

PUBLIC LAW BOARD NO. 5396

Parties  
to the  
Dispute

BROTHERHOOD OF MAINTENANCE  
OF WAY EMPLOYES

and

SOUTHERN PACIFIC TRANSPORTATION  
COMPANY  
(Western Lines)

PLB Case No. 7

NMB Case No. 7

STATEMENT OF CLAIM

1. That the Carrier violated the current Agreement when it dismissed Track Laborer R.C. Anagal. Said Action being excessive, unduly harsh and in abuse of discretion.
2. That the Carrier now reinstate Claimant to his former Carrier position with seniority and all other rights restored unimpaired, with pay for all loss suffered, and his record cleared of all charges.

FINDINGS

Track Laborer R.C. Anagal was cited with having failed to comply promptly with instructions issued by his Foreman on February 20, 1991, to cease the work he was doing, retrieve a sledge hammer from a truck, and set rail anchors.

Claimant's explanation for why he did not comply given at an investigation held on February 22, 1991, was that he thought the Foreman was joking. This Board is not persuaded by this explanation. Claimant's actions constituted a violation of rules 600 and 607 and thus discipline was warranted.

Despite Claimant's very poor work record within a short period, this Board believes that he is deserving of a final chance to prove that he can be a reliable and cooperative employee. We therefore direct that he be returned to work on a last-chance basis. Claimant should be aware that repetition of his actions here will most assuredly result in his final separation from service.

AWARD

Claimant is returned to work  
on a last-chance basis with  
seniority and other rights in  
tact, but without backpay.

C.H. Gold  
C.H. Gold, Neutral Chairman

C.F. Foose  
C.F. Foose, Employee Member

John H. Martin  
J. Martin, Carrier Member

2-28-91  
Date of Approval