

# Conversion to career cleans the slate



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**H**appy New Year!  
In March and November of 2016 and in June of 2018, I addressed the subject of Counseling at Risk Employees (CARE) with a focus on holding management true to the commitments that it made to the union and the comments made within the body of the CARE training materials. If you are not familiar with that topic, I invite you to go to my Safety and Health web page ([nalc.org/workplace-issues/safety-and-health](http://nalc.org/workplace-issues/safety-and-health)) and review those columns, which are listed in the “Select an article” icon under my photo.

In my June 2022 column, “Improper use of information against you,” I addressed the rules govern-

ing record keeping and misuse of discipline records to support further (and more severe) discipline against you. If you are not familiar with that, please review it, too.

## **Can discipline issued to a CCA be used against that employee when the employee is converted to career?**

The 2006 National Agreement was due to expire in November 2011. The NALC and the USPS bargained for months and reached an impasse. Our differences were put before Arbitrator Das, who, by authority of the Postal Reorganization Act of 1970, was empowered to create the terms of a national agreement after presentation of evidence from both the USPS and the NALC.

His January 2013 award created the city carrier assistant (CCA) category of employee. A very large segment of the letter carrier workforce of today began their employment with the USPS as CCAs.

In February 2013, the National Postal Mail Handlers Union (NPMHU) ended up with a similar category of employees in its craft through an award by Interest Arbitrator Fishgold. Seven years later, the USPS and the NPMHU arbitrated a dispute relating to the use of discipline issued to a mail handler assistant (MHA) after that employee had been converted to career.

Our postal contracts (NPMHU, NALC, APWU and NRLCA) provide for a mechanism to go before a neutral arbitrator when there is a dispute as to the interpretation of language in our agreements.

On June 2, 2020, the NPMHU and the USPS presented their disagreement. The selected arbitrator was none other than Arbitrator Das, who had created the CCA category.

In his award, Das identified the issue in dispute as follows:

The issue in this national level interpretive dispute is whether discipline issued to an employee while employed as a noncareer Mail Handler Assistant (MHA) may be considered or cited in determining whether to issue discipline to the employee after his or her conversion to full-time career status, or whether the noncareer employee’s disciplinary record is eliminated and his or her record starts anew upon conversion and appointment to the career position.

The parties presented their cases and argued their positions in summaries. On Oct. 14, 2020, Arbitrator Das issued his decision ruling as follows:

As set forth in the above Findings, discipline issued to an employee while employed as a noncareer Mail Handler Assistant (MHA) may not be considered or cited in determining whether to issue discipline to the employee after his or her conversion to fulltime career status.

In my opinion, Arbitrator Das had the opportunity to reflect on his 2013 decision and its impact on pre-career employees.

In October 2020, a letter carrier was involved in an on-duty vehicle accident, which resulted in an investigation and issuance of a removal in November 2020. The removal made reference to discipline issued to the employee while serving as a CCA; however, the employee had been converted to career status in September 2020. This removal and the emergency suspension that went with it were grieved, processed through the grievance procedure and then presented to an arbitrator in October 2021, resulting in a favorable decision in February 2022.

The arbitrator’s decision on the removal states:

The only previous disciplines in the record for grievant, however, were from the time he was a CCA. Under the Das National Award, cited above, those disciplines cannot be considered in deciding whether to discipline an employee after s/he has become a regular employee.

The current *Joint Contract Administration Manual (JCAM)*, at page 16-11, provides the language of Article 16, Section 10, Employee Discipline Records, which is followed on page 16-12 with the Discipline Procedures for a CCA. Most important is a standalone sentence found on page 16-13, which simply states:

Discipline issued to a CCA may not be considered or cited in determining whether to issue discipline to the CCA employee after his or her conversion to career status.

This standalone sentence should be better explained, however. It is a modified quote from the Oct. 14, 2020, Das award, as referenced earlier in this column. This rule is enforceable and should be used every time a career employee’s CCA discipline is used to support discipline after the employee is converted to career.

**Keep an eye on each other and learn as much as you can about your contract, which protects you.**