

SPECIAL ADJUSTMENT BOARD NO. 947

Award No. 13
Case No. 13

PARTIES
TO
DISPUTE

Brotherhood of Maintenance of Way Employees
and
Southern Pacific Transportation Company (Western
Lines)

STATEMENT
OF CLAIM

1. That the Carrier violated the provisions of the Agreement when, it notified Louis M. Sanchez by letter dated, June 15, 1983, they were revoking his seniority rights as a truck driver for his alleged violation of Rules 801, M243, and M245 of the Rules and Regulations of the Maintenance of Way and Structures, such action being unjust since any damage to the truck in question, was not caused by the grievant
2. That all charges against Mr. Sanchez be dismissed and he remain qualified as a truck driver.

FINDINGS

Upon reviewing the record, as submitted, I find that the Parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Special Board of Adjustment is duly constituted and has jurisdiction of the Parties and the subject matter, with the arbitrator being sole signatory.

On January 11, 1983, Mr. Louis Martin Sanchez, an Air Compressor Operator, who was also qualified as a Truck Driver, was assigned to drive a Boom Truck on Extra Gang 80, Mojave. He was to

follow the motor car which was inspecting the tracks between Mojave and Searles. According to the testimony of Fernando Sanchez, his Foreman, who was riding the motor car, the Grievant was told to stay on the right of way and not to get stuck. Around noon, Louis Sanchez was joined in the truck by Mr. Jose M. Serrano, Track Laborer. At one point during their duties, it was necessary to get to the other side of a creek. Mr. Louis Sanchez made a decision to cut across the creek bed rather than return via the right of way to the main road and circle around to the other side. In so doing, he had to travel over a sandy area where there was no roadway, and then over the creek bed. When he attempted to do this the truck became stuck in the loose sand.

When the Foreman, Fernando Sanchez, arrived at the scene he got into the truck and attempted to back it out of the area. He moved it about four feet, heard a noise and was unable to move it any farther.

Initially, a dump truck was brought to the area to retrieve the immobile truck. When that was unsuccessful, Mr. R. D. Green, District Maintenance of Way Manager, Palmdale, requested a semi tractor which eventually pulled the truck out of the sand. During subsequent examination, it was discovered that the radiator was clogged with tumble weed, the ring gear broken, there was a broken pinion gear, the seals and bearings were damaged, the parking brake drum was loose, tread was ripped off

the right inside dual tires, and afterwards the clutch needed to be replaced. The cost of the repairs was about \$2500.00. Since the truck had just had a new engine and a rebuilt transmission installed, the above damage was attributed to the actions of Louis Sanchez in getting the truck stuck on January 11, 1983.

Although it is true the damage to the truck would probably have been avoided if Mr. Sanchez had remained on the right of way, there is evidence the damage occurred when Mr. Fernando Sanchez, Foreman, attempted to back the truck out of the area. In retrospect, it would have been advisable to have immediately requested another truck to pull the entrenched vehicle from the sand. Therefore at least part of the responsibility for the truck's damage must be shared.

Mr. Louis Sanchez had been employed with the Company since July 3, 1974. Not counting short periods when he was furloughed, he had over eight years of service at the time he drove the truck into the sand. His employment record is not bad. Even though there was testimony he was careless while driving his truck at other times during his employment, there is nothing in his record to indicate he was warned or disciplined about such occurrences. As a result, there is little to lead to the conclusion Mr. Sanchez is not qualified to drive a truck.

Mr. Louis Sanchez demonstrated very poor judgement on January 11, 1983, when for no reason other than expediency, he chose to

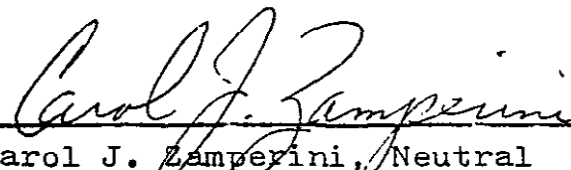
drive across an area he had not first checked out to determine its stability. As a result, the truck was lodged in an area where an attempt to move it caused considerable damage. He deserved to be disciplined for his poor judgement and for getting the truck stuck. However, absent greater substantiation as to his lack of qualifications to handle this particular job, disqualification as a Truck Driver was inappropriate punishment.

AWARD

The claim is sustained; Mr. Louis Sanchez is to retain his qualifications as a truck driver.

ORDER

The Carrier will comply with the Award herein within thirty (30) days from the date hereof.


Carol J. Zamperini, Neutral

Submitted:
Denver, Colorado
July 17, 1984