

Award No. 4523

Docket No. 4486

2-SP(PL)-MA-'64

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Jacob Seidenberg when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 114, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. - C. I. O. (Machinists)**

SOUTHERN PACIFIC COMPANY (Pacific Lines)

DISPUTE: CLAIM OF EMPLOYEES: 1—That under the current agreement the Carrier's unilateral unauthorized action in contracting-out the repairing and reconditioning of Traction Motor and Frame Serial No. 50 G 536 to an outside firm identified as Electro-Motive Division, General Motors Corporation, Emeryville, California, during the period February 21-April 5, 1962, was improper, in violation of the collective bargaining contract.

2—That accordingly, the Carrier be ordered to pay Machinist Welder A. B. Concha and Machinist J. L. Bryant twenty (20) hours additional compensation each at the pro rata rate, and in addition thereto additionally compensate Machinist Walter Bubenik in the amount of eight (8) hours pay at the pro rata rate (said Machinists hereinafter referred to as claimants), account Carrier depriving claimants and other machinists subject to all terms of the parties contract the right to perform work coming within the purview of said contract, when the repair work referred to hereinabove was contracted to, and was performed by employees of above named firm not subject to any provisions of the controlling agreement.

EMPLOYEES' STATEMENT OF FACTS: Southern Pacific Diesel Unit No. 6415 was shopped for repairs by the Southern Pacific Company, hereinafter referred to as carrier, in its Sacramento General Shops on February 13, 1962 and was released for service on February 27, 1962. During the shopping period, traction motor, Model D27B, Serial No. 50G536 was removed from the unit and sent to the traction motor shop for reconditioning and repairs. On February 21, 1962, said traction motor with frame complete was shipped from Sacramento stores department to Electro Motive Division, General Motors Corporation, Emeryville, California for repair and reconditioning and was returned to carrier on April 5, 1962.

The records establish that the work involved in this dispute—repairing traction motors and frames—consisting of in particular, such machinists' work as welding worn and broken traction motor frames and cap assemblies,

basis was nothing more than a "farm-out of work" designated to evade the carrier's contractual obligation under the current agreement, is entirely without merit.

The Division has heretofore recognized that in the absence of a showing that a carrier has bargained away its inherent right to purchase diesel traction motors on a unit exchange basis, that this practice is not in contravention of the rules of the working agreement.

CONCLUSION: Carrier asserts the instant claim is entirely lacking in agreement or other support and requests that it 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.

Parties to said dispute were given due notice of hearing thereon.

The Division finds that the record of this case will not sustain the Petitioner's contention that the traction motor in question was repaired through a contracting-out procedure which was in violation of the applicable provisions of the Agreement in effect between the parties.

On the contrary, the Division finds that the facts in the record sustain the Carrier's position that the transaction in question was a unit exchange whereby the Carrier purchased a reconditioned traction motor and gave in partial payment therefor, a worn out traction motor housed within a frame stamped 50 G 536. The Carrier gave up all right, title and interest in the worn out traction motor and which thereby became the sole property of the General Motors Corporation, the manufacturer thereof.

The Division's findings are not disturbed by the fact that ultimately a completely reconditioned motor was returned by the manufacturer to the Carrier housed in frame 50 G 536. It was the manufacturer, not the Carrier, who adopted this nomenclature, and it did not change the fact that within the frame was a completely reconditioned motor which bore no physical relationship to the worn out motor shipped within this frame originally by the Carrier to the manufacturer.

This Division has consistently held that unit exchange transactions do not come within the proscription of contracting out. Some relatively recent awards on this point are: Nos. 2180, 2458, 3731, 3816, 4002 and 4091.

The record of this case also sustains the Carrier's contention that while its facilities at its Sacramento Shops were equipped to do general maintenance and repair work, it was not equipped with either the engineering skill or modern techniques to rebuild completely motors as was done in the instant case. "Locomotive Maintenance Instruction E-2-1B" dated April 25, 1961 is evidence that the Carrier was prepared to utilize its Shops for repair work on motors wherever possible. But it also reserved the right in the exercise of its managerial judgment to determine whether a given motor should be repaired or retired from service.

Nor do prior awards of this Division uphold the Petitioner's contention that part of the work, i.e., repairing the frame of the motor should have been performed by the Claimants because it was the sort of work that these men normally did. This Division has held that the Carrier is not obligated to have worn out equipment reconditioned on a piece meal basis when in its judgment, it can obtain from the manufacturer in one transaction a new or completely reconditioned piece of equipment with an appropriate warranty. See Awards 2186 and 2458.

AWARD

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 12th day of June, 1964.