Award No. 3787
Docket No. PM-3823

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: * * * for and in behalf of J. B. Dean, who is now employed by The Pullman Company as a porter operating out of the District of Tampa, Florida.

Because The Pullman Company did, under date of August 22, 1946, deny the claim filed by the Organization for and in behalf of Porter Dean in which the Organization contended that the Company violated Rule No. 46 of the Agreement between The Pullman Company and its Porters, Attendants, Maids, and Bus Boys in that it assigned another employe, Porter E. Page, to Car TICONDEROGA, Line Special, on trip from Tampa, Florida, to San Francisco, California, and return on July 12, 1946.

And further, for Porter Dean to be reimbursed for any wage loss suffered by him as a result of the Company's denial of his rights to occupy this assignment as provided for under the rules of the Agreement.

EMPLOYES' STATEMENT OF FACTS: Your Petitioner, the Brotherhood of Sleeping Car Porters, respectfully submits that it is duly authorized to represent all Porters, Maids, Attendants and Bus Boys employed by The Pullman Company as it is provided for under the Railway Labor Act.

Your Petitioner further sets forth that in such capacity it is duly authorized to represent J. B. Dean who is now, and for some time past has been, employed by The Pullman Company as a porter operating out of the District of Tampa, Florida.

Your Petitioner further sets forth that Porter J. B. Dean, on or about the time that the violation occurred upon which this claim is predicated, was operating out of the Tampa District as an extra porter; and that on the day in question, July 12, 1946, Porter Dean and some ten or more other extra men were in town and available for extra work; and that Porter Dean was on that day and date, the top man of the extra list and according to Rule 46 of the Agreement between The Pullman Company and its Porters, Maids, Attendants and Bus Boys, Porter Dean was the employe who should have been assigned to the first job of extra work that was available in the Tampa District on that date.

Your Petitioner further sets forth that on that particular date there was an extra car available for extra men that was put in service between Tampa, Florida and certain points in California; and that The Pullman Company did, through its District Superintendent in Tampa, Florida, Mr. F. S. Wallace, ignore the regulations of the Agreement above-referred to and assign another man, Porter Page, to this extra car in place of the rightful

is contained in the language of Third Division Award 2104, identified as Docket PM-2060. In the case adjudicated by that Award, which case involved the identical question involved in this dispute, the Brotherhood of Sleeping Car Porters claimed in behalf of Porters R. F. Holloman and G. Sessoms of the Hoboken District that The Pullman Company violated Rule 46 in assigning two regular line porters on two cars provided for directors of the Erie Railroad. In this dispute, the Company took the position that since the passengers were directors and executives of the Erie Railroad, including two railroad presidents, there could be no doubt that Rule 46 had not been violated. In Award 2104, the Third Division of the National Railroad Adjustment Board, with Mr. Herbert B. Rudolph sitting at Referee, denied the claim of the Petitioner that Rule 46 had been violated in the following significant language:

> "The facts disclose that the service furnished by the carrier in cars RIDGEVILLE and SUNBEAM was for the Directors of the Erie Railroad which included presidents of two other railroads. Not only were these men Directors of the Erie Railroad but they were men of prominence in other fields of endeavor. We think it clear that the facts disclose an 'unusual special service requirement' within the meaning of Answer 2 to Question 2, found as a part of Rule 46." (Underscoring inserted.)

It may be seen from the above-quoted language that the Board laid down an interpretation of Question and Answer 2 of Rule 46 of the Agreement to the effect that the Rule need not be applied in such a manner as to exclude all but railroad presidents and governors of states, but that "men of prominence in other fields of endeavor" are to be included. This is precisely the interpretation placed upon the rule by the Company in the instant case.

The Pullman Company submits that the assignment of Porter Page to Pullman car TICONDEROGA on July 12, 1946, was in full compliance with Rule 46 of the Agreement and that the claim of the Petitioner in behalf of Porter J. B. Dean is without merit and should be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: Under the facts and circumstances existing in this particular case, no basis extists for distubing the action of the Carrier.

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 there was no violation of the Agreement in this instance.

AWARD

The claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson,
Secretary.

Dated at Chicago, Illinois, this 18th day of February, 1948.