Award No. 2990
Docket No. 2671
2-SP-CM-'58

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Dudley E. Whiting when the award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 114, RAILWAY EMPLOYES' DEPARTMENT, AFL-CIO (Carmen)

SOUTHERN PACIFIC COMPANY (Pacific Lines)

DISPUTE: CLAIM OF EMPLOYES:

(1) That under the terms of the agreement made in National Mediation Board Case A-4061 signed June 4, 1953 and effective June 1, 1953, all carmen in the West Oakland Mill at Oakland, California, who were receiving the freight carmen's rate of pay, or less, are entitled to have their basic hourly rate of pay increased four cents (4¢) per hour.

(2) That accordingly, the Carrier be ordered to comply with the agreement dated June 4, 1953 by increasing the basic hourly rate of its carmen referred to above in the amount of four cents (4¢) effective 60 days prior to December 14, 1956.

EMPLOYES' STATEMENT OF FACTS: The Brotherhood Railway Carmen of America entered into an agreement under date of June 4, 1953 in settlement of dispute docketed by the National Mediation Board as Case No. A-4061. That agreement was signed by the Eastern Carriers Conference Committee, the Southeastern Carriers Conference Committee and the Western Carriers Conference Committee. The Western Carriers Conference Committee signed as representing, among other carriers, the Southern Pacific Company (Pacific Lines). The authority under which the Western Carriers Conference Committee signed the agreement was specifically stated to be co-extensive with the provisions of current schedule agreements applicable to the employes represented by the Brotherhood Railway Carmen of America. The notification of that authorization given the Brotherhood Railway Carmen of America by the Southern Pacific Company (Pacific Lines) states without limitation that the Western Carriers Conference Committee has been authorized to represent it in handling the "request of Brotherhood Railway Carmen of America that freight carmen be paid rates equivalent those paid passenger carmen."

Article I of the agreement of June 4, 1953 very specifically limits the increase of four cents an hour to employes who are paid **the freight carmen's rate.** However, petitioner has requested the Board to order the carrier to comply with the agreement of June 4, 1953 by increasing the rate of pay of "all Carmen in the West Oakland Mill at Oakland, California who were receiving the freight Carmen's rate of pay, **or less.**"

At the outset, the Board's attention is directed to the fact that there are no employes represented by the Brotherhood Railway Carmen of America at the Stores Department wood working mill in West Oakland who are classified as or compensated at rate of pay applicable to freight carmen. The carrier's facilities at West Oakland include locomotive and car department maintenance and repair shops and inspection yards under the jurisdiction of the Motive Power and Car Departments. Freight carmen's classifications in such facilities are covered by an agreement between the carrier and System Federation No. 114 bearing an effctive date of April 16, 1942. The West Oakland Mill is a separate facility located in the West Oakland yards under the jurisdiction of the Stores Department. The classifications of employes at the West Oakland Mill who are represented by the Brotherhood Railway Carmen of America consist of the following:

Machine hands
Cabinet makers
Painters
Millwrights
Carpenters
Cement Finishers
Helpers

Rates of pay of helpers are obviously not involved in the instant dispute and no basis exists under the agreement of June 4, 1953 for the inclusion of such classifications under the organization's initial request. Machine hands, cabinet makers, painters and millwrights are not freight carmen and are paid in excess of freight carmen's basic hourly rate of pay. Employes classified as carpenters and cement finishers are not classified by agreement or otherwise as freight carmen and are by agreement paid less than the freight carmen's rate of pay, hence the agreement of June 4, 1953 has no application to these employes.

Petitioner is merely attempting to secure through an award of this Board increased rates of pay over and above that agreed to by the parties and carrier submits that within the meaning of the Railway Labor Act, the instant claim involves request for change in agreement, which is beyond the purview of this Board.

CONCLUSION

The carrier asserts that it has conclusively established that the claim in this docket is entirely lacking in either merit or agreement support and requests that said claim, if not dismissed, be denied.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

The claimants are not freight carmen, they do not perform the work of freight carmen and are not "employes who are paid the freight carmen's rate". Thus the agreement of June 4, 1953 is not applicable to them.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 3rd day of November, 1958.

DISSENT OF LABOR MEMBERS TO AWARD NO. 2990

The term "carmen" as defined in Rule 61 of the controlling agreement includes machine hands, cabinet makers, carpenters, painters and cement finishers. Machine hands, cabinet makers, and painters (except freight carmen painters) are passenger carmen. Carpenters and cement finishers are freight carmen. The instant claimants are carpenters and cement finishers and the record therefore correctly concedes that they are not passenger carmen.

In view of the foregoing there is no basis for the finding that "The claimants are not freight carmen." The term "freight carmen" is used to describe mechanics of the carmen's craft who are not passenger carmen. The agreement of June 4, 1953 is thus applicable to the instant claimants. This being true, and the instant carrier being a party to that agreement, the instant claim is valid and should have been sustained.

/s/ James B. Zink

/s/ R. W. Blake

/s/ Charles E. Goodlin

/s/ T. E. Losey

/s/ Edward W. Wiesner