

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

THE BROTHERHOOD OF SLEEPING CAR PORTERS

THE PULLMAN COMPANY

**STATEMENT OF CLAIM:** "... for and in behalf of G. H. Mitchell, who was formerly employed as a porter operating out of the Chicago Western District, because the Pullman Company did under date of November 4, 1939 discharge G. H. Mitchell from his position as porter in the Chicago Western District unjustly and without sufficient reason; and further, because he did not have a fair and impartial hearing because the penalty meted out was based upon charges additional to the ones originally made in the instant case, upon which Mitchell had previously been penalized, thus subjecting him to a double penalty; and further, for the restoration of G. H. Mitchell to his former position as a porter in the Chicago Western District with his seniority unimpaired and with pay for time lost by virtue of this unjust and unreasonable discharge."

**EMPLOYES' STATEMENT OF FACTS:** "Your petitioner, the Brotherhood of Sleeping Car Porters, respectfully submits that it is duly authorized to represent all porters, attendants and maids employed by the Pullman Company for all purposes provided for under the provisions of the Railway Labor Act.

"Your petitioner further sets forth that in such capacity, it is duly authorized to represent G. H. Mitchell who was formerly employed by the Pullman Company as a porter operating out of the Chicago Western District.

"Your petitioner further sets forth that Porter Mitchell was operating on a line from Chicago to Portland, Oregon known as Line 136½.

"Your petitioner further sets forth that on or about the first of September 1939, he was called into the office on account of a report of service derelictions on trip on above mentioned line; and at that time he (Mitchell) wrote a statement in answer to and in explanation of the charges; and that several days thereafter (September 8, 1939) he was formally charged with certain service derelictions. Hearing on said charges was set for September 12, 1939. This hearing was postponed by mutual agreement between the Management and the Organization and was finally arranged to be held on October 26, 1939.

"Your petitioner further sets forth that after hearing on said charges, Porter Mitchell was discharged from his position as porter under date of November 4, 1939.

"Appeals were made through the regular channels up to and including Mr. B. H. Vroman, Assistant to the Vice President of the Pullman Company, the last officer designated by the Management to handle matters of this sort.

other charge on this last trip. The three disciplinary measures taken against Mitchell for untidiness, not to mention the safety hazard involved, apparently did not prevent his leaving a broom on the car vestibule platform on the last trip. Nor was he prevented from talking loudly on this trip by three previous instances of discipline for similar offenses. The punishment he received on four separate occasions for insubordination to Pullman conductors did not prevent Mitchell's being insubordinate to the Pullman conductor again on his last trip. Lastly, fifteen instances of previous discourtesy to passengers, and carelessness concerning their comfort, for all of which he had been disciplined, were apparently forgotten by Mitchell, for he was again guilty of these derelictions on the trip of August 14th-17th, 1939. Even a discharge on the basis of Mitchell's record up to November 16th, 1931, without, of course, taking into consideration the numerous disciplinary measures which followed, was insufficient to convince Mitchell of the necessity for improving his service.

"Mitchell's record has conclusively established his incapability of improving himself sufficiently to be retained in Pullman service. He cannot attain the standard of service which the Company must require in the public interest, and his claim should be denied." (Exhibits not included.)

**OPINION OF BOARD:** The evidence of record discloses no grounds for disturbing the action of the carrier in this case.

**FINDINGS:** The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the carrier and the employe involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the evidence of record discloses no grounds for disturbing the action of the carrier in this case.

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: H. A. Johnson  
Secretary

Dated at Chicago, Illinois, this 18th day of June, 1940.