NATIONAL RAILROAD ADJUSTMENT BOARD

Award Number 22411

THIRD DIVISION Docket Number MW-22325

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(Seaboard Coast Line Railroad Company

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

(1) The Carrier's disqualification of John Brown, Jr. as an Assistant Foreman was not in conformance with nor supportable by Agreement rules-pertaining thereto /System File 12-8(77-2) J3/P:R Brown, John Jr./.

(2) Claimant John Brown, Jr. shall be returned to his position as Assistant Foreman, his seniority as Assistant Foreman shall be established as of June 1, 1976, he shall be compensated for any wage loss resulting from the aforesaid disqualification."

OPINION OF BOARD: Claimant was awarded an Assistant Foreman position, effective June 1, 1976; but on July 23, 1976, the Roadmaster disqualified him because:

> 'You have not demonstrated your ability to meet the requirements of Assistant Foreman on Surfacing Gang 8565 to either the for- on the gang or to myself and, therefore, you have failed to qualify for the position within the 60 calendar days required in the agreement. It is evident that you do not have sufficient basic knowledge of the operation of the track liner or power tamping jack in order to turn out the quality or quantity of work required by the Railroad. in addition, it is my observation that your ability to organize forces is not up to standard and that you need to imprwe in the area of leadership.
>
> Therefore, it is my recommendation that at first opportunity you bid on a track machine operator's position on a gang where the power tamping jack and the track liner are involved in order to familiarize

"yourself with the fundamentals of track surfacing and lining with these machines. In addition, I would recommend you take a course involving leadership qualities in order to improve yourself in this area."

The disqualification was confirmed on appeal.

Rule 12, Section 4 states:

"Employees accepting promotion will be given a fair chance to demonstrate their ability to meet the requirements of the position; if failing to so qualify within sixty (60) calendar days the position will be declared vacant, and the employee may return to his former rank in accordance with Rule 13, Section 3."

Claimant asserts that he did not receive necessary manuals and instruction and that he was hindered, rather than aided, as well as being prejudged.

Carrier reminds us that Rule i2, Section 2 specifies that "Management" shall judge ability, and it insists that its action was in compliance with the above cited Section 4 of the Rule. It states that the Claimant was given the opportunity to demonstrate his ability - but he failed to do so.

Certainly, Carrier's action was timely and, in our view, the entirety of the testimