

12

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

NEW DELHI

O.A. No. 464 of 1995.

NEW DELHI, THIS THE 31st DAY OF JULY, 1995.

HON'BLE MR B.K.SINGH, MEMBER(A)

1. Shri R. Sethi
Secretary
Northern Railway
Working as Chief Electrical Foreman
PRS/IRCA Building
New Delhi:

R/O Quarter No. 23/1
Railway Colony
Nizamuddin (East)
New Delhi.

2. Shri Guruwant Singh
S/O Shri Pritam Singh
Chief Electrical Foreman (Constn.)
Northern Railway
Minto Bridge
New Delhi.

R/O Quarter No. 23/2
Railway Colony
Nizamuddin (East)
New Delhi.

3. Shri L.R. Nagpal
S/O Shri Bhawan Dass
Working as;
Carriage and
Wagon Superintendent
Northern Railway
Nizamuddin
Railway Station,
New Delhi.

Contd.....2/-

13
R/o Quarter No.23/6
Railway Colony
Nizamuddin (East)
NEW DELHI - 110 013

4. Shri U.V.Singh
s/o Shri Kannaya Singh
Working as Chief Permanent Way Inspector
(CPWI), Northern Railway
Shakurbasti
NEW DELHI

R/o Quarter No.23/12
Railway Colony
Nizamuddin (East)
NEW DELHI - 110 013.

5. Shri R.L.Anand
s/o Shri J.C.Anand
Working in Chief Draftsman
Northern Railway Headquarters
Baroda House
NEW DELHI

R/o Quarter No.23/7
Railway Colony
Nizamuddin
NEW DELHI - 110 013.

6. Shri Vidya Bhushan Sharma
s/o Shri Amar Nath Sharma
Working as Traffic Inspector (Planning)
Railway Electrification (RE)
Northern Railway
NEW DELHI

R/o Qr. No.23/9
Railway Colony
Nizamuddin (East)
NEW DELHI - 110 013.

7. Mrs. Lakshmi Dass
w/o Shri O.P.Dass
Chief Reservation Supervisor, PRS at
Northern Railway
Nizamuddin
NEW DELHI

R/o Quarter No.23/5
Railway Colony

.....3/-

B

Nizamuddin (East)
NEW DELHI - 110 013.

8. Shri S.N.Raut
s/o Shri Bhola Raut
working as Office Superintendent
Northern Railway
Northern Railway Headquarters
Bardo House
NEW DELHI - 110 001.

R/o Quarter No.23/1
Railway Colony
Nizamuddin (East)
NEW DELHI - 110 013.

9. Shri J.C.Sharma
s/o Shri Laxmi Narain
Inspector of Works
DRM Office
State Entry Road
NEW DELHI

R/o Quarter No.E-1
Railway Colony
Nizamuddin (East)
NEW DELHI - 110 013.

10. Shri Sanjay Sethi
s/o Shri Jamana Das Sethi
Clerk
S & T (Construction Dept.)
DRM Office, State Entry Road
NEW DELHI

R/o Quarter No.25/9
Railway Colony
Nizamuddin (East)
NEW DELHI - 110 013.

.....4/-

B

11. Shri Khilanand
s/o Shri Madhavanand
Cook, under Station Manager
Nizamuddin Railway Station

R/o Quarter No.24/2
Railway Colony
Nizamuddin (East)
NEW DELHI - 110 013.

... APPLICANTS

(through Mr Ramesh Gautam, Advocate).

VERSUS

1. UNION OF INDIA
through The General Manager
Northern Railway Headquarters
Baroda House
NEW DELHI - 110 001.

2. The Divisional Railway Manager
State Entry Road
NEW DELHI

3. The Divisional Superintending Engineer/State
Northern Railway
D.R.M. Office
State Entry Road
NEW DELHI

... RESPONDENTS

(through Mr K.K.Patel, - Advocate).

O R D E R

(delivered by Hon'ble Mr Mr B.K.Singh, Member(A))

This OA No.464 of 1995, has been filed
by Residents Welfare Association of Nizamuddin
Railway Colony through its Secretary Shri R.Sethi,
working as Chief Electrical Foreman PRS/IRCA Building
New Delhi against the order No.159-EO/11/Ot.52/
Alternate/91, dated 14.2.1995 passed by the
Divisional Superintendent Engineer/State Northern
Railway.

