



Award No. 17058
Docket No. MS-17187

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Gene T. Ritter, Referee

PARTIES TO DISPUTE:

KATHERINE M. FERRICK

THE BALTIMORE AND OHIO RAILROAD COMPANY

STATEMENT OF CLAIM: You are hereby notified of my intention to file an ex parte submission against the Baltimore and Ohio Railroad Company within thirty (30) days from the date hereof, to-wit, September 1, 1967. The claim against the Baltimore and Ohio Railroad Company is in connection with the authorized coordination of that Company with the Chesapeake and Ohio Railway Company, the claim arises from

1. Termination of claimant's over twenty-one years of excepted secretarial employment as of December 1, 1963, with deprivation of earned employment rights and benefits—without awarding claimant the protection and compensation benefits then in effect and required to be provided for employees adversely affected in their employment.

2. Failure of The Baltimore and Ohio Railroad Company to properly arbitrate claimant's claim.

3. Mistakes of law; failure of the Arbitration Board to adjudicate the claim properly; to comply with the provisions of the Railway Labor Act; failure of the Arbitration Board to apply the "Washington Job Agreement" to the claimant; and failure of the Arbitration Board to render an intelligible opinion and a clear-cut and interpretable award.

4. Failure of the Arbitration Board to delineate claimant's rights, in the light of her subsequent reemployment in a low-grade, lower-salaried clerical position—with no recognition given to previous service or rights. Such reemployment occurred some thirteen months prior to the arbitration opinion.

I hereby request the Board to determine my employment rights and status by declaring as a nullity the arbitration procedure undergone, and allowing me the right to arbitrate, or, in lieu thereof, to definitely interpret the award and opinion and clarify my status thereunder.

OPINION OF BOARD: Claimant had occupied the position of Secretary to Assistant Regional Engineer at Pittsburgh for many years, an "excepted" position, not subject to the basic agreement in effect between the Clerks' organization and the Carrier. Claimant's position was abolished by the Carrier on November 23, 1963, in what the Carrier contended was solely an economy move. Claimant contended that the abolishment was a result of acquisition by the C&O of control of the B&O and therefore she should have been granted certain considerations provided for employees who were "placed in a worse position . . . as a result" of the acquisition of control.

In due course, and in strict compliance with the employee-protection provisions embodied in Article VIII of the Order of the I.C.C. permitting the acquisition of control above described, the questions of Claimant's rights and status were submitted to "final, binding and conclusive" arbitration, the neutral member and Chairman of the Arbitration Committee having been appointed by a judge of the United States District Court. The record establishes that the Board of Arbitration convened, rendered an award after hearing, and thereafter the terms of the award were fully complied with.

By this proceeding, we are asked to review the jurisdiction of the Arbitration Board, as well as the merits of the award rendered thereby, to which Claimant voluntarily submitted her complaint for "final, binding and conclusive" arbitration. Under these circumstances, we are not competent to proceed and the claim must be dismissed.

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.

AWARD

Claim dismissed in accordance with Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 16th day of April 1969.