

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Edward F. Carter, Referee

PARTIES TO DISPUTE:

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

**GULF COAST LINES, INTERNATIONAL-GREAT NORTHERN
RAILROAD CO., SAN ANTONIO, UVALDE & GULF RAIL-
ROAD CO., SUGARLAND RAILWAY COMPANY, ASHER-
TON & GULF RAILWAY CO.**

(Guy A. Thompson, Trustee)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(a) The Carrier violated the Clerks' Agreement in March 1944 by failing and refusing to assign F. P. Word to the position of Traveling Accountant, which was advertised by Bulletin No. 12-44 of February 28, 1944; also

(b) Claim that F. P. Word now be assigned to the position of Traveling Accountant and compensated for all losses sustained.

EMPLOYEES' STATEMENT OF FACTS: On February 28, 1944 the Auditor issued Bulletin No. 12-44 advertising a new position of Traveling Accountant. The only employee, holding seniority rights in the Auditor's Office, that bid on the position was F. P. Word, whose seniority date is May 13, 1920.

On March 1, 1944 the Auditor advised Mr. F. P. Word that his bid for the position was declined. The following is quoted from the Auditor's letter of March 1, 1944:

"The job will require a man thoroughly trained in the work assigned and your record does not indicate that you have had any previous experience in this kind of work. Your bid is therefore declined."

On March 3, 1944 the Auditor requested the General Chairman to bulletin the position to the other accounting offices under the provisions of paragraphs (d) and (e) of Rule 9. The General Chairman complied with the Auditor's request and issued bulletin on March 6, 1944, expiring at 12:00 noon March 11, 1944. On March 13, 1944 the General Chairman furnished the auditor with a list of employees bidding on the position.

The Auditor completely disregarded the bids of every employee who held seniority rights to bid on the position under Rule 9.

training was fitted for the position, it is clearly evident that the Carrier was justified under the provisions of Rule 7(a) in awarding the position to Mr. A. C. Word.

Therefore, it is the position of the Carrier that there is no basis for the contention of the Employees that the Carrier violated the Clerks' Agreement in March, 1944, in not awarding the position of traveling accountant to Mr. F. P. Word and, accordingly, the contention of the Employees should be dismissed and the accompanying claim denied.

OPINION OF BOARD: On February 28, 1944, the Auditor issued a bulletin advertising a new position of Traveling Accountant. The only employee holding seniority rights in the Auditor's Office that bid on the position was F. P. Word, the Claimant. On March 1, 1944, Claimant was advised that his bid was rejected because of a lack of qualifications. On March 3, 1944, the Auditor requested the General Chairman to bulletin the position to the other accounting offices, as provided by applicable rules of the current Agreement. On March 13, 1944, the General Chairman furnished the list of employees in the accounting offices bidding for the position to the Auditor. The Auditor assigned A. C. Word (not to be confused with F. P. Word, the Claimant) to the position, he being the fourth bidder on the list in seniority. The Organization contends that Claimant was entitled to the position under the Agreement and that the failure to assign him constitutes a violation thereof. The controlling provision of the Agreement is Rule 7 (a), the applicable part being:

"Employees covered by these rules shall be in line for promotion. Promotions, assignments, and displacements under these rules shall be based on seniority, fitness and ability; fitness and ability being sufficient, seniority shall prevail, * * * *"

It is the function of management to select competent employees. Except when it has limited itself by contract, the right of selection is wholly within the discretion of management. Award 3151. Under the cited rule, the Carrier has the right to determine in the first instance the fitness and ability of applicants for the position. Award 2427. Fitness and ability for promotion to a position of greater responsibility must be commensurate with the requirements of the position to be filled. Award 2990. Fitness and ability does not mean that the applicant is immediately qualified to step in and assume the duties of the position without guidance or assistance. Award 2427. It means that the applicant must have such training, experience and character as to raise a reasonable probability that he would be able to perform all the duties of the position within a reasonable time, usually the qualifying period fixed by the Agreement itself. The Carrier is required under the rule to give the position to the senior applicant if his fitness and ability are sufficient and it may not properly insist upon the right to make the assignment to the applicant which it deems best qualified. Award 2534. After the Carrier has determined that a senior applicant lacks sufficient fitness and ability, the burden is upon such applicant to establish that he possessed reasonably sufficient fitness and ability to occupy the position. Award 1147. Where there is evidence, which if believed, is sufficient to sustain the Carrier's judgment that a senior employee lacks sufficient fitness and ability for the position sought, the judgment of the Carrier will not be disturbed. Award 3057. Otherwise stated, whether an employee possesses sufficient fitness and ability for a position within the meaning of the rule is a matter exclusively for the Carrier to determine and such a determination once made will be sustained unless it appears that the action of the Carrier was capricious or arbitrary. Award 2692.

