

Award No. 2378

Docket No. TE-2309

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Herbert B. Rudolph, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

LOUISIANA & ARKANSAS RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on Louisiana & Arkansas Railway, that B. F. Lucas while regularly assigned to the position of telephoner-clerk at Cotton Valley, Louisiana, was unjustly dismissed from the service of the Carrier, on September 18, 1942, and shall be restored to his former position at Cotton Valley with seniority unimpaired and compensated for all time lost since the date unjustly dismissed, less amount earned elsewhere.

OPINION OF BOARD: The facts upon which discipline was assessed are not in material dispute, and are set forth in the record. We can come to no conclusion other than that Mr. Lucas was responsible in part for the wreck and resulting damage. It was Lucas who gave the proceed signal, at a time when he did not "understand the situation," as he admitted at the hearing. Further, Lucas failed to properly follow the instructions of the dispatcher, which, according to the statement of Lucas, were as follows: "Hand them up a note that I will give them something on No. 4 at Minden, and turn them loose." The note which Lucas handed to the engineer read, "Dispatcher will give you something at Minden on extra. High ball." In view of the fact that the engineer had been informed by Frye that he was being held at Cotton Valley for an extra, this note handed him by Lucas was misleading, and it is possible that if the note had been such as directed by the dispatcher, that the engineer would not have proceeded.

Claimant contends that others were more responsible than Lucas, yet received discipline light in comparison to that meted out to Lucas. But, as repeatedly held, this Division should not substitute its judgment for that of the Carrier in matters of discipline. While the discipline imposed in this case is harsh, we cannot hold that it was either arbitrarily or capriciously administered, in view of the serious wreck for which Mr. Lucas was at least partly responsible, and in view of the fact that the record shows past acts by Mr. Lucas which undermined not only the confidence of his employer but also of other employees.

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 discipline imposed should not be disturbed.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 15th day of November, 1943.