

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Herbert B. Rudolph, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

**GULF COAST LINES
INTERNATIONAL-GREAT NORTHERN RAILROAD
COMPANY
SAN ANTONIO, UVALDE & GULF RAILROAD COMPANY
SUGARLAND RAILWAY COMPANY
ASHERTON & GULF RAILWAY CO.
(Guy A. Thompson, Trustee)**

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that the Carrier violated the Rules and Wage agreements when it abolished the position of Assistant Timekeeper at Palestine, Texas and assigned the higher rated class of work to the General Clerk at a lower rate of pay.

"Also claim that the General Clerk be paid the difference in the rate received and the rate of the Assistant Timekeeper's position; also claim for all loss sustained by all employees involved in or affected by the carrier's action."

JOINT STATEMENT OF FACTS: "On March 14, 1939 the carrier abolished a position of Assistant Timekeeper, held by J. C. Jones, with a rate of \$6.15 per day. Mr. Jones exercised his seniority and displaced the General Clerk with a rate of \$5.65 per day.

"Mr. Jones continued to perform the same duties as General Clerk at \$5.65 per day as he had as Assistant Timekeeper at \$6.15 per day and continued to do so until protest was made.

"On April 6, 1939, as a result of the protest Mr. Jones duties were changed, but Mr. Jones continued to perform duties of Assistant Timekeeper. The Local Chairman continued to protest and Mr. Jones duties were again changed April 10, 1939, but after this change he was still performing work that had theretofore been performed by an Assistant Timekeeper. The protest was continued and on May 5, 1939 the carrier bulletined the former position of Assistant Timekeeper at the rate of \$6.15 per day.

"In June 1939 Mr. Jones bid in a position at San Antonio, Texas, thereby leaving the Assistant Timekeeper's position vacant and subject to bulletin. Instead of bulletining the vacancy when Mr. Jones left, the carrier again abolished the position, and concurrently therewith created a position of General Clerk."

"In 1932, a check was made of the duties of each employe in service in the Assistant General Manager's Office under whose jurisdiction Timekeeping, Accounting and Statistical work was being performed and in which Departments Comptometer Operators were assigned. The check indicates that Comptometer Operators Nos. 1 and 2 in connection with their other duties took from the Station and Maintenance of Way payrolls, data used in connection with the compilation of the I. C. C. Hours of Service and Compensation Report at which time said Comptometer Operators received even a lesser rate of pay than the General Clerk who was also employed in the Timekeeping Department. Therefore, it will readily be noted that in the assigning of work performed by the Assistant Timekeeper whose position was abolished, the distribution was made to the remaining employes in the Department in accordance with the classification of work which they were already performing; that is, the timekeeping duties and the responsibility therefor to the Timekeepers and the other work not classified as Timekeeper's work to the General Clerk. There is just as much reason to contend that where a Timekeeper writes his own payrolls with a typewriter or used a comptometer in connection therewith that it would be a violation of the rules to transfer such work to a typist or a comptometer operator without establishing a Timekeeper's rate of pay covering the position occupied by typist or comptometer operator to which said work had been transferred.

"The Carrier would further advise your Honorable Board that the abolishing of the Timekeeper's position and the establishing of the position of General Clerk created a condition wherein the work in the office was more evenly balanced as among the employes and had the effect of allocating work to the benefit of all concerned. As an illustration, it was found that in the compilation of the payrolls the remaining Timekeepers could more satisfactorily handle their work with the addition of a greater amount of comptometer service and in the creation of a General Clerk they received the benefit of that service as the General Clerk performed in addition to his other duties comptometer work which was of great assistance to the Timekeepers during the time they are busy in compiling payrolls.

"In order that your Honorable Board may be conversant with the duties assigned to the General Clerk whose position was created in June 1939, a check was kept of the work performed by the employe assigned to that position during the month of November 1939 and the Carrier is attaching as its Exhibit No. 1, a statement showing the work performed by the said General Clerk each day during that month.

"The Carrier would also direct the attention of your Honorable Board to Awards Nos. 337 and 974 which are similar and sustains the method used by the Carrier in the instant case in distributing the work performed by the Timekeeper whose position was abolished among the remaining clerks in the same office.

"It is the contention of the Carrier that in abolishing the position of Assistant Timekeeper and the creating of the position of General Clerk and that the distribution of work necessary to be made in connection therewith violated no rules as contained in the agreement with the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes; that the work now being performed by the newly created position of General Clerk is not Timekeeper's work or of such nature as to justify the payment of a rate equal to that of a Timekeeper; that the rate now established for the General Clerk's position is proper and established in accordance with the rules as contained in the agreement and that in view of the evidence as submitted in this case by the Management of the Carrier, the claim of the employes should be denied."

