Award No. 2424
Docket No. CL-2415

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Howard A. Johnson, 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 COMPANY

(Guy A. Thompson, Trustee)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that the position designated as Store Foreman at South San Antonio should be classified and paid as General Foreman retroactive to the date of this claim, August 13, 1942.

EMPLOYES' STATEMENT OF FACTS: On August 1, 1930 the Store Department at South San Antonio consisted of the following:

Storekeeper
General Foreman
Distribution Clerk
Clerk
Price Clerk
Steno-Clerk
Store Foreman
Section Stockman
Storehelpers (2)
Countermen (3)
Oilhouseman
Truck Driver
Tractor Drivers (2)
Laborers (14)

On or about August 4, 1930, there was a consolidation of various units of the Stores Department and much of the work transferred to Palestine. A number of positions were abolished and others transferred to Palestine, leaving only the following clerical positions in the South San Antonio Store Department:

Storekeeper
General Foreman
Steno-Clerk
Clerk
Section Stockman

When consideration is given to the above fact and to the further fact that the Store at South San Antonio, which is comparable to the Stores located at Houston and DeQuincy where no General Foreman is employed, handles for the most part, if not entirely, only maintenance of equipment materials under the jurisdiction and supervision of the Division Storekeeper, whereas the Store at Palestine, a much larger store, handles both maintenance of equipment and maintenance of way materials in larger volume, and in addition thereto handles materials in connection with the Reclamation Plant located at that point, where a General Foreman is employed, it is clearly evident that Mr. Tabbert in his capacity as one of the two Store Foremen, and being in charge only of materials outside the main storeroom at South San Antonio, is not required to, nor does he, assume the same responsibilities and duties as the General Foreman employed at Palestine. Therefore, the contention of the Committee should be dismissed and the claim accordingly denied.

OPINION OF BOARD: The record shows that in 1933 the force at the South San Antonio store consisted of 28 employes including a general foreman but no store foreman. On Feb. 28, 1933, the office of general foreman was eliminated; at the same time the force was cut down to six. In 1937 the force was increased to fifteen, one of the new positions being for the first time designated as that of store foreman. In 1942 the force was further increased to twenty-nine, of which two were designated as store foremen; one of them has charge of all store materials inside of the storeroom and the other of all materials outside. It is clear that up to the time of elimination of the general foreman in 1933 he had charge of all store materials both inside and outside of the main storeroom.

It is apparent that in 1937 when the position of store foreman was first established at the South San Antonio Store, he had charge of all store materials, both inside and out; however, when in 1942 another store foreman was appointed, each store foreman's duties were limited to either the inside or outside materials.

While there is some showing that at the Palestine store the duties of the general foreman are somewhat different from those of the store foreman at South San Antonio, there can be no doubt that prior to the appointment of the second store foreman at the latter store, the one store foreman had charge of all materials, both inside and outside of the main storeroom, and that in general he performed substantially the same duties as were performed by the general foreman at that store prior to the discontinuation of that position.

We think the establishment of the position of store foreman in 1937 and the assignment to him of the duties formerly performed by the general foreman constituted an infringement of the spirit of Rule 50 (a), the Preservation of Rates Rule, and that the claim must be sustained.

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 the Employe involved in this dispute are respectively carrier and employe 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 the Carrier violated the 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, 1943.

DISSENT TO AWARD NO. 2424, DOCKET CL-2415

The Opinion assumes that when the position of store foreman was established in 1937 it had charge of all store materials, both inside and out. The record does not warrant such assumption, but to the contrary shows the present incumbent is performing only outside duties and they are the same duties that have been assigned since 1937.

Irrespective of positions in existence in 1933 or created in 1937, the plain facts are that at time of filing this dispute the position in question did not encompass nor did the occupant thereof perform the duties of General Foreman. The record shows, and confirmed by the Opinion, in 1942 there existed two positions of Foreman, each working independently of and exercising no supervision over the other, reporting to and being supervised by the Division Storekeeper. What occurred in 1937, and the erroneous assumption attached thereto, is used as a basis for upholding the present claim. Therein lies the error of this Award and the disregard of the factual situation in existence in 1942 at time of filing of the dispute. Such facts required an outright denial of the claim.

/s/ **A. H. Jones**
/s/ **C. P. Dugan**
/s/ **R. F. Ray**
/s/ **R. H. Allison**
/s/ **C. C. Cook**