The admitted facts are that the
applicants are regular allottees of the quarters. ~~They~~
They have been directed to vacate the railway quarters

B

for demolishing the same for purposes of expansion of Nizamuddin Railway Station and also for widening the road etc.

This appears to be a major policy decision of the railways to convert Nizamuddin Station into a major Junction Railway Station on a par with Old Delhi and New Delhi Railway Stations with a view to decongest the areas in and around old Delhi and New Delhi Railway Stations and to shift the trains for southern areas - Gujarat and Maharashtra to Nizamuddin for the purpose of their departure and arrivals. The applicants are claiming that the railways should first provide them alternative accommodation as per their entitlement in an adjoining vicinity so that the educational and other facilities of their wards, which they are enjoying today in Nizamuddin locality are not adversely affected. The reliefs prayed for are:

- i) that the order dated 14.2.1995 by which the applicants have been directed to vacate the quarter and threatened to impose damage charges/penal rent is quashed and set aside.
- ii) That in case the eviction becomes unavoidable at any subsequent stage the applicant should be given allotment of the quarter strictly in accordance with the master circular No.49 of the Railway Board as per their entitlement and keeping in view of their option for the quarters in the same vicinity.

There was an interim order passed by the Tribunal on 10.3.1995, which directed the respondents to keep the orders dated 14.2.1995 in abeyance for a period of 14 days from that date.

This order was modified on 10.4.1995 with a

B

detailed discussion of the orders involved. The interim order was vacated and modified to the extent that the applicants were shifted to the quarters allotted to them only in the event that the respondents are dismantling or demolishing the quarters/erstwhile allotted to the applicants and the respondents shall also not allot these quarters to any other employees than the applicants and in the event the process of demolishing/dismantling is revised subsequently then the applicants shall have to be compensated.

In the counter-reply filed by the respondents, it has been averred that a policy decision was taken by the competent authority to improve the first entry at Nizamuddin Station from Rajdeot Hotel side and an order was issued by the competent authority on 15.11.1994 which reads as under:

" Sub: Improvement to the first entry at NJM Station
from Rajdeot Hotel Site

The plan for the above has been finalised by the DDA and the Railways. As per the plan, Block No. 23 (Type III 12 Units), Block No. 25 and 24 (both Type I 12 Units each) and block No. 20 (type IV 4 Units) are to be dismantled. For relating some of these quarters, two units Type II quarters located along side the IOW(MORT.)'s office are also required to be dismantled. The list of occupants of the quarters for these blocks is annexed as Annexure-I. Also at Annexure II the list of occupants of the remaining quarters at NJM".

B

It was stated that as per extant rules of the Railway Board, the respondents allotted the applicants alternative accommodation in lieu of their present railway accommodation. The respondents directed the allottees to take over the possession of the allotted quarters on 25.11.1994, 25.12.1995 but the orders were not complied with.

It is not in dispute that alternative accommodation, as far as possible has to be allotted in an adjoining area and as per entitlement but the guidelines cannot be adhered to since the quarters are not available in the vicinity or in an adjoining area and this is precisely the reason why the quarters were allotted in the Wazirpur area. The learned counsel for the respondents fairly conceded the allegation of the learned counsel for the applicants that these quarters in Wazirpur area were not vacant and as such there was no question of occupying these quarters and after proper inspection, the railway authorities allotted quarters in Subji Mandi. These quarters are vacant. In reply to this, the learned counsel for the applicants stated that these quarters are deserted and that there are no windows and doors and as such the applicants are not in a position to occupy the same till these quarters are made habitable. The learned counsel for the applicants further pointed out that most of the applicants have put in 10 to 15 years of service and have school-going children and as such would be adversely affected if they are shifted from Nizamuddin to Subji Mandi area and there would be problems of schooling etc. to the children. On humanitarian grounds also, they should be accommodated as far as possible in and around areas which are adjoining to Nizamudin. It was also pointed out