OPINION OF BOARD: The question presented by this record is whether the carrier violated the agreement in abolishing one position of assistant timekeeper, thereafter creating the position of general clerk, a lower rated position, and assigning some of the duties formerly assigned to timekeeper positions to the new position of general clerk.

The record discloses that on June 22, 1939, there were five timekeeping positions maintained by the carrier. On this date the carrier abolished one assistant timekeeper's position and created a new position of general clerk. Certain duties formerly performed by the timekeepers were assigned to this new position of general clerk.

This controversy centers around that work which was assigned to the general clerk, and described as follows:

"Pull information on Interstate Commerce Commission force report for S. A. U. & G. and short lines and I. G. N. force report, with exception of the Palestine Road Enginemen. In this connection you will be given the assistance of operators as usual in pulling various parts of this report as they are instructed. Make Form A and B on S. A. U. & G. and short lines for force report and after sheets are worked and balanced for the I. G. N., pass to Roadway Timekeeper for recapping."

This work consumes approximately one-half the time of the new position of general clerk. The record discloses that this work had never before been assigned to a position rated lower than that of assistant timekeeper. The work came into existence in 1921 and at that time the carrier created a position known as wage statistician, a higher rated position than assistant timekeeper, to perform the work. However, as the nature of this work became better known it was gradually taken over by the timekeepers and there it has remained until the present attempt to assign it to a lower rated position.

We are of the opinion that under the facts presented by this record the work here involved and assigned to the position of general clerk was properly the work of the higher rated position. The work, while not technically that of timekeeping, nevertheless, is closely associated with the timekeeper's work, and requires much the same knowledge as that of timekeeper. These facts together with the fact that since 1921 this work has never been assigned to a position rated lower than that of assistant timekeeper does not support the carrier's position that this work was being performed by timekeepers simply as a "fill out." We conclude that Rules 68 and 76 of the existing agreement were violated by the carrier.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the carrier and employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That there was a violation of Rules 68 and 76 of the existing agreement.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 17th day of December, 1940.

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**INTERPRETATION NO. 1 TO AWARD NO. 1298
DOCKET CL-1292**

NAME OF ORGANIZATION: Brotherhood of Railway and Steamship Clerks,
Freight Handlers, Express and Station Employees

NAME OF CARRIER: Gulf Coast Lines, International-Great Northern
Railroad Company, San Antonio, Uvalde & Gulf Railroad Company,
Sugarland Railway Company, Asherton & Gulf Railway Co.
(Guy A. Thompson, Trustee)

Upon application of the representatives of the employees involved in the above award, that this Division interpret the same in the light of the dispute between the parties as to its meaning, as provided for in Section 3, First (m), of the Railway Labor Act, approved June 21, 1934, the following interpretation is made:

The employees in this request for an interpretation set forth three contentions as follows:

1. Restore the Timekeeper's position that was abolished.
2. Pay the General Clerk the difference between the rate received and the rate of the Assistant Timekeeper's position retroactive to March 14, 1939; and
3. Pay all employees involved in or affected by the carrier's action for all losses sustained.

As to contention No. 1:

The Division holds that under Award 1298 it is not necessary that the position of Timekeeper be restored.

As to contention No. 2:

When the carrier pays to the employees who occupied the position of General Clerk for the period March 14 to May 5, 1939, and from June 22, 1939, to date the rate of \$6.15 per day was established in accordance with Award 1298, the difference between \$5.65 and \$6.15 per day, this portion of the claim will be satisfied.

As to contention No. 3:

Based on the record before us, Clerk J. C. Jones is the only employee otherwise affected by the carrier reducing the rate of the position in question from \$6.15 to \$5.65 per day, and classifying it as General Clerk. He ranked No. 22 on the seniority roster, and Clerk Mrs. Fitzgerald, who became the regular occupant of the position of General Clerk, ranked No. 23. All other employees seeking compensation under Award No. 1298 are junior in the service to these two employees. Had the rate of \$6.15 per day actually been in effect on the position of General Clerk on December 15, 1939, when Clerk Jones returned from the position at San Antonio, which he bid in in June, 1939, Jones' seniority rights would have entitled him to

displace the occupant thereof, and the record indicates that except for the changes found by Award 1298 to have resulted in non-compliance with the Agreement, Jones would have continued on position with established rate of \$6.15 per day after December 15, 1939.

Therefore, the award is interpreted as entitling Jones to the difference between \$6.05 per day, the rate of the position he took in December, 1939, and \$6.15 per day for the period December 15, 1939, to the date on which the rate of \$6.15 per day was established on the position of General Clerk, following the issuance of Award No. 1298.

Compliance with this interpretation meets all the obligations imposed by Award No. 1298.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 31st day of July, 1941.