

The Second Division consisted of the regular members and in addition Referee Martin F. Scheinman when award was rendered.

Parties to Dispute: { International Brotherhood of Electrical Workers
{ Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That at the Wayne Junction Facility the Consolidated Rail Corporation violated the current agreement when awarding bulletin positions to apprentice/trainees before mechanics of the craft.
2. That ConRail violated Rule 2, Selection of Position, in awarding Bulletins 1, 2 and 6.
3. That the mechanics of the craft who made application be given a non-written examination prior to the awarding of these positions as proof of their qualification.

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 employees 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 facts in this case are not in dispute. Carrier by bulletins No. 1, 2 and 6 issued September 19, 1979, September 19, 1979 and October 17, 1979, advertised a total of six Electrician vacancies. All positions advertised were in the Philadelphia, Pa. area (i.e. either at Carrier's Wayne Junction or Reading facility).

Linemen, J. Morris, L. B. Walker, J. E. Wright, P. Neary and G. F. Pfeifly applied for the positions, Linemen Morris, Walker and Wright having applied for more than one such position.

Carrier, however, awarded the positions to two Electricians - L. Warren and R. P. Foreman and four trainees - M. J. Burns, T. J. Ralph, J. T. Weston and G. J. Homick. While Carrier maintains that three electricians and three trainees were awarded the positions, it appears from the record M. J. Burns, T. J. Ralph, J. J. Weston and G. J. Homick were all trainees when this dispute arose.

The Organization maintains that Carrier violated the Agreement between the parties dated May 1, 1979. Specifically, the Organization argues that Rule No. 2, Selection of Positions, specifically precludes trainees from being awarded Electrician positions when other members of the bargaining unit apply for them. This argument is supported, in the Organization's view, by Section IV Single Implementing Agreement dated March 11, 1976, which was incorporated into the May 1, 1979 Schedule Agreement.

Furthermore, the Organization adds that Linemen, who are in the same craft as Electricians, are permitted to bid on and be granted Electrician positions pursuant to the letter agreement between the Reading Company (ConRail's predecessor) and the Organization. Accordingly, the Organization asks that Claimants J. Morris, L. B. Walker, J. E. Wright and G. Pfeifly each be given non-written examinations to establish their qualifications and then be awarded the positions.

The parties here agreed in April 14, 1938 to continue to keep a series of point rosters of the groups in the Electrical Department. In addition, the parties also agreed in 1938 to continue to keep a Departmental Roster.

At the time of this dispute, there existed a Departmental Roster listing sixty-one employees in the department. Trainees in the different classifications were kept on this list. A roster of thirty-three Electricians, a roster of twenty-one Lineman First Class, a roster of twenty-seven Lineman Second Class and a roster of twenty-five Helpers were also kept.

Throughout the handling on the property and at this Board, the Organization claimed that Carrier's action violated Rules 2-A-1 (a), 2-A-1 (c) and 2-A-1 (f). They state:

"2-A-1. (a) When new positions are created or vacancies occur, the senior employees in the seniority district in which the position is advertised shall, if sufficient ability is shown by trial, be given preference in filling such new positions or vacancies that may be desirable to them. Where a position involves air brake work, welding, reflectoscope, high voltage work, magnaflux, radiograph, a nonwritten examination or test may be required as a prerequisite to assignment to the position of an employee who has not previously been qualified on such work by performance or otherwise; an employee bidding for or seeking to displace on such a position shall upon request be promptly given an opportunity to take such examination or test."

"(c) The provisions of this rule will not be applied to permit apprentices to bid or apply for advertised positions until their apprenticeship has been completed, nor will the provisions of said rule apply to the positions of apprentices."

"(f) In the awarding of advertised positions or vacancies under the provisions of this rule, bids from employees having seniority in the craft and class in which the vacancy exists, will be given first consideration, even if working out of their craft or class."

The crucial Rule is 2-A-1 (f). It gives priority to senior employees, even those working out of their craft and classification, in the awarding of advertised positions or vacancies. However, an applicant, in order to have the protections of 2-A-1 (f) in particular, and 2-A-1 in general, must have seniority in the craft and class.

Here the Claimants do hold seniority in the Electrical craft. This is undisputed. However, the class in question is that of Electrician. The Claimants are in the Lineman classification. Therefore, they do not have any rights to the protections afforded in 2-A-1. Stated otherwise, Linemen, when applying for a position out of their classification, are not covered by 2-A-1.

As to Rule 2-A-1 (c), this limitation in Rule 2-A-1 only comes into play, under the parties' Agreement, when discussing an apprentice vis a vis another applicant with both craft and classification seniority. Thus, a trainee would lose out if another electrician had applied, even if the electrician had less craft seniority than the trainee. The other provisions cited by the Organization are not apposite.

Since the Claimants' names do not appear on the Electricians' roster, regardless of the equities, the claim must be rejected. If the parties wish a single seniority district, with the right to bid across classifications, they must do so through bargaining process. We are not empowered or inclined to rewrite the Agreement. Therefore, we will deny the claim in its entirety.

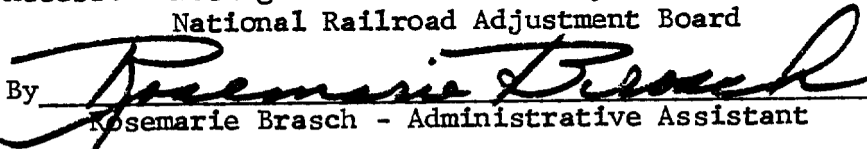
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 2nd day of February, 1983.