3

that the respondents are adopting the policy of pick and choose. This was vehemently denied by the learned counsel for the respondents. He said that as per extant rules of the railways all the petitioners have been provided the same type of quarters as were occupied by them. It was further argued that they never represented seeking the railway quarters of their entitlement. Respondent No.3 is not competent to allot higher type of quarter at the time of replacement/changing of quarters. It was further argued that petitioner No.1 represented before respondent No.3 on 6.12.1994 but he refused to accept the alternative accommodation allotted to him and requested for type IV quarter. The petitioner No.2 represented on 7.2.95 to provide him quarter at Lajpat Nagar, Sarojini Nagar, Lodi Road, Mint Bridge. It was pointed out that no quarters were vacant in these places. The petitioner No.3 represented before the competent authority on 2.3.1995, claiming Type IV quarter or Type III quarter at Lajpat Nagar, Mahavat Khan Road. It was further pointed out that no Railway quarters were available in this area. Similarly, the petitioner No.4 represented on 18.2.1995 for accommodation at Sakurbasti specifically Qr.No.E-136/2, III SSB Non-pooled. He was allotted Qr.No.E-136/2 III SSB. The petitioner was transferred on 6.12.1994 to Sakurbasti as CPWI but he did not accept the quarter allotted to him and still insisting on allotment of a specific quarter mentioned above. Petitioner No.5, according to him, never made any representation. Petitioner No.6, represented on 25.2.1995 to allot quarter at New Delhi area. The learned counsel pointed out that no railway quarter is vacant in

B

and around New Delhi area. The petitioner No.7 represented on 10.2.1995 before the competent authority and requested for allotment of Railway quarter at College Link, Tilak Bridge, P.K.Road. It was pointed out that no quarters were vacant in these places. Petitioner No.8 represented on 8.2.1995 before the competent authority to allot him quarter at Shakurbasti and was allotted quarter No.E-134 Shakurbasti on 22.2.1995. Petitioner No.9 represented on 13.2.1995 and was allotted quarter at Lajpat Nagar, which is three Kms from NJM. Petitioner No.10 is seeking for Type III Quarter and respondent No.3 is not competent to allot type III quarter. He did not represent before the competent authority for providing him a quarter of his entitlement.

After hearing the arguments advanced on behalf of the rival parties and going through the pleadings on record, it is clear that it is a major policy decision to expand Nizamuddin Railway Station and to decongest New Delhi Railway Station for arrival and departure of trains and also to create parking places for the passengers who come to Nizamuddin for seeing off of these passengers. To take a policy decision is the prerogative of the Government and they are also vested with discretionary powers in these matters. De Smith in his judicial review of administrative action, 4th Edition pages 286-298 has concluded that the Courts will show a special restraint in issuing directions where:

- (i) a power is exercisable in 'emergency condition';
- (ii) the executive powers, exercise of which is not subject to appeal is used to exclude, remove



21

:-10-:

to
or/ depart alienness or other non-partial
persons on policy grounds; or

(iii) the policy contained with the
power is such that its exercise affects
large number of persons, that is, where
public interest is involved.

Thus, it is clear that it is a major policy
decision taken by the Railways and that cannot be
subjected to judicial review or appeal. The
authorities have taken this policy decision in the
interest of General Public and the discretion has
been exercised lawfully and, therefore, the Court
is not competent to interfere with the decision.
As regards the claim of the respondents to be
allotted quarters as per their entitlement in
the vicinity, a Judgment of the Full Bench
delivered on 29.5.1995 is relevant, particularly,
para 36 and the reply given in para 37. The
questions framed in para 1 ^{is} whether allotment of
railway quarter can be claimed as a matter of
right? This question alongwith other two questions
have been answered in the negative. The
Railway Servants are not entitled to allotment
of railway quarter as a matter of right. If
there are no quarters, the railway servants are
entitled to draw H.R.Q.A. rent from the railways
but they cannot claim the quarter as of right.
Further, the respondents have made a statement
at the Bar they are trying to adjust the
persons who are required to vacate the quarters
in Nizamuddin to other places. They may do so.

In the conspectus of the facts and
circumstances of the case, the application is

B

dismissed as devoid of merit or substance leaving
the parties to bear their own costs. The interim
order passed in this case is vacated. *No penal cost should
be charged from the allottees and they must vacate their flats immediately.*

31st July, 1995
"SDS"

(B.K. Singh)
Member (A)