

**Award No. 1881**

**Docket No. 1835**

**2-PRR-TWUOA-'55**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

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**PARTIES TO DISPUTE:**

**TRANSPORT WORKERS UNION OF AMERICA C. I. O.**

**PENNSYLVANIA RAILROAD COMPANY, THE (Western Region)**

**DISPUTE: CLAIM OF EMPLOYEES:**

"The instant dispute was designated on the property of the Carrier at Grand Rapids, Michigan, Fort Wayne Division, Western Region.

The dispute involves the claim of Mr. J. M. Dotch for eight (8) hours January 20, 1953, at the punitive assigned laborer rate. This claim is due to the unilateral action of the Carrier, in assigning Machinist Helper Nelson Holmes to the duties of assigned laborer, on the date in question."

**STATEMENT:** The above question was submitted to the Second Division of the National Railroad Adjustment Board by the above referred to Organization in ex parte form, and the Division is now in receipt of a request from the employes that the case be withdrawn.

**AWARD**

Claim dismissed.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of Second Division

**ATTEST: Harry J. Sassaman**  
Executive Secretary

Dated at Chicago, Illinois, this 3rd day of February, 1955.

the discretion of the president." In other words, by this award the carrier has no discretion at all in the matter after it has elected to furnish passes to any of its employes. Such thinking is unsound and utterly inconsistent.

The uncontroverted record clearly shows that the carrier has consistently refused to issue or request transportation for a former employe, receiving an annuity under the Railroad Retirement Act, when such person has brought suit against the Company—see Exhibit "AA" attached to carrier's oral statement. The majority chose to ignore that record when they undertook to determine the obligations of the carrier under such a gratuity rule as Rule 44.

The claim as presented is definitely limited to two claims—(1) reimbursement for the purchase price of the foreign line transportation and (2) furnish biennial card passes for the years 1953-54. Claim (1) was denied by the award, and claim (2) is impossible of fulfillment, because such passes expired on December 31, 1954, and could not now be issued. The award is a nullity, and we, therefore, dissent.

**T. F. Purcell**  
**M. E. Somerlott**  
**R. P. Johnson**  
**D. H. Hicks**  
**J. A. Anderson**