



Award No. 5793

Docket No. 5632

2-PC(PRR)-BK- '69

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 152, RAILWAY EMPLOYES'
DEPARTMENT, AFL — CIO
(Blacksmiths)**

**PENN CENTRAL COMPANY
(Formerly Pennsylvania Railroad Company)**

DISPUTE: CLAIM OF EMPLOYEES:

1. The Blacksmiths claim the Pennsylvania Railroad violated Rules 5-F-1, 5-F-4 and Article IX of the Scope (Blacksmith Classification of Work) of the Agreement effective April 1, 1952, the Conway Welding Pool Agreement effective June 20, 1940 and the Transfer of Work Agreement from Conway, Pa. to Hollidaysburg, Pa. effective October 29, 1953, when on November 8, 1965 the seven (7) Blacksmith Welders in the Hollidaysburg Reclamation Plant Welding Pool was furloughed and the work transferred to Carmen Welders.
2. That accordingly, the Carrier be ordered to restore Blacksmith Welders B. Cohrlic, H. E. Martin, D. E. Schucker, G. T. Farrell, J. W. Graham, C. L. Buchanan and D. W. Gensamer to the Welding Positions and pay eight (8) hours' pay each workday, Monday through Friday, at the applicable pro rata rate for each of the above named employees.

EMPLOYEES' STATEMENT OF FACTS: This claim has been handled in accordance with Rule 4-O-1 of the current agreement with the Pennsylvania Railroad, hereinafter referred to as the carrier.

Blacksmith Welders B. Cohrlic, H. E. Martin, D. E. Schucker, B. T. Farrell, J. W. Graham, C. L. Buchanan and D. W. Gensamer, hereinafter referred to as the claimants, all held regularly assigned welding positions at the Hollidaysburg Reclamation Plant.

Prior to November 8, 1965, the consist of the Reclamation Plant welding pool was set up on the basis of a ratio of 57% blacksmiths, 38% carmen and 5% machinists, established by the agreement of June 20, 1940 in Conway, Pa. and carried over at the time the facilities were relocated at Hollidaysburg Reclamation Plant by the transfer of work agreement of October 29, 1953. There is no record that the agreements of June 20, 1940 and October 29, 1953 were terminated.

the claim of the organization in this case would require the board to disregard the agreement between the parties, hereinbefore referred to, and impose upon the carrier conditions of employment and obligations with reference thereto not agreed upon by parties to the applicable agreement. The board has no jurisdiction or authority to take any such action.

CONCLUSION: The carrier has shown that this board has no jurisdiction over the present case, because of the existence of a special jurisdictional disputes procedure, which admittedly applies here and which forecloses any claims. It is barred because claimants are subject to an award requiring them to follow that procedure.

The carrier has also shown that the agreement applicable here has not been violated and that the claimants are not entitled to the compensation which they claim.

Therefore, the carrier respectfully submits that your Honorable Board should dismiss or deny the claim of the organization in this matter.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has no jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

Prior to November 8, 1965, the Carrier maintained a welding pool consisting of seven Blacksmiths, one Machinist and four Carmen at its Hollidaysburg Reclamation Plant, Altoona, Pennsylvania. Effective November 8, 1965, the Blacksmith jobs were abolished and were replaced by six Carmen jobs; hence this claim.

The welding pool here involved was first established at Conway Scrap Dock in 1940. A local agreement between representatives of the Carrier and the Organization dated June 20, 1940 provided that the jobs in the pool would be apportioned on the basis of 57% Blacksmiths, 5% Machinists, and 38% Carmen. This job apportionment ratio was maintained when the work and the welding pool at Conway were transferred to the Reclamation Plant. (Transfer of Work Agreement, October 29, 1953)

On September 12, 1960, an agreement was entered into by and between the Carrier, System Federation No. 152 (representing Machinists, Blacksmiths and Sheet Metal Workers) and the Transport Workers Union (representing Carmen, and others) which, among other things, provided for the handling of welding pools (including the one here involved) as follows:

"5-F-4. (b) Welding pools in existence on the effective date of this Agreement at Juniata E. & M. Shop, Juniata Manufacturing Shop, Hollidaysburg Reclamation Plant, and Wilmington Back Shop, composed of employees of the crafts represented by Transport Workers and System Federation, may be continued but such pools shall not exceed the following total number of employees: Juniata E. & M. Shop-14; Juniata Manufacturing Shop-16; Reclamation Plant-36; Wilmington Back Shop-9. Assignment of employees of the

various crafts to each such pool shall be made as nearly as possible in the ratio that the work belonging to each craft bears to the total work of the pool, and such assignment shall be readjusted by the Company at six-month intervals based on the man-hours of work of each craft performed by the pool during the preceding six-month period. The man-hour figures upon which such readjustments are based shall be furnished to the interested local employe representatives."

The adjustments called for by the foregoing rule, however, were not applied by the Carrier and the 1940 ratio was maintained until 1961 when the Transport Workers Union filed a claim on behalf of Carmen based upon the allegation that they were not permitted to bid on pool jobs performing work accruing to Carmen. The claim was sustained by the T.W.U. System Board of Adjustment in Decision No. 77-63. (Referee Robertson). In deciding a later T.W.U. claim (No. 91-65), the System Board held, among other things, that the Carrier was required to comply with and apply Regulation 5-F-4 and that if, thereafter, another craft protests the Carrier's action, the protestant's remedy is then to assert its claim before the joint jurisdictional committee established under Item 7 of the Memorandum of October 15, 1960. The Carrier's compliance with the aforesaid directive on November 8, 1965, resulted in the filing of the claim now before this Board.

In view of the foregoing, it appears to the Board that the claim is not property before us and that the dispute should have been submitted to the joint jurisdictional committee established by agreement of the parties. This clearly is a jurisdictional dispute involving the assignment of certain work to one of two crafts each claiming the exclusive right to perform it. The Carrier has complied with an order of a board of competent jurisdiction in making such assignment. The sole remedy available to the Blacksmiths is that which they and the other signatory crafts have agreed upon, i. e., to take their case to the jurisdictional disputes committee. Under Item 7 of the 1960 Memorandum of Understanding it was also agreed that no claims would be filed with the Carrier involving disputes over work assignments prior to decision by the jurisdictional committee.

Accordingly, we find and hold that this Board has no jurisdiction to decide the claim on its merits. It will, therefore, be dismissed without prejudice.

A W A R D

Claim dismissed without prejudice.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 7th day of November, 1969.