

*Reinstatement, effect on Emp. relation
Employment Relation, effect of reinstatement
Discharged employee, reinstatement of* 38-T-614
L-38-298
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March 1, 1938

Mr. C. E. Weaver, General Manager
Central of Georgia Railway
Savannah, Georgia

Dear Sir:

Reference is made to your letter of February 16, 1938, in which you present the following questions:

"If an employe were discharged for cause prior to August 29, 1935, does present reinstatement with seniority rights unimpaired, but without any compensation for the intervening time, make the employe eligible for an annuity under the Act, whether or not he performs any further compensated service after reinstatement, it being assumed that his length of service or age would be sufficient."

A bona fide reinstatement with restoration of seniority privileges, with or without pay for time lost, made for the purpose of and in contemplation of return to actual service (irrespective of whether actual service was resumed) operates to maintain the employment relation throughout the breach in service, provided that the reinstatement is not a violation of the rights of other employees. Participation in the reinstatement by representatives of the other employees, or acquiescence on their part in an actual return to service, is regarded as conclusive evidence that the reinstatement was not a violation of the rights of such other employees.

Whether or not a reinstatement is bona fide must be determined from the surrounding circumstances in each particular case. A reinstatement without pay for time lost and without returning the individual to substantial active service will give rise to the implication that the reinstatement was not in good faith.

Very truly yours,

MWL:DBS:ab:rjw