

REVIEW COMMITTEE**PG and E****IBEW**

PACIFIC GAS AND ELECTRIC COMPANY
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 SAN FRANCISCO, CALIFORNIA 94106
 (415) 781-4211, EXTENSION 1125

**CASE CLOSED
 LOGGED AND FILED**

INTERNATIONAL BROTHERHOOD OF
 ELECTRICAL WORKERS, AFL-CIO
 LOCAL UNION 1245, I.B.E.W.
 P.O. BOX 4790
 WALNUT CREEK, CALIFORNIA 94596
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 R.W. STALCUP, SECRETARY

AUG 31 1982

REVIEW COMMITTEE DECISION

D.J. BERGMAN, CHAIRMAN

San Joaquin Division Grievance No. 25-439-81-29
 Review Committee File No. 1538-82-8

- DECISION
 LETTER DECISION
 PRE-REVIEW REFERRAL

Subject of the Grievance

This case concerns the discharge of a Groundman, with approximately nine months of service, for falsification of his employment application.

Discussion

The grievant in this case was arrested three times for violations of California Vehicle Code Section 23102a (driving while under the influence of alcohol - misdemeanor) prior to his employment. Those dates were November 19, 1975, November 3, 1979 and May 10, 1980. In the first instance, he pled guilty and was sentenced to two years probation and fined \$315. In the second instance, the grievant pled guilty to a reduced charge of reckless driving. He was placed on probation for one year; sentenced to jail for 30 days, which was suspended; and fined \$175. The third case, which was pending before the court at the time of the grievant's hire on September 9, 1980, resulted in a guilty plea to the reduced charge of reckless driving. He was sentenced to six months probation, fined \$170, and had his driver's license suspended from December 19, 1980 through June 18, 1981.

When the grievant completed his employment application on August 6, 1980, in answer to the question, "Have you ever been convicted for violation of law, other than a traffic violation involving a fine of less than \$50"; he listed only his conviction for reckless driving involving the November 6, 1979 arrest. He did not list the November 19, 1975 incident nor the May 10, 1980 incident which was pending at the time. In completing the Employment Application Supplement on September 8, 1980, the grievant checked "no" in the response to the question, "Have you ever been convicted of a criminal offense, do you have a criminal case pending, or have you ever had a case diverted? (Report all cases except minor traffic violations, sealed, or juvenile convictions.)" He did not list either of his convictions or the pending case.

The grievant's explanation for failing to divulge his complete record on the application was that he believed the statute of limitations had run out on the 1975 incident and, therefore, he did not need to list it; and that he had not yet been convicted of the 1980 incident. With respect to his response on the supplement, the grievant stated that he assumed his violations were not criminal offenses.

Around March 9, 1981, the grievant informed his supervisor that his driver's license had been suspended when he learned that other employees were

being given the Company driver test. A subsequent investigation was conducted by the Security Department which revealed his entire criminal record and led to his discharge on June 5, 1981.

The Company argued in this case that the grievant's omissions on the employment application prevented the Company from making a fair and objective determination with regard to employing him. Had his complete record been known at that time, he probably would not have been hired. Further, in San Joaquin Division since 1973, six bargaining unit employees have been discharged for falsification of their employment applications. The questions posed on the application and supplement are quite clear; and the grievant indicated in his testimony that he thought he understood them, therefore, the grievant knowingly falsified Company documents.

The affidavit portion of the Employment Application states, in part "I declare each of the answers given to be complete and true to the best of my knowledge..." (emphasis added). Union argued that the grievant did not willfully misrepresent or omit information but rather answered truthfully the questions as he interpreted them. Further, Union argued that the portion of the Employment Application Supplement the grievant allegedly falsified is not at all clear; that it is easy to understand why no information was recorded simply by the way the question is phrased. Also, Union pointed out that both the Application and the Supplement were reviewed by Company prior to the time grievant was hired.

Union believed that the grievant's record would never have come to Company's attention had he not informed his supervisor that his license had been suspended, and that Company had the opportunity to question the grievant prior to employment concerning his driving record and again at the time he completed the supplement which seemed to conflict with the information he'd already provided on the application.

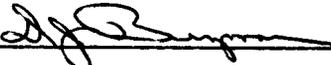
Decision

Recognizing that the grievant's supervisor testified that he was very satisfied with the grievant's performance and that the facts do not clearly demonstrate willful misrepresentation, the Review Committee agrees to reinstate the grievant without back pay but bridging of service and benefits.

This case is closed.

FOR COMPANY:

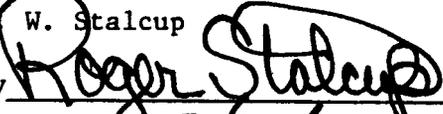
L. C. Beanland
F. C. Buchholz
J. B. Stoutamore
D. J. Bergman

By 

Date 8-26-82

FOR UNION:

G. W. Abrahamson
R. L. Choate
P. Pelucca
R. W. Stalcup

By 

Date 8/27/82