Award No. 4473
Docket No. 4026
2-ACL-CM-'64

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 42, RAILWAY EMPLOYES' DEPARTMENT, A. F. of L.—C. I. O. (Carmen)

ATLANTIC COAST LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES:

(a) That, under the controlling Agreement, Carmen Helpers (Car Oilers and Packers) listed below:

Tampa, Fla., Furloughed Aug. 27, 1960

B. Williams	R. A. Griffin
J. Broomfield	J. H. Murray
Raymond Dix	G. K. Rolland
T. J. Williams	A. L. Smith
S. Rogers	L. Williams
E. V. Askiew, Jr.	

Jacksonville, Fla., Furloughed Aug. 12, 1960

J. R. Scarlett	H. J. Jones
C. Turner	A. Joddan
W. L. Henderson	J. C. Bennett
James Miller	B. L. Lundy
J. H. Jackson	J. B. Bailey
Fred Brown	J. H. Fuller
Offie Perry	H. M. Smith

Savannah, Ga., Furloughed Sept. 1, 1960

W. H. Freeman	W. C. Johnson
J. B. Barton	J. J. Johnson
L. J. McPherson	W. Williams

David Hinely
L. H. Scott
J. M. Sneed
H. M. Hinely
A. Holmes
W. Waldburg
Willie Scott

High Springs, Fla., Furloughed Aug. 6, 1960

Mose Johnson

Sanford, Fla., Furloughed Aug. 8, 1960

O. Jelks
W. Levett
J. M. Trammell
A. Spann
J. Griffen

Rocky Mount, N. C., Furloughed Aug. 5, 1960

C. Whitehurst
Ned Worley
W. H. Maryland
B. Rogers
G. A. Hadfield
U. Davis
J. A. Hilliard
L. Davis
J. A. Cofield
F. Thomas
H. L. Bussey
P. Roberts
Zander McNeil

Lakeland, Fla., Furloughed Aug. 15 and 31st, 1960

W. O. Fussell
G. Stelvey
J. T. McGreary
C. F. Barfield
H. Willis
W. M. Futch
J. E. Simons
C. Judah
L. V. Prine
Lewis Mattair
R. L. Owens
J. F. Brantley
W. Bergman
F. Collins
H. Carr
W. H. Alford
L. Frier
J. Sweet
E. L. Byrd
W. Fullerand
J. P. Sloan

have been unjustly removed from service and supplanted by Carmen.

(b) That accordingly the Carrier be ordered to restore the above named Carmen Helpers (Car Oilers and Packers) to service with pay for all time lost as a result of said suspension.

EMPLOYES' STATEMENT OF FACTS: The Atlantic Coast Line Railroad Company, hereinafter referred to as the carrier, employed the above named carmen helpers (car oilers and packers), hereinafter referred to as the claimants, as car oilers and packers at the points as indicated below. They were furloughed in the following order:

Tampa, Fla., August 27, 1960

Jacksonville, Fla., Aug. 12, 1960

Savannah, Ga., Sept. 1, 1960

High Springs, Fla., Aug. 6, 1960

Sanford, Fla., Aug. 8, 1960

Rocky Mount, N. C., Aug. 5, 1960

Lakeland, Fla., Aug. 15 and 31st, 1960

The work formerly performed by the affected employes has now been assigned to carmen (car inspectors).

This claim has been progressed successively on appeal, as prescribed under the controlling agreement, up to and including the highest designated officer with whom disputes are to be handled and carrier has consistently declined to make adjustment.

The agreement, effective November 11, 1960, as amended and reprinted January 1958, is controlling.

POSITION OF EMPLOYES: It is the position of the employes that car oiling and box packing is contractual work which belongs to carmen helpers. In support of this position, we quote below Rule 404 — carmen helpers:

"RULE 404

Revised, Effective September 15, 1943

CARMEN HELPERS

Helpers' work shall be to assist carmen and apprentices and to do car oiling and box packing, rivet heating (except when performed by apprentices), operating bolt threaders, nut tappers, drill press, punch and shear operating (cutting only bar stock and scrap), holding on rivets, striking chisel bars, side sets, backing-out punches, using backing hammer and sledges, assisting in straightening metal parts of cars; washing and scrubbing the inside and outside of passenger coaches preparatory to painting of coaches undergoing general repairs, paint spraying on freight cars and the underframes of coaches and locomotives, sand blasting, cleaning journals, Dodge and locomotive crane firemen (where used in Mechanical Department), and all other work generally recognized as helpers' work."

