

San Joaquin Division Grievance No. 25-179-78-43
Fact Finding Committee No. 948-78-241

RECEIVED JUL 27 1979
CASE CLOSED
LOGGED AND FILED

Subject of the Grievance

The case concerns the demotion of Mr. Calvin F. Pouncey from Troubleman to Lineman on July 19, 1978, as a result of an incident that occurred on May 24, 1978.

Discussion

The Fact Finding Committee met on several occasions starting October 31, 1978, November 16, 1978, and January 17, 1979, to review the facts of the case. The Fact Finding Committee did not reach a disposition in this case, and as a result, the case was referred to arbitration. At the pre-arbitration meeting, the facts of the case were reviewed, and it was jointly determined that the case should be returned to the Fact Finding Committee in an attempt to once again resolve the issue.

The Fact Finding Committee was in agreement that Mr. Pouncey, on the afternoon of May 24, 1978, was unable to perform the duties of his classification, and as a result, was off the payroll for a four-week period of time under doctor's orders and was restricted from driving a vehicle. Upon his return to work, he was demoted to a Lineman and placed on a crew. The Committee has reviewed all of the medical reports and have included them in the Joint Statement of Facts, and upon further review, agree that there is no conclusive evidence that demonstrate that Mr. Pouncey had a medical problem, which precluded him from performing as a Troubleman, and on the other hand, on May 24, 1978, he was unable to perform his work as assigned on Highway 140 near Buhach Road.

The Committee is not in a position to determine, at this time, whether Mr. Pouncey's actions were irresponsible, and as a result, are in agreement that he should be returned to his former classification of a Troubleman in Merced. Further, in view of the circumstances surrounding this case and Mr. Pouncey's prior record, the Committee also agrees that he is not entitled to back-pay for the time that he was demoted. As to the employee who was awarded Mr. Pouncey's job as a result of this action, he will be returned to his former classification with the understanding that he has accelerated rights back to a Troubleman classification in Merced. **OUR SUANT**
Decision **TO THE PROVISIONS OF SECTION 206.9 OF THE AGREEMENT.** *allis
J.M.
R.U.
RJS*

It is the decision of the Fact Finding Committee that the grievant will be reinstated to Troubleman in Merced on July 9, 1979, without back-pay.

This case is considered closed.

L. N. Foss Concur/Dissent _____ Date 7-25-79
L. N. Foss, Union Member

Ron Van Dyke Concur/Dissent _____ Date 7/25/79
R. Van Dyke, Union Member

I. W. Bonbright Concur/Dissent _____ Date 7/25/79
I. W. Bonbright, Company Member

R. J. Steele Concur/Dissent _____ Date 7/25/79
R. J. Steele, Company Member