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Service Award System of Cumberland and Pennsylvania RR Co. 36-T-99
Cumberland and Pennsylvania RR Co. Service Award System
Employees. Men on Service Award System Not
Gratuity under Service Award not compensation.
September 23, 1936

The Board

Mr. Shulman

Cumberland and Pennsylvania "Service Award System".

I have examined the additional information submitted by Mr. Clark to Mr. Dailey in a memorandum of September 8th and forwarded by Mr. Dailey in his memorandum of September 10th, with reference to the above matter.

I adhere to my original position that the persons on the Service Award System of the Cumberland and Pennsylvania Railroad are not employees within the meaning of the Railroad Retirement Act either as persons in the service of the company or as persons in an employment relation to the company.

It seems to me very clear that the Cumberland and Pennsylvania System disposes of its superannuated employees in two manners: (a) by retiring them without pension or (b) by retiring them with pension. In the latter event, instead of using the usual terminology that other railroads use, the Cumberland and Pennsylvania Railroad speaks in the term of reserve employees or "Service Award".

The copy of the application for Service Award which is attached to Mr. Clark's memorandum bears out this conclusion, and the item to which Mr. Clark refers, namely, that the question "Gratuities" is answered "None", in no way militates against the conclusion. Preceding this question, there is the item "Service Award Recommended", which is answered "\$25 per month". Obviously there are no gratuities in addition to that Service Award, and the answer "None" to the question about gratuities is simply the true answer to the question of whether any gratuities are paid in addition to the Service Award which appears above.

The application has an item "Reasons for Recommending Service Award." The answer to this item is significant and seems to me to point clearly to the fact that the Service Award is in reality a pension. The answer cites the long service of the employee with the railroad, his loyalty and conscientiousness, his advanced age, and his inability to continue in efficient service.

I can see no basis for differentiating between those employees who are called back for five days or more of service and those who are not called back for such service. It seems to me that in either case the employee is in fact being paid a pension and that the string attached to the pension in the expressed terms of the directors' resolution is no different from the string which is implicitly attached to the pensions paid by any other railroad.

The very term "Service Award" seems indicative of the reality that it is a reward or gratuity for past loyal service rather than compensation for active present service.