Under the foregoing rule and the interpretations thereof, the only question for determination is whether the Claimant had sufficient fitness and ability for the position sought. If he did, he should have been assigned to it. If he did not, no basis for a claim exists.

The record shows that the duties of a Traveling Accountant are many and varied. They are summarized by the Carrier as: 1. Checking costs of Maintenance and operation of joint facilities. 2. Audits of General Accounts of Terminal Companies and other subsidiaries and associations. 3. Taking,

compiling and adjusting inventories. 4. Checking Division and other outside accounting offices. 5. Computing costs of varied railroad operations. 6. Various miscellaneous investigations.

The record shows that the work of a Traveling Accountant involves a working knowledge of many facility agreements. In checking costs of maintenance and operation of joint facilities, time is not afforded to check detailed items of expense and the Traveling Accountant must rely upon his general knowledge and experience as to costs that are reasonable. The work of the position is intricate and exacting. Previous experience and general knowledge acquired in the various Division offices, such as the General Accounting Office, the General Manager's, Traffic, Purchasing, Engineering, Mechanical and Transportation, afford the best training ground for the position. A complete understanding of the accounting methods in all offices is essential to a proper performance of the work. A lack of understanding of accounting methods, of costs, expenses and allied matters, in both operating and capital accounts, can result in great financial loss to the Carrier.

The Claimant has been employed by the Carrier since May 13, 1920. During that time he has held several positions, the duties of which have been enumerated as follows: 1. Filing vouchers and handling mail in Voucher Department. 2. Registration and indexing audited vouchers. 3. General Payroll duties, checking rates of pay, numbering pay checks, etc. 4. Preparation of Forms OS-7, posting operating expense ledgers and general work in Statistical Department. 5. Applying and checking voucher distribution. 6. Posting Addition and Betterment Ledgers. 7. Applying and checking voucher distribution. 8. General clerical work in connection with valuations and depreciation work.

It can be readily observed that while the performance of the foregoing duties are not without value, yet they constitute only a very minor portion of the knowledge and training required of a Traveling Accountant. Certainly, it cannot be said that a recitation of the foregoing duties, though well performed is conclusive of Claimant's fitness and ability to occupy the position of Traveling Accountant.

The record shows that Claimant was given an examination as to his fitness and ability for the position sought. The Organization contends that it was perfunctory only and did not reveal Claimant's fitness and ability, or the want of it. The same situation was alleged to exist in Award 2990 wherein this Board said:

"The Employees complain that the personal interview of this Claimant was short; that not many questions were asked, and but slight information obtained. However, we cannot know the mental workings of either the interviewer or the interviewed. It may be that such information was given with little having been said. The mental process cannot be examined by this Board, and that is merely one additional reason for not disturbing the action of the Carrier."

It is significant that the Claimant, upon whom the burden of proof rested, made no effort of his own to establish his fitness and ability at the time of the examination, nor was such an attempt made by his representative. He offered nothing to show outside study or other means of acquiring familiarity with the duties of the position. He seemed content to rest his claim of sufficient fitness and ability upon his service record alone. Under the record thus made, we think the judgment of the Carrier is sufficiently sustained by the evidence to warrant non-interference therewith on our part.

The point is made that the successful applicant was for all intents and purposes assigned to the position before the Carrier gave consideration to senior applicants. This is grounded on the successful applicant's request for a leave of absence in order that he might occupy the position of Traveling Accountant, made before the Carrier knew who the applicants might be. The successful applicant states that he requested the leave of absence on his own

initiative in order that he could have "the necessary details taken care of and could go on the job without delay in event my bid was accepted and not because I had been promised the job". The Auditor also states that the job was not promised to any one prior to its assignment to the present occupant in the regular course of business. These statements are sufficiently explanatory, in the absence of proof to the contrary, to remove any taint of improper, capricious or arbitrary action by the Carrier.

We are obliged to hold under the record before us that no basis is shown for intervention on our part with the judgment exercised by the Carrier in filling the position of Traveling Accountant.

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 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 the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson,
Secretary

Dated at Chicago, Illinois, this 2nd day of August, 1946.