

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 1555

Heard at Montreal, Tuesday, September 9, 1986

Concerning

**VIA RAIL CANADA INC.**

and

**CANADIAN BROTHERHOOD OF RAILWAY,  
TRANSPORT AND GENERAL WORKERS**

### **DISPUTE:**

Discipline assessed for poor housekeeping, and conduct unbecoming a VIA employee on Train 9/1, July 24, 1985.

### **JOINT STATEMENT OF ISSUE:**

Following a passenger's written complaint, Mr. S. Khan's record was assessed 10 demerit marks.

The grievor has denied all the allegations against him, and has submitted seven letters of commendation from other passengers to support his claim.

The Brotherhood has appealed the discipline and contends that the grievor was denied access to the passenger's accommodation to perform his duty, and that the Corporation is harassing the grievor.

The Corporation has denied the Brotherhood's contention.

### **FOR THE BROTHERHOOD:**

**(SGD.) TOM MCGRATH**  
NATIONAL VICE-PRESIDENT

### **FOR THE CORPORATION:**

**(SGD.) A. GAGNE**  
DIRECTOR LABOUR RELATIONS

There appeared on behalf of the Corporation:

C. O. White – Officer, Labour Relations, Montreal  
M. St-Jules – Manager, Labour Relations, Montreal  
C.A.B. Henery – Human Resources Officer, Toronto  
J. Kish – Officer, Personnel & Labour Relations, Montreal

And on behalf of the Brotherhood:

T. N. Stol – Regional Vice-President, Toronto  
J. J. Huggins – Local Chairperson, Toronto  
S. Khan – Grievor

## **AWARD OF THE ARBITRATOR**

The evidence establishes that the passenger who complained about the grievor's service is a regular patron on the Winnipeg-Toronto run. The Corporation's own evidence is that the lady in question, and her husband demand, and are generally accorded, a degree of service not generally expected by most passengers. It was an extraordinary demand of the passenger which gave rise to the incident leading to her complaint. On July 24, 1985 the passenger in question requested Mr. Khan to make an "English bed" in her drawing room. It is common ground that the grievor was not trained to do so, and in fact was not aware that an English bed consists of three sheets on the bottom, a blanket and a fourth sheet on top. It appears that this service has been provided by other Corporation personnel who are familiar with the standard of service required by the patrons in question. The grievor's initial expressed reluctance to make an English bed led to her complaint about his manner, as a result of which the passenger requested that the grievor be removed from servicing her drawing room and that another porter be substituted. This was done.

While the incident was unfortunate, the Arbitrator is satisfied that it was not entirely of the grievor's own making. The grievor's immediate supervisor, who apparently was aware of the extraordinary level of service normally demanded by the passengers in question could, and in the Arbitrator's view reasonably should, have given Mr. Khan prior instruction in how to meet the expectations of the patrons in question. While I am not prepared to conclude on the evidence before me that the grievor's supervisors or any other representatives of the Corporation sought to deliberately harass the grievor, I must conclude that in the circumstances the assessment of demerit marks against Mr. Khan was without just cause.

The grievor's record shall be corrected by the removal of the ten demerit marks assessed in respect of the event of July 24, 1985. I retain jurisdiction in the event of any dispute between the parties respecting the interpretation or implementation of this award.

**(signed) MICHEL G. PICHER**  
**ARBITRATOR**