

Award No. 1982
Docket No. 1908
2-PRR-TWUA-CIO-'54

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

PARTIES TO DISPUTE:

TRANSPORT WORKERS UNION OF AMERICA, C. I. O.
RAILROAD DIVISION

THE PENNSYLVANIA RAILROAD COMPANY (Eastern Region)

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the Current Agreement Coach Cleaner Joseph J. Caperna was unjustly suspended on May 16, 1951 and unjustly dismissed May 31, 1951.

2. That accordingly the Carrier be ordered to reinstate the aforesaid employe with seniority unimpaired and pay him for all monies lost retroactive to May 16, 1951.

EMPLOYEES' STATEMENT OF FACTS: There is an agreement between the parties hereto dated July 1, 1949 and subsequent amendments, copy of which is on file with the Board and, is by reference hereto, made a part of this statement of facts.

At Sunnyside Yard, New York Division, Eastern Region, the Pennsylvania Railroad Company, hereinafter referred to as the carrier, employs a force of coach cleaners.

The aggrieved, Joseph J. Caperna, hereinafter referred to as the claimant, was until May 31, 1951, employed as a coach cleaner, at the seniority point in question.

The claimant was disciplined by dismissal for charge appearing on G 32 notice dated May 31, 1951, evidence of which is submitted herewith and identified as employes exhibit A.

May 26, 1951 a trial was held in regards to this alleged violation, record of which is submitted herewith and identified as employes exhibit B.

In a letter dated June 5, 1951 addressed to the superintendent, claimant appealed from the discipline and was granted a hearing June 16, 1951. In a letter dated June 19, 1951 the superintendent advised the claimant that his appeal had been denied. This denial is submitted herewith and identified as employes exhibit C.

A joint submission was entered into on the property by and between the union and the carrier, evidence of which is submitted herewith and identified as employes exhibit D.

1952, but the organization did not accept the offer. The carrier contends, therefore, that it should not be penalized for the failure of the claimant and his representative to accept return to service of the claimant, effective April 28, 1952, with full seniority.

The carrier submits, therefore, that the claimant is not entitled to be compensated for any loss of time on and after April 28, 1952, even if he is held to be entitled to compensation from May 16, 1951 to April 28, 1952, which the carrier denies.

The carrier submits that the record clearly and conclusively shows that its action in disciplining the claimant in this case was in no way arbitrary, malicious or in bad faith; and contends that discipline was imposed upon the claimant only after a fair and impartial investigation and trial and upon substantial and undeniable evidence of the claimant's derelictions which proved his guilt of the offense with which he was charged. Furthermore, the discipline imposed upon the claimant was fully justified in order to protect the interests of the claimant, his fellow employees, and the carrier.

Therefore, the carrier respectfully requests your Honorable Board to deny the claim of the employees in this matter.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

The evidence of record does not justify the extreme discipline rendered. The claimant, J. J. Caperna, should be restored to service with seniority unimpaired, but without pay for time lost.

AWARD

Claim sustained for restoration to service with seniority right unimpaired. Claim for compensation denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 28th day of July, 1955.