

Award No. 3588

Docket No. 3136

2-T&P-CM-'60

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee James P. Carey, Jr., when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 121, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L.—C. I. O. (Carmen)**

THE TEXAS & PACIFIC RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That at El Paso, Texas on or about June 1st, 1957, the Carrier violated Rule 21 and 89 of the Current Agreement by assigning two Carmen Helpers and one Foreman along with one Carman to make road trip to Lasca, Texas, to remove and apply wheels to DT&J Car No. 9096.

2. That accordingly the Carrier be ordered to compensate Carman N. Gomez, and C. J. Sundermann, at the Carmen's rate in the amount 1-hour preparatory time, 5 hours for traveling at straight time rate and 2-hours at the time and one-half rate for working under Rule 5 of the Current Agreement.

EMPLOYEES' STATEMENT OF FACTS: Under date of June 1st, 1957, Carman R. G. Savala and Carman Helper J. N. Alvarez and P. R. Ruacho were instructed to take the company truck and go to Lasca, Texas to put in a pair of wheels in DT&J Car No. 9096. Assistant Car Foreman Mr. Richardson followed them in his car. They left El Paso, at 2:00 A. M., arrived at Lasca at 5:00 A. M., 2-hours applying wheels, left Lasca, 7:00 A. M. arrived back at El Paso at 9:30 A. M., the assistant foreman and two helpers performed carmen's work along with the carmen by setting jacks, jacking up cars, dismantling trucks, removing old wheels, applying new wheels and assembling trucks.

This dispute has been handled with the carrier up to and including the highest officer so designated by the carrier with the result that he has declined to adjust it.

The agreement of September 1st, 1949, as subsequently amended is controlling.

POSITION OF EMPLOYEES: It is submitted that the carrier in the instant dispute violated the provisions of the current agreement when they used two

We are not unmindful that it would be possible to divide many craft operations into their component elements, to then say that certain of those elements are purely manual or unskilled in nature, and that unskilled employes should therefore be assigned to perform such tasks. We do not deny that such a procedure could be used to dilute the work jurisdiction of skilled employes, and to violate an existing scope rule.

We do not think the incident here disputed is an example of the above-described procedure, however, nor are we of the opinion that a denial award in this case would support the doctrine which the petitioner apparently fears. In our judgment, the contention that carrier violated the pertinent scope rules by assigning a laborer to hold the rope is to place a strained construction upon said rules."

In the present case, much of what the carmen helpers did was common labor, for which mechanical department laborers could have been used. If the rest of it were to be classified as exclusively the work of carmen, for which helpers could not be used, it is difficult to see much that would be left for carmen helpers to do.

The carrier respectfully requests the Board to dismiss or deny the claim.

FINDINGS: The Second Division of the Adjustment Board, based 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.

Parties to said dispute waived right of appearance at hearing thereon.

The evidence of record is insufficient to support the claim that Rules 21 and 89 of the current Agreement were violated on the date in question.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 8th day of November, 1960.