

# NEW ORLEANS UNION PASSENGER TERMINAL CASE

Finance Docket No. 15920

Decided January 16, 1952

. . . From the beginning, we have patterned the conditions which we prescribed after the Washington Agreement. Since the enactment of section 5(2) (f), the conditions prescribed by us differed from that agreement as to when the protection afforded was to begin, the duration thereof, and the amount of the annual allowance to be made because all such matters were regarded as being fixed by the statute. Under the circumstances here present, some additional protection for the employes involved must be afforded. In our opinion the Washington Agreement, subject to the limitations later shown, would provide the fair and equitable arrangement contemplated by the statute.

One provision of the Washington Agreement, to which specific objection has been raised by the applicants has never had our approval. It provides, in effect, that the coordination allowance to which an employe is entitled in case of dismissal will be reduced by the amount of compensation he receives from other railroad employment, but not otherwise. We have consistently required that there be appropriate deductions for earnings in all outside employment. See *Chicago R. I. & G. Ry. Co. Trustees Lease, supra*, *Texas & P. Ry. Co. Operation*, 247 I.C.C. 285, *Chicago M., St. P. & P. R. Co. Trustees Construction*, 252 I.C.C. 49 and 287, *Chicago & N. W. Ry. Co. Trustees Abandonment*, 254 I.C.C. 320 (not printed in full), *Oklahoma Ry. Co. Trustees Abandonment, supra*, and *Chicago, B. & Q. R. Co. Abandonment*, 257 I.C.C. 700. Accordingly, all earnings from outside employment should be included in computing any employe allowances which may be provided herein. Condition No. 5 of *Oklahoma Ry. Co. Trustees Abandonment, supra*, which relates to compensation for dismissed employes contains the following pertinent provision:

The dismissal allowance of any dismissed employe who is otherwise employed shall be reduced to the extent that his combined monthly earnings in such other employment, any benefits received under any unemployment insurance law, and his dismissal allowance exceed the amount upon which his dismissal allowance is based. \* \* \*

The dismissal allowance, as used in the foregoing, has the same meaning as coordination allowance, as used in the Washington Agreement.

Based upon the conclusions stated herein and consistent with the circumstances in this proceeding and in conformity with the decision of the Supreme Court of the United States in *Railway Labor Assn. v. U. S., supra*, we find that a fair and equitable arrangement for protecting the interests of the employes adversely affected by the transaction herein will be provided by applying the terms of the Washington Agreement of May 21, 1936, subject to the following limitations or restrictions:

(a) That employes adversely affected within 4 years from the effective date of the order approving the transaction shall receive as a minimum the protection afforded by conditions 4 to 9, inclusive, in *Oklahoma Ry. Co. Trustees Abandonment*,

257 I.C.C. 177 (197-201), as prescribed in the report and order approving the transaction, for the period they are adversely affected prior to May 17, 1952 (4 years from the effective date of the order of approval), and any such employe so adversely affected who has received under such conditions total dismissal or displacement compensation less than that which he would receive by applying the Washington Agreement, as limited, for the full protective period therein provided from the time he is first adversely affected, shall continue to receive benefits under the terms of the Washington Agreement, as limited, until the total compensatory benefits provided therein for his particular period of service have been paid.

(b) That in applying the Washington Agreement the coordination allowance provided therein for dismissed employes shall be reduced with respect to any employe who is otherwise employed to the extent that his combined monthly earnings in such other employment, any benefits received under any unemployment insurance law, and his coordination allowance, exceed the amount upon which his coordination allowance is based; such employe or his representative, and the carriers, to agree upon a procedure by which the carriers shall be currently informed of the wages earned by such employe in employment other than with the carriers, and the benefits received.

The intent and effect of the foregoing findings are that all employes adversely affected by the transaction involved should receive the protection afforded by the Washington Agreement, reduced as to dismissed employes to the extent that they receive compensation in other employment or under unemployment insurance laws; and that employes adversely affected prior to May 17, 1952 (4 years from the effective date of the order of approval) are to receive as a minimum the protection afforded by the Oklahoma Conditions as prescribed in the previous report for the period they are adversely affected prior to May 17, 1952, but if the total amount of such compensation is less than they would receive under the Washington Agreement, as limited, applied from the date of adverse affect, then they are entitled to the remaining benefits they would have enjoyed under the latter. While it is unlikely under the existing circumstances that the situation will arise, should the amount of compensation to which an employe is entitled under the original Oklahoma conditions applied to May 17, 1952, equal or exceed the amount to which he would be entitled under the Washington Agreement, as limited, then he would be entitled to nothing under the latter.

An appropriate order will be entered.

COMMISSIONER CROSS did not participate in the disposition of this proceeding.