In an attempt to distort and nullify the intent of the rule, carrier states in three letters dated December 15, 1960, and four letters dated February 24, 1961, that the current agreement does not give carmen helpers the exclusive right to car oilers and packers' work.

In Award No. 3062, the Carrier (ACL Railroad) contended that the car oiling and packing was work belonging exclusively to carmen helpers. They quoted the same rule (Rule 404) in support of their position. Carrier also said in their statement of facts in the above named award that,

assignment of this work to carmen. Rule 106 defines carmen helpers in terms of the types of work to which they are assigned, but it does not establish exclusive jurisdiction over work in relation to that which carmen may be used to perform."

AWARD 3510

"Careful examination of the subject agreement reveals no provision which bars the use of carmen to perform work which also may be assigned to carmen helpers. In previous cases involving similar agreement language we have denied claims arising out of situations in which carmen helper positions were abolished and the work that had been performed by the incumbents of such positions was assigned to carmen."

AWARD 3511

"The work of inspecting and maintaining cars is included in Rule 149, which sets forth the 'classification of work' of carmen. The duties which are the subject of this controversy are covered by this rule. Carmen helpers may be used to perform the type of work referred to in Rule 151, but they do not have the exclusive jurisdiction over this work as against carmen. The Carrier therefore did not violate the agreement by assigning the involved work to carmen and abolishing the positions of the claimant carman helpers."

Thus, in these three awards, carrier finds support in the age-old recognition that lower rated work may be assigned to higher rated positions, provided the higher rate of pay is maintained.

In adjusting its forces, carrier has relied upon the board's consistent decisions involving disputes both similar and identical to this case. To rule in favor of the employes and now find that those decisions and interpretations have a different meaning would certainly burden the carrier with a financial payment which it would feel most unjust.

Complaint is here made because seventy-eight (78) carman helper positions were abolished within a relatively short period. The normal and ordinary meaning of the agreement rules was not changed or modified by reason of the number of positions abolished. Carrier emphatically denies that its action constituted a violation of the agreement and has conclusively shown that the issue involved in this dispute has been decided previously by this board in many, many awards. To again bring the issue up apparently is nothing more than an attempt on the part of the employes to get the division to reverse itself. There is no merit to the claim of the employes and it should be declined.

Carrier reserves the right, when it is furnished with ex parte petition filed by the petitioner in this case, to make such further answer and defense as it may deem necessary in relation to all allegations and claims which may be advanced by the petitioner and which have not been answered in this initial submission.

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.

This case involved certain claims of 78 Claimants who were employed by the Carrier as carmen helpers (car oilers and packers) at various points. One Claimant was employed at High Springs, Florida, 14 Claimants were employed at Jacksonville, Florida, 21 Claimants at Lakeland, Florida, 13 Claimants at Rocky Mount, North Carolina, 5 Claimants at Sanford, Florida, 13 Claimants at Savannah, Georgia, and 11 Claimants at Tampa, Florida. Their work substantially consisted of oiling and packing journal boxes. Because of changes and improvements in equipment design, their positions were abolished in August and September, 1960, and they were furloughed. The oiling and packing of journal boxes previously performed by them was then assigned to carmen (car inspectors).

The Claimants filed the instant grievance in which they contended that the Carrier violated the applicable labor agreement when it removed them from service and supplanted them with carmen. They requested that the Carrier be ordered to reinstate them with pay for all time lost. The Carrier denied the grievance.

In support of their position, the Claimants rely on Rule 404 of the labor agreement which reads, as far as pertinent, as follows:

> "Helpers' work shall be to assist carmen * * * and to do car oiling and box packing * * *."

On the other hand, the Carrier defends his action here complained of on the basis of Rule 402 of the labor agreement which provides, in pertinent part, that "carmen's work shall consist of * * * maintaining * * * and inspecting all passenger and freight cars, both wood and steel * * *."

