

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH:MUMBAI

OA No. 634/2000

WEDNESDAY, THE 18TH DAY OF OCTOBER, 2000

HON'BLE MR.JUSTICE ASHOK AGARWAL, CHAIRMAN  
HON'BLE MR.B.N.BAHADUR, MEMBER (A)

Shri Sabir Kar S/o P.K.Kar  
R/o C/o V.K.Singh, Gupta Bhavan  
Behind Rajlaxmi Talkies  
Ram Nagar Road, Gondia

.... Applicant

(By Advocate Shri S.Marathe)

vs.

1. Union of India  
through its Secretary  
Ministry of Railways  
New Delhi.
2. The Senior Divisional Personnel  
Officer, South Eastern Railway  
Nagpur Division, Nagpur

...Respondents

ORDER (ORAL)

JUSTICE ASHOK AGARWAL:

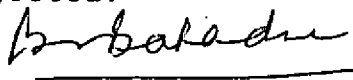
Applicant was posted as a Safaiwala at Jabalpur. He had sought mutual transfer with one Murari Khersingh who was posted at Gondia as <sup>(a)</sup> Parcel Hamal. On mutual request, applicant by an order passed on 22.11.1999 at Annexure I was transferred to Gondia and Shri Murari Khersingh was transferred to Jabalpur. Aforesaid order of transfer has been cancelled by the impugned order passed on 3.8.2000 at Annexure IV. Aforesaid order of 3.8.2000 is impugned in the present OA.

2. Applicant has not impleaded the aforesaid Shri Murari Khersingh who is bound to be adversely affected by any order that may be passed in favour of the applicant. Present OA, in the circumstances, suffers from the vice of non-joinder of necessary parties. Moreover, we find that the applicant has been working as a Safaiwala, whereas Shri Murari Khersingh is working as a Parcel Hamal. These are independent cadres. Hence there cannot be a mutual transfer in between them. Moreover, according to the respondents, applicant has concealed and suppressed the facts

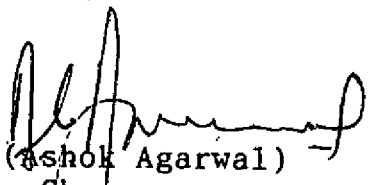
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before Shri Murari Khersingh, Parcel Hamal while taking his left hand thumb impression on the mutual exchange application. In the process, applicant has sought to change his category from Safaiwala to Parcel Hamal by way of ~~the~~ mutual transfer. Applicant, it would thus be clear has approached the Tribunal with unclean hands.

3. Present OA, in the circumstances, is summarily rejected.

  
(B.N. Bahadur)  
Member (A)

sns

  
(Ashok Agarwal)  
Chairman