

PUBLIC LAW BOARD NO. 2444

Award No. 82

Case No. 96

Docket No. MW-81-199  
331-92-A

Parties Brotherhood of Maintenance of Way Employes

to and

Dispute Southern Pacific Transportation Company  
(Texas and Louisiana Lines)

Statement

of Claim: Claim of BMWE and System Machine Operator F. V. Lopez requesting that his seniority as a machine operator Tamper Group be restored and his record cleared of all charges, compensation for any lost earnings as a result of his disqualification, alleging Carrier failed to prove charges brought against Mr. Lopez.

Findings: The Board, after hearing upon the whole record and all evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated July 19, 1979, that it has jurisdiction of the parties and the subject matter, and that the parties were given due notice of the hearing held.

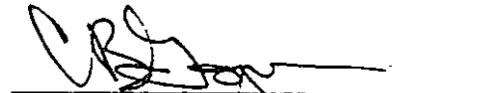
Claimant, a Machine Operator for approximately 10 1/2 years was advised, under date of July 28, 1981, by the Regional Maintenance of Way Manager, that it was discovered the condition of his Tamper machine, which had been operating between Yoakum and Cuero, appeared to be such that he had apparently failed to maintain same in the proper manner and that he was disqualified as a Machine Operator of a Tamper machine effective July 28, 1981.

After a careful review of the case, the Board concludes that the blame is not to be entirely placed on Claimant. Therefore, in the circumstances, the Board concludes that the discipline assessed has served its purpose and that Claimant may now be granted the right to bid at the next opportunity for restoration on his Tamper Machine Operator Rights.

Award: Claim disposed of as per findings.

Order: Carrier is directed to make this Award effective within  
thirty (30) days of date of issuance shown below.

  
M. A. Christie, Employee Member

  
C. B. Goyne, Carrier Member

  
Arthur T. Van Wart, Chairman  
and Neutral Member

Issued March 14, 1983.