



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable G. F. Petet
Secretary, Railroad Commission of Texas
Austin, Texas

Dear Sir:

Opinion No. O-2309

Re: Application of Article 4006, Revised Civil Statutes, to wives, widows and dependents of superannuated employees of railroad companies.

We have your letter of April 26, 1940, in which you refer to the provisions of Article 4005 and Article 4006, Vernon's Annotated Civil Statutes, and particularly to the provisions of Article 4006, permitting the granting of free passes or free transportation to the following classes of persons:

"The actual bona fide employees of any such person or corporation, company, association, or the members of their families; persons actually employed on sleeping cars and express cars; newsboys employed on trains; railway mail service employees and their families; furloughed, pensioned, and superannuated employees; persons who have been disabled or who have become infirm in the service of any such corporation, company, association, or person; the remains of any person killed in the employment of a common carrier; members of the family of persons killed while in the service of any such common carrier; the family of any person who was, for a period of ten (10) years or more, an employee of such common carrier and who died while in the service of same;"

The question stated in your letter is as follows:

"The question arises as to whether railroad companies, under the statute, are privileged to furnish free transportation to wives, widows and dependents of superannuated employees or employees that are on pension and not actually employed by the railroad companies."

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An examination of the statutes shows that the Legislature authorized the granting of free transportation and free passes to furloughed, pensioned and superannuated employees, but that the statute made no provisions for the granting of free transportation or free passes to wives, widows and dependents of such furloughed, pensioned or superannuated employees. In other instances the Legislature specifically provided for the granting of passes or free transportation to the wives, widows, and families of certain named persons, and it is to be presumed that when the Legislature failed to make such provision for the wives, widows, or families of superannuated employees, it intended that the wives, widows and families of such persons should not receive free transportation.

A differentiation is made in the statute between "actual bona fide employees" and "furloughed, pensioned, and superannuated employees," the distinction apparently being that persons who are actually performing work for the transportation agency are "actual bona fide employees" whereas "furloughed, pensioned, and superannuated employees" are persons who have formerly worked for the agencies but who are now receiving compensation solely as pensions, and not as compensation for present work.

In view of the provisions of the statute, it is our opinion that the statute does not permit the granting of free transportation or free passes to wives, widows and dependents of superannuated employees or employees that are on pensions and not actually employed by the railroad companies.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *James P. Hart*

James P. Hart
Assistant

JFH:AMM



APPROVED MAY 20, 1940

Gerald B. Mann

ATTORNEY GENERAL OF TEXAS