1. In a series of previous decisions involving comparable factual situations and similar contractual provisions, we held that, in the absence of an explicit prohibition in the Agreement as is here the case, work performed by carmen helpers may be assigned by a Carrier to carmen. The Claimants so emphatically insist that oiling and packing journal boxes exclusively belongs to them that we have carefully re-examined our prior rulings for the purpose of clarifying our reasoning as well as excluding further litigation. For the reasons hereinafter stated, we re-affirm our prior awards.

2. The law of labor relations is well established that the rights and obligations of the parties to a labor agreement must be ascertained by reading the agreement in its entirety, rather than from isolated parts or fragments. Single sentences or sections cannot be isolated from the context in which they appear and be construed with disregard for the apparent intent and understanding of the parties as evidenced by the entire agreement. The meaning of each sentence or section must be determined by reading all relevant sentences and sections together and coordinating them in order to accomplish their evident aim and intent. See: Awards 4130, 4190, 4192, 4335, 4337, and 4362 of the Second Division.

Applying the above principle to this case, we have reached the following conclusions:

Rule 402 of the labor agreement reserves to carmen the work of maintaining and inspecting all passenger and freight cars which includes the oiling and packing of journal boxes. It has been long recognized in railroad labor relations that a journeyman is the master of his craft and may legitimately be assigned to perform all the work thereof. See: Awards 2959, 4257, and 4471 of the Second Division. Accordingly, the Carrier was entitled to assign the work here in dispute to carmen. The Claimants' contention that such work exclusively belongs to them under Rule 404 lacks merit. The flaw in their assertion is that they read said rule in isolation. The rule can properly be understood only if it is read in the context in which it appears and coordinated with Rule 402. Rule 402 deals with the job content of carmen and Rule 404 with that of carmen helpers. A helper is what the name implies — a helper, and not a journeyman. See: Award 1380 of the Second Division. It follows that the enumeration of carmen helpers' work in Rule 404 does not confer exclusive jurisdiction upon them to perform such work to the exclusion of carmen (journeymen) but is merely descriptive of the work which may be assigned to them in order "to assist carmen". Stated differently, Rule 402 and 404 are not mutually exclusive. On the contrary, the latter rule is subsidiary to the former. Hence, Rule 404 does not bar the Carrier from assigning work belonging to the carmen's craft under Rule 402 to carmen, even though such work may, at some time or other, have been performed by carmen helpers. See: Awards 3261, 3262, 3263, 3495, 3507, 3508, 3509, 3511, 3643, 3644, 3934, 4110, and 4471 of the Second Division.

In summary, we are of the opinion that the Carrier did not violate Rule 404 of the labor agreement when it assigned the oiling and packing of journal boxes under consideration to carmen.

3. The Claimants have also called our attention to our Award 3062 (Docket 2570). We have carefully reviewed said Award, but have come to the conclusion that it involved a different factual situation and that the legal question submitted for decision in said Docket is inopposite to the one posed by the grievance at hand. Thus, our prior Award is of no assistance in the adjudication of this case.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 28th day of February, 1964.

DISSENT OF LABOR MEMBERS TO AWARD 4473

The majority concedes that the claimants' positions were abolished in August and September, 1960, and they were furloughed. The oiling and packing of journal boxes previously performed by them was then assigned to carmen . . ." The majority then states that "Rule 402 of the labor agreement reserves to carmen the work of maintaining and inspecting . . . which includes the oiling and packing of journal boxes . . ." This is not a genuine interpretation of this rule as the rule does not include a statement to the effect

that carmen's work includes the oiling and packing of journal boxes. On the other hand, Rule 404 entitled "Carmen Helpers" specifically states that "Helpers' work shall be to assist carmen and apprentices, **and to do car oiling and box packing** . . ." (Emphasis ours.) Under the clear terms of this rule, the work involved in this dispute is carmen helpers' work, and it is not within the province of the Board to uphold the carrier in giving it to others. A change in an agreement between the employer and the employes must be made in the proper manner by fully authorized representatives of the employes and of the carrier. Rule 801 of the governing agreement between the parties to the present dispute requires that "This agreement shall remain in effect until changed in accordance with the provisions of the Railway Labor Act, Amended."

It is apparent that the findings of the majority run contrary to the express provisions of the rules of the controlling agreement and should be considered an improper attempt to amend the Agreement by administrative fiat.

C. E. Bagwell

T. E. Losey

E. J. McDermott

R. E. Stenzinger

James B. Zink