

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23202
Docket Number SG-23296

Paul C. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Chicago and North Western Transportation Company

STATEMENT OF CLAIM: "Claims of the General Committee of the Brotherhood of Railroad Signalmen on the Chicago and North Western Transportation Company (Chicago and North Western Railway Company):

Claim No. 1

Carrier file: D-9-17-38

(a) On or about August 29 to September 11, 1978, the carrier violated the current Signalmen's Agreement, as amended, in particular Rule 60, when it dismissed signal maintainers T. W. Jones, W. D. Galuszek and J. D. Flores, and District Signal Foreman R. C. Larsen, headquartered at Proviso Hump Yard, from service without just and sufficient cause on basis of unproven charges. Also without conducting a fair and impartial investigation.

(b) Carrier now reinstate Messrs. Jones, Galuszek, Flores and Larsen to their former positions at the Proviso Hump Yard, with all seniority and other rights unimpaired, and compensate them for all time lost and expenses incurred since unjustly held from service, and clear their personal service record of the entire charge submitting such removal of discipline.

(NOTE: The claim is shown as submitted on the property. Messrs. Jones, Galuszek and Larsen have since been restored to service; therefore the claim is on behalf of Mr. Flores only).

Claim No. 2

Carrier file: D-9-17-41 (for Williams)
D-9-17-42 (for Saraparu)

(a) On or about August 29 to September 11, 1978, the carrier violated the current Signalmen's Agreement, as amended, in particular Rule 60, when it dismissed T. Saraparu and J. Williams from service without just and sufficient cause on basis of unproven charges, also without conducting a fair and impartial investigation.

(b) - Carrier now be required to reinstate T. Saraparu and J. Williams to their former positions with all seniority and all other rights unimpaired and compensate them for all time lost and expenses incurred since they were unjustly held from service, and clear their personal service record of the entire charge submitting such removal of discipline.

Claim No. 3

Carrier file: D-9-17-37

(a) On or about August 20 to September 11, 1978, the carrier violated the Brotherhood of Railroad Signalmen's Agreement, as amended, in particular Rule 60 when the carrier charged Mr. D. Flores with rule violations and dismissed him from service without just and sufficient cause, nor without conducting a fair and impartial investigation.

(b) Carrier now be required to reinstate D. Flores to his former position with all seniority, and all other rights unimpaired and compensate him for all time lost and expenses incurred since he was unjustly held from service, and clear his personal record of the entire charge submitting such removal of discipline."

OPINION OF BOARD: The claims originally involved the dismissal of six signal employees following rather lengthy investigations. The parties are in agreement that the claims in behalf of Signal Maintainers T. W. Jones, W. D. Galuszek and District Signal Foreman R. C. Larsen have been settled. The claims in behalf of these three claimants will accordingly be dismissed.

The claims of the Organization in behalf of the three remaining claimants, J. D. Flores, T. Saraparu and J. Williams, are predicated on the following objections and issues:

1. Charges were not precise.
2. Investigations not conducted by a supervising officer of the Signal Department.
3. Company surveillance of union representatives.
4. Hostile treatment of union representatives during the investigations.
5. Decision not by a supervisor of the Signal Department.
6. Charges not proven.

The Board has studied the entire transcript of the investigations, and finds no proper basis for listed Items 1, 2, 3, 4 and 6. Without attempting to detail the evidence adduced at the lengthy investigations, suffice it to say that we find substantial evidence to support Carrier's actions in dismissing claimants Flores, Saraparú and Williams.

As to Item 5 listed above, the Board has been referred to its Awards Nos. 21230, 22277 and 22770 involving the same parties. Recognizing that there may have been a technical violation of the discipline rule of the Agreement in assessing the discipline following the investigations in our present case, and without attempting to overrule Awards Nos. 21230, 22277 and 22770, we do not consider the technical violation in this particular case to be of sufficient significance to invalidate the entire proceedings, in view of the seriousness of the offenses and the overwhelming evidence in support of the charges. That the claims in behalf of T. W. Jones, W. D. Galuszek and R. C. Larsen be dismissed; that the claims in behalf of J. D. Flores, T. Saraparú and J. Williams be denied.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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

Claims disposed of in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Executive Secretary

Dated at Chicago, Illinois, this 16th day of March, 1981.