

The Second Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

Parties to Dispute: (Brotherhood Railway Carmen of the United States
(and Canada
(Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Missouri Pacific Railroad Company violated Rules 13 and 24 of the controlling Agreement when they used Junior Carman J. E. Harper to fill vacancy of Car Foreman, North Little Rock, Arkansas.
2. That the Missouri Pacific Railroad Company be ordered to promote Senior Carman D. M. Price to position of Car Foreman, North Little Rock, Arkansas.

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 employees 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 dispute waived right of appearance at hearing thereon.

This claim on behalf of senior Carman D. M. Price is brought because of the Carrier's asserted indiscriminate filling of car foreman vacancies at North Little Rock, Arkansas, on March 4, 1982, and thereafter. The Claimant was hired as a carman apprentice on March 13, 1969. He successfully completed his apprenticeship and holds a mechanic's seniority of April 1, 1973.

The Carrier takes the position that the Claimant was given consideration for promotion to fill temporary vacancies, but another carman, J. E. Harper, with seniority of November 12, 1981, was found to be better qualified than the Claimant. Notwithstanding, the Carrier does not deny Claimant has an excellent record in the Naval Reserve. It points out that his excellent Naval Reserve evaluations prove that, in the Naval Reserve environment, the Claimant demonstrates leadership.

We find the pertinent Controlling Agreement language to be Rule 13, which states:

"Mechanics in service will be considered for promotion to positions of foremen."

The record reveals the Carrier informed the Organization that it chose Carman Harper because he was amply qualified, having served as an extra foreman for the Carrier and as a foreman for the Cotton Belt Railroad before being employed by the Carrier. The primary question to be answered is: Did the Carrier act in a manner contrary to Rule 13? This Board, having considered the record, finds no evidence the Carrier failed to consider the Claimant. Barring capricious and arbitrary conduct or the actual failure to consider an applicant, the Carrier has the right to determine the method of selecting its supervisors and to assess the comparative competence of employees. Finding no rule violation, we will deny the claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:



Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 5th day of June, 1985