

Award No. 562

Docket No. 574

2-T&P-CM-'41

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 121, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (CARMEN)**

THE TEXAS AND PACIFIC RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES: That the agreement was violated when B mechanics were furloughed and helpers were assigned to work with the three B mechanics retained in service and did the work that the furloughed B mechanics formerly did; that the helpers assigned to the B class of work are entitled to the B mechanics' rate while so assigned and that the three oldest B mechanics are entitled to compensation while the helpers performed their work.

EMPLOYES' STATEMENT OF FACTS: On January 7, 1938, bulletin was posted at Lancaster shop, Ft. Worth, Texas, stating that at the close of day's work, January 10, the following B mechanics would be furloughed, viz; F. A. Richardson, L. P. Jones, L. E. Thompson, and E. D. Erwin, leaving only three B mechanics working, viz; E. I. Blackerby, C. A. Latimer, and C. G. Malmberg. On the same bulletin was the names of five helpers who were to have gone on furlough the same date, (copy of bulletin was not furnished the local committee) but on the morning of the eleventh they were placed among the ranks of the men, and three helpers were assigned to the three B mechanics retained in service as follows; H. H. Maines with E. I. Blackerby; W. C. King with C. A. Latimer; and W. F. Tiner with C. G. Malmberg.

Previous to the reduction in force, January 10, these men being truckmen were worked in pairs, viz; C. A. Latimer with C. G. Malmberg; E. I. Blackerby with L. E. Thompson; F. A. Richardson with L. P. Jones; while E. D. Erwin was generally assigned to body work in the rebuilding department.

POSITION OF EMPLOYES: Prior to April 1, 1937, the mechanical department employees were under an agreement as between The Texas and Pacific Railway Company and Association of Mechanical Department Employees. Under this agreement, the carrier employed two classes of helpers, viz; helpers and semi-skilled. The semi-skilled came into existence as an invention of the carrier after the strike. However, the two classes were consolidated in one seniority subdivision as set out in Seniority Rule 22 (c) " * * * Semi-skilled employees will retain their seniority as helpers."

Further we quote rules from this agreement in support of our position as regards these two classes:

Mech. Supt.'s letter **January 23, 1939** to Gen. Chairman Carmen.
Gen. Chairman Carmen's letter **Feb. 17, 1939** to Asst. Gen. Manager.
Asst. Gen. Mgr's letter **February 22, 1939** to Gen. Chairman Carmen.
Gen. Chairman Nichols letter **March 9, 1940** to Asst. Gen. Mgr.
Asst. Gen. Manager's letter **March 14, 1940** to Gen. Chairman Carmen.

Wish to call the Board's attention to the prompt handling given this case by the carrier and the lapse of time given it by the carmen's general chairman. We had considered this case closed as indicated by general chairman of carmen's letter of February 17, 1939; assistant general manager's reply of February 22, 1939 and no further correspondence until March 9, 1940.

To comply with general chairman of carmen's request to allow class B carmen to help class B carmen would be disregarding rules 33 and 83 of the current agreement, System Federation No. 121. If the above is granted we cannot abide by the present agreement with above Federation as we would naturally be penalized by the other crafts after it was rendered.

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.

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

The agreement in force classifies B mechanics as carmen, restricting their work to "Truckmen's work repairing and rebuilding car trucks; operation of punch and shears doing shaping and forming." B mechanics would under the agreement be permitted to be assisted by carmen helpers. Each classification has specially defined duties.

The record in this case does not disclose facts showing carmen helpers did work outside the duties of carmen helpers.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois this 29th day of January, 1941.