

Award No. 12413
Docket No. SG-12062

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Lee R. West, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

**NEW YORK CENTRAL RAILROAD
(Southern District)**

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the New York Central Railroad Company (Line West of Buffalo) that:

(a) The Carrier's action in demoting Mr. J. C. Wyatt, Lead Signal Maintainer, Greencastle, Indiana, to a position of Assistant Signal Maintainer, effective May 16, 1958, was arbitrary, capricious, unwarranted, unjust, and in violation of the Signalmen's Agreement.

(b) The Carrier now be required to reinstate Mr. J. C. Wyatt to his assigned position of Lead Signal Maintainer, Greencastle, Indiana, and pay him the difference in the rate of pay between his present position of Assistant Signal Maintainer and his former position of Lead Signal Maintainer for the period of time that he was improperly demoted.

OPINION OF BOARD: It is the opinion of the Board that there has been a violation of the agreement between these parties.

The record reveals that J. C. Wyatt entered the service of the Carrier on April 14, 1941, as a Signal Helper. In December of 1941, he was promoted to Assistant Signal Maintainer. On November 13, 1954, he was promoted to Signal Maintainer. On May 1, 1957, he was promoted to Lead Signal Maintainer. On May 16, 1958, he was demoted to Assistant Signal Maintainer.

The Organization contends that such demotion was arbitrary, capricious, unwarranted and in violation of the agreement. Carrier contends that such demotion was not disciplinary, but was necessary from the standpoint of efficiency and safety to demote Wyatt to a position commensurate with his capabilities.

In our opinion, the record clearly reflects that a demotion of Wyatt from a supervisory position was not arbitrary. The record reveals numerous deficiencies in his ability and attitude which support a finding that he was incompetent to serve as Lead Signal Maintainer, a supervisory position. However, Wyatt was demoted to a position below Signal Maintainer, the next lowest non-supervisory position, to a position as Assistant Signal Maintainer. He was demoted below a position which he had fulfilled satisfactorily for a period of more than 2 years and from which he had been promoted. There is nothing in the record to indicate that he was incompetent as a Signal Maintainer, although he clearly demonstrates incompetence as a Lead Signal Maintainer.

Carrier insists that they are not attempting to use the demotion as a disciplinary measure, and that they are only demoting Wyatt to a position commensurate with his abilities. However, insofar as the demotion is to a position below a demonstrated and proven ability, it is in fact arbitrary. We, therefore, hold that the demotion of J. C. Wyatt, insofar as it demoted him below the position of Signal Maintainer, a position which he had competently held for a period of more than 2 years, and from which he had been promoted, was arbitrary and capricious and a violation of the agreement between these parties.

To the extent that such demotion was excessive, Wyatt has been improperly deprived of his salary as Signal Maintainer. He should, therefore, be compensated for the difference between the pay he has received since his demotion and what he would have received as Signal Maintainer.

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

That the parties waived oral hearing;

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.

AWARD

Award denied in part and sustained in part in accordance with the above opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 14th day of April 1964.