

Award No. 15586
Docket No. MW-15919

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Daniel House, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
ELGIN, JOLIET AND EASTERN RAILWAY COMPANY

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

(1) The Carrier violated the Agreement when it failed and refused to assign the position of motor car repairman as advertised by Gary Division Bulletin No. 3339 to Garage Serviceman J. W. Childs, who was the only applicant for said position. (System Case No. SG-5-65 - WM-7-64.)

(2) Garage Serviceman J. W. Childs be allowed the difference between what he was paid at the garage serviceman's rate and what he would have received at the motor car repairman's rate had he properly been awarded the position referred to in Part (1) of this claim.

EMPLOYES' STATEMENT OF FACTS: The claimant entered the Carrier's service as a track laborer within the Track Sub-department on February 11, 1957. In addition to his seniority as a track laborer, the claimant has established and holds seniority as a garage serviceman within the Scales and Work Equipment Sub-department, Gary Division, as of June, 1962, thereafter being regularly assigned as such.

The Carrier issued Gary Division Bulletin No. 3339 advertising a position of motor car repairman.

The claimant submitted a proper and timely application for the aforesaid position. Despite the fact that the claimant's application was the only application received for the position, the Carrier failed and refused to assign him thereto by Bulletin No. 3339-A, which reads:

"Maintenance of Way Department

BULLETIN

To be posted at all bulletin boards

Joliet, Illinois
May 11, 1965

No. 3339-A

(Scales & Work Equipment Subdept., Gary Div.
(Group 2, Track Subdepartment, Gary Division.

OPINION OF BOARD: On April 26, 1964, Carrier advertised to fill a position of Motor Car Repairman. The only applicant, Claimant, was the occupant of a position in the next lower rank of job, Garage Serviceman, which position, according to Carrier, "essentially is an apprenticeship to becoming a railroad automotive mechanic." By Bulletin dated May 11, 1964, Carrier refused Claimant the assignment as "Not qualified." Organization filed its claim on this account a few days later, to which Supervisor Skinner replied for the Carrier:

" . . . Rule 8 provides the man must have sufficient ability and merit to be considered for this position. In the instant case, Mr. Childs was given the Wonderlic Mental Ability Test. This test sets as a base for motor car repairmen a score of 15. In taking this test, Mr. Childs was only able to answer seven questions correctly. This being the case, he definitely did not have sufficient ability and merit to be considered for promotion to motor car repairman . . ."

The question to be determined here is essentially the same as that we decided in our Award No. 15002 between the same parties: was the Carrier's decision to deny Claimant the promotion arbitrary, capricious or unreasonable? To determine an applicant's qualification for Motor Car Repairman, as Mr. Skinner did in this case, solely on the basis of his score on the Wonderlic Mental Ability Test was unreasonable and arbitrary, and we cannot support it.

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 Employee involved in this dispute are respectively Carrier and Employee 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: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 26th day of May 1967.