

Award No. 3485

Docket No. CL-3436

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

James M. Douglas, Referee

PARTIES TO DISPUTE:

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

THE WESTERN PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood of Railway Clerks that position designated as Head Port Clerk, Stockton, be rated at \$8.17 per day retroactive to April 28, 1943, the date upon which The Western Pacific Railroad Company last took over operation of railroad facilities at Port of Stockton, California, and that L. J. Hough-taling and O. K. Bones be reimbursed for wage loss sustained account of failure of the Railroad properly to rate this position.

EMPLOYES' STATEMENT OF FACTS: The railroad and switching facilities at Port of Stockton, California, are operated during alternate years by Southern Pacific Company (Pacific Lines), The Atchison, Topeka and Santa Fe Railway, and The Western Pacific Railroad Company. Each rail-road operates the facilities for one year, furnishing all motive power and personnel needed to carry on its operations during this period.

The Western Pacific Railroad Company last took over operation of rail-road and switching facilities of Port of Stockton on April 28, 1943.

"Employes Exhibit "A" is copy of Western Division Clerks' Circular No. 66-43 of April 18, 1943 advertising bids for positions at Port of Stock-ton. It will be noted that the position of Head Port Clerk carries the rate of \$6.82 per day. Through application of wage increases this rate has now become \$7.54 per day.

The Head Port Clerk is required to exercise general supervision over a force of some six clerks whose duties are:

Make up switch lists.

Check and seal cars.

Inspect lading.

Issue bills of lading.

Check tracks.

POSITION OF EMPLOYES: The following rule is cited from agree-ment bearing effective date of October 1, 1930:

As set forth in Carrier's Statement of Facts, the General Chairman of the Southern Pacific clerical employees was authorized to make an agreement covering the clerical portion of the work incident to the operation of the Port. Paragraph (2) of Carrier's Exhibit "A" clearly shows that it was the intent to apply uniform rates of pay to the positions at the Port, rather than to apply rates of pay in effect on the several Carriers. The Head Port Clerk furnished by the Southern Pacific, and the Head Port Clerk furnished by the Santa Fe has each been paid on the basis of \$6.82 per day rate established November 5, 1942, without protest. This is evidence that the rate was satisfactory to the General Chairman of the Southern Pacific Clerks' Organization who was authorized to represent the employees on all of the three Carriers in the making of the initial agreement, and that the rate is satisfactory to the Santa Fe employees.

The rate being paid to the Head Port Clerk is adequate for the duties and responsibilities of the position, and you are urged to decline the request of the employees.

OPINION OF BOARD: A large modern port for the accommodation of ocean going vessels was constructed at Stockton, California. In addition to a deep water basin, the port facilities consisted of docks, warehouses and standard gauge trackage. Chiefly because of the war the volume of work at the port became so heavy it was necessary to create the position of Head Port Clerk, and to assign it a wage rate.

As the new position is in the same seniority district with the position of Chief Yard Clerk at Stockton, Carrier should have assigned it the same rate if it is of similar kind and class, and not a lower rate.

From an examination of the evidence before us, we are of the opinion that the duties and responsibilities of the two positions have sufficient common characteristics and attributes and are alike in their nature so that the positions are of similar kind and also fall into similar classes.

Carrier asserts that Head Port Clerk is not considered as important a position as Chief Yard Clerk at Stockton, and the duties and responsibilities of the latter position are far greater than those required of the Head Port Clerk.

However, it is not necessary that the scales exactly balance in weighing the importance of the particular duties and the respective responsibilities attached to the two positions. Neither the duties nor the responsibilities need be identical in order for the positions to be of similar kind or class.

Although the responsibilities of the two positions are different, the positions are not necessarily of such unequal importance that they belong in different classes. The results obtained through the exercise of the respective responsibilities may make the positions of similar importance. See Awards 1861, 3447.

The fact the volume of work attached to one position may be greater in degree than that of the other does not necessarily for that reason alone put the positions in different classes. See Award 2678.

We find the rule which applies to positions "of similar kind or class" properly comprehends the two positions here under consideration. Compare Award 2809.

Accordingly, 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 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 Carrier violated the Agreement as contended by Petitioner.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 20th day of March, 1947.