

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Elwyn R. Shaw, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF SLEEPING CAR PORTERS
THE PULLMAN COMPANY**

STATEMENT OF CLAIM: For and in behalf of B. C. Warfield who was formerly employed by The Pullman Company as a Porter operating out of the Los Angeles, California District. Because the Pullman Company did, under date of October 27, 1941, discharge B. C. Warfield from the service of The Pullman Company on charges unproved; which discharge was unjust, unreasonable and in abuse of the Company's discretion.

And further, for B. C. Warfield to be restored to his former position as a Porter in the Los Angeles, California District and paid for all time lost by virtue of having been unjustly discharged.

OPINION OF BOARD: In this case the Porter, Warfield, was discharged from the employ of the Pullman Company for conduct unbecoming to a Pullman Porter after a hearing in accordance with the existing rules. The discharge was sustained by the Vice President of the Pullman Company after conference with the other officials who had taken action in the matter the discharge was sustained, and the case has been appealed to this Board.

It is reasonably clear from the entire record, not only from employees of the Texas and Pacific Railroad Company, but corroborated by statements of passengers and others, that Porter Warfield was guilty of conduct unbecoming a Pullman Porter, disgraceful to himself, and obnoxious to the public.

Warfield, from the Los Angeles District, had been assigned to a troop movement to Vicksburg, Mississippi, from which point he was being dead-headed back to his home district at the time of the occurrence in question. He was in company with five other porters from the Los Angeles District and all of them were starting on pass from Shreveport for Los Angeles by way of the Texas and Pacific out of Shreveport. They were on Texas and Pacific train No. 7, and all six of them were in the colored section of a railroad coach on the train between Marshall and Dallas. The train was in charge of Conductor T. Lawler who admonished Porter Warfield many times about his conduct and finally had him removed from the train at Dallas, where the Pullman Night Agent took charge of him.

No one but Warfield denies what happened on this train, but even his denial is colored by evasions and at least one untrue statement. He says in one part of his statement that he was prevented from getting on the train again at Dallas and that was the first time he knew he was to be removed permanently therefrom. It is clear, however, that he had arranged the contents of his bag and taken it from the train with him. The report of Conductor Lawler which is corroborated by various other agents of the Texas and Pacific Railroad and of the Pullman Company, and fully corroborated by the statement of the passenger on the train, indicates the following to have been the facts.

These six Porters, including Warfield, entered the train at Marshall enroute from Shreveport to El Paso and settled themselves near the partition dividing the white from the colored portion of the coach which would be the forward part of the car. Leaving Marshall and continuing from there on this particular Porter indulged in loud and boisterous conduct, and when he took up the transportation the Conductor admonished against it and told the Porter that he was disturbing other passengers. After leaving Longview Warfield was again talking loud, in fact so loud that it could be heard at the rear end of the coach, and the Conductor again told him to quiet down, that he was disturbing other passengers. Thereafter between Longview and Edgewood he admonished him several times and near Edgewood, while the Conductor was in the white compartment of the coach, he heard the Porter, Warfield, use obscene language which it is unnecessary to repeat here, but would not be used in polite society. The Conductor then went to Warfield and told him to get his grip, that he was going to put him off the train at the next stop. He did not do that but decided to carry him through Dallas where the Pullman Company had a Night Agent. It seems that the Conductor made this decision because of the fact that certain towns in that vicinity are much opposed to the presence of negroes and the Conductor thought it would not be a good thing to drop him off at any of them. In the meantime the Conductor had received a complaint from a revenue passenger. After leaving Wills Point and approaching Dallas, Porter Warfield asked the Conductor if he wouldn't give him another chance, and was told that he had been given several chances. The Conductor also had a complaint from several naval recruits, a party of about 12, who said that the boisterous conduct should be stopped and suggested that the Conductor turn them loose to do the job.

As stated above these facts were confirmed by revenue passengers, one of them, O. P. Schwab, who was a traveling freight agent for the Gulf Coast Railway, and another passenger W. A. Roberts, not a revenue passenger but Superintendent of Telegraph for the Texas and Pacific Company, and by another revenue passenger, who wished his name suppressed.

In our opinion the facts are clear and the discipline was justified. The employe proved himself to be boisterous, obscene and recalcitrant to discipline. While in the employ of the Pullman Company and on the Texas and Pacific train he was directly subordinate to the Conductor of the train. He was definitely insubordinate in refusing to behave himself in a decent manner and observe the reasonable orders and requests of the train Conductor. His conduct was certainly as described in the charge—unbecoming a Pullman Porter, and the Pullman Company could not reasonably be expected to keep him in its employ.

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 claimant was guilty of charges made against him and he was properly discharged.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 1st day of October, 1942.