makes a reference to the provisions of the Transfer Act, 2005.

*Prima facie*, it appears that the provisions of the Transfer Act, 2005, apply to all the Government Servants in the State of Maharashtra including All India Service Officers of the Maharashtra Cadre. It would therefore imply that the Petitioner and Respondent No.5 would be governed by the provisions of the Transfer Act, 2005, Section 3(1) whereof prescribes the normal tenure as 3 years.

2 In that view of the matter, no ad-interim relief can be granted to the present Petitioner, at this stage. However, since the implementation of order passed by the Tribunal would involve relieving of the Petitioner from Nashik, we direct that during the pendency of the Petition, the Petitioner be granted posting at Roha, Raigad, so that he does not remain without posting. It is clarified that pendency of Petition shall not come in the way of State Government from transferring Respondent No.5 as and when he becomes due for transfer.

List the Petition before Regular Court on **25.11.2024**.

**(MANJUSHA DESHPANDE, J.)**

**(SANDEEP V. MARNE, J.)**