

Award No. 987
Docket No. 934
2-IGN-SAU&G-FT-'44

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 14, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (FEDERATED TRADES)

INTERNATIONAL-GREAT NORTHERN RAILROAD
COMPANY

SAN ANTONIO, UVALDE & GULF RAILROAD COMPANY

(Guy A. Thompson, Trustee)

DISPUTE: CLAIM OF EMPLOYEES:

1. That since March 25, 1943, the carrier has arbitrarily—
 - a. Used Machinists' Advanced Helpers J. C. Scroggins, O. F. Meeck, W. A. Callaway and H. C. Frantzen on machinists' work to the detriment of machinists.
 - b. Deprived these employes of their rights as machinists' advanced helpers to their positions on the 7:00 A. M. to 4:00 P. M. shift.
2. That in consideration of the aforesaid action, the carrier be ordered to—
 - a. Restore Messrs. Scroggins, Meeck, Callaway and Frantzen to the machinists' advanced helper positions which they formerly occupied on the 7:00 A. M. to 4:00 P. M. shift.
 - b. Pay to Machinists G. B. Seldon, D. Cross, Geo. Endle, J. W. Neel, W. R. Hudson, A. L. Selman, Clarence Bowermaster, K. W. Smith, H. H. Mathis and Wilco Campbell, at the time and one-half rate, an equal share of all time worked by Messrs. Scroggins, Meeck, Callaway and Frantzen, retroactive to March 25, 1943.

EMPLOYEES' STATEMENT OF FACTS: These claimants are all employed by the carrier at Palestine, Texas.

Machinists' advanced helper claimants under Rule 9, are listed on the seniority roster in the following order:

J. C. Scroggins,	August 3, 1922
H. C. Frantzen,	March 6, 1923
W. A. Callaway,	May 16, 1926
O. F. Meeck,	May 11, 1926

none of the service for which the claim is made and the further fact, as previously stated, each of these men were assigned regularly and worked regularly since their promotion to mechanics.

It is the contention of the carrier that Messrs. Scroggins, Frantzen, Meeck and Calloway should not be returned to their positions as advanced helpers as claimed by the organization inasmuch as they were promoted under the terms of the Memorandum of Agreement entered into between the shop crafts organization and this carrier for that purpose; and, further, due to the fact that the service of these employes as machinists is required by the carrier to keep in repair locomotives required in the operation of trains in the movement of troops, passengers, military supplies and other freight; that the notice served on the carrier January 25, 1943, did not have the effect of cancelling the Memorandum of Agreement effective February 1, 1942, under which the employes involved in this claim were promoted to mechanics; and, therefore, the agreement is still in effect as heretofore explained in the carrier's statement of facts and position; that the employes advanced to machinists under terms of the agreement effective February 1, 1942, have been regularly assigned and worked regularly on those positions since their promotion under the rules contained in the current agreement with the shop crafts organization; that the claim of Machinists G. B. Seldon, D. Cross, Geo. Endel, J. W. Neel, W. R. Hudson, A. L. Selman, Clarence Bowermaster, K. W. Smith, H. H. Mathis and Wilce Campbell be paid at the time and one-half rate an equal share of all time worked by Messrs. Scroggins, Meeck, Callaway and Frantzen retroactive to March 25, 1943, is not supported by any rules of the current agreement with the shop crafts organizations; and upon the basis of the facts surrounding this case, claim of employes should be denied in its entirety.

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.

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

Paragraphs Numbers 1 and 2 of the agreement that became effective February 1, 1942, provided for the advancement of "advanced helpers" to positions of mechanics and of "regular helpers" to positions of "advanced helpers."

These two paragraphs also state these employes will retain their seniority rights in their former positions.

Paragraph Number 3 also states that the seniority rights of these men will be protected "provided they comply with Section (b) of Rule 26, IGN-SAU&G agreement."

The record shows that Messrs. Scroggins, Meeck, Callaway and Frantzen obtained proper leaves of absence from their original seniority positions in accordance with Rule 26. The record further shows that their rights to work elsewhere while holding such leaves of absence are protected under the agreement effective as of February 1, 1942.

It therefore naturally follows that when a proper leave of absence was not existing these men were in jeopardy of losing their former or original seniority.

The record shows that leaves of absence were granted and renewed each thirty days up until February, 1943. The record further shows that as of February 25, 1943, these men declined to request further leave and in fact declared that as of March 24, 1943, they did not desire further leave and also that after March 24, 1943, no extension of leave was granted.

Under the terms of the agreement as of February 1, 1942, and the facts above stated these men should automatically have returned to their former positions as of March 24, 1943, and 2 (a) of the claim is sustained.

In regard to 2 (b) of the claim the Division feels that to work out the equitable amount of time that might have been worked by machinists, had these four advanced helpers been returned to their positions on March 24, 1943, presents a problem almost impossible of equitable solution.

AWARD

Paragraph 2 (a) of the claim sustained.

Paragraph 2 (b) of the claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 9th day of February, 1944.