

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1466

Heard at Montreal, Tuesday, February 11, 1986

Concerning

CP EXPRESS AND TRANSPORT

and

BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS,  
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES

EX PARTE

DISPUTE:

The extent of discipline issued to Linehaul driver, Mr. Perchie of Vancouver (Port Coquitlam terminal) by the Company for a vehicle accident that occurred on or about March 14, 1985.

BROTHERHOOD'S STATEMENT OF ISSUE:

Linehaul driver, Mr. F. Perchie was suspended from his driving position which he held in the Port Coquitlam terminal. The Company further imposed on this employee a six month penalty, comprising of having this employee work in the Warehouse for said time period; and only then if qualified could this employee re-apply to the Linehaul department.

Further, the Company compromised this employee's seniority by not allowing this employee to exercise onto a Warehouse position when placed in this department, and also, did not give this employee his rate of pay (maintenance of' basic rate) while he was working in the Warehouse for this period.

The Union contends that neither the employee's past record nor the circumstances of the accident warranted such severe and extreme discipline. The Union is seeking relief in the form of a reduction in discipline, and that this employee be placed back to his former position; and also, that he be reimbursed for all monies lost since his removal from his former position.

The Company has to date declined the Union's requests.

FOR THE BROTHERHOOD:

(SGD.) J. J. BOYCE  
General Chairman, System Board of  
Adjustment No. 517.

There appeared on behalf of the Company:

N. W. Fosbery - Director Labour Relations, CPE&T, Toronto  
B. D. Neill - Director Human Resources, CP Trucks, Toronto

D. Bennett                      - Human Resources Officer, CANPAR, Toronto

And on behalf of the Brotherhood:

G. Moore                      - Vice-General Chairman, BRAC, Moose Jaw  
M. Gauthier                  - Vice-General Chairman, BRAC, Montreal  
J. Bechtel                   - Vice-General Chairman, BRAC, Cambridge  
M. Flynn                     - Vice General Chairman, BRAC, Vancouver  
J. Marien                    - System Board 14, Observer

#### AWARD OF THE ARBITRATOR

The issues raised in this case are quite similar to the issues discussed in CROA Case #1465.

In Mr. F. Perchie's case he had been disciplined 20 demerit marks for a previous driving accident where he had been held at fault by the company.

On the committal of a second accident on March 14, 1985, where the company again held the grievor at fault he was demoted to the position of Warehouseman for a six month period.

Like Mr. England's case, the trade union abandoned its position questioning the wisdom of its recourse to the disciplinary demotion where the driving skills of an operator have become suspect because of one or more accidents where he has been found at fault.

The only issue raised herein was the alleged harshness of the grievor's disciplinary "reversion" to the position of Warehouseman where the loss of income for the period in question was substantial.

For the like considerations recited in CROA Case #1465 I have had no reason put forth for disturbing the employer's recourse to the disciplinary demotion that was imposed. Quite clearly the employer had recourse to "The Brown System" when it assessed the grievor 20 demerit marks for his first accident. That penalty in the company's view, had a dubious corrective impact. The assumption is made that its recourse to the disciplinary demotion that was imposed for the second offence may likely have the desired effect.

As a result the grievance is denied.

DAVID H. KATES,  
ARBITRATOR.