

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24967
Docket Number SG-25053

Marty E. Zusman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(The Long Island Rail Road Company

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on The Long Island Rail Road:

That Carrier wrongfully and without just and sufficient cause, did administratively terminate Mr. Andre DeSalas from service on June 7, 1982, and should now be required to reinstate him to his former position with all rights and benefits unimpaired, compensate him for all lost time from June 7, 1982, until he is reinstated, reimburse him for any expenses incurred and pay him for any time used in traveling outside regular working hours because of the Carrier's action and clear his personal record of any reference to this matter. [Case SG-19-82]

OPINION OF BOARD: Claimant entered service on March 11, 1981 as Assistant Signalman. On May 18, 1982, Claimant was notified to report for a formal investigation to consider issues of safety allegedly relating to Claimant's inability to understand the English language. On June 7, 1982, Claimant Andre DeSalas was administratively terminated as an Assistant Signalman after a hearing convinced Carrier that the language difficulties represented a clear "safety hazard."

In the record of the investigation this Board notes that the preponderance of substantial evidence documents that the Claimant's language problems were apparent when he was hired and were equally apparent throughout his employment. The Carrier has the responsibility to maintain the safety of its employees. In the instant case, the Board finds that the Carrier provided Claimant sufficient opportunity to become proficient in language and even offered an alternative position when evidence indicated to Carrier that he could not safely handle the position of Assistant Signalman. After a complete and thorough review of the issues at bar, it is the opinion of this Board that the Claimant was unable to adequately comprehend instructions and as such, to safely perform the duties of his position. His administrative termination was a responsible action of Carrier in its need to provide for the safety of its employees. As such, this Board will not disturb Carrier action in this case. This ruling is entirely consistent with past rulings of the National Railroad Adjustment Board (see First Division Award 15241, Second Division Award 6039, Third Division Award 16284).

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 Employees involved in this dispute are respectively Carrier and Employees 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 Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 14th day of August 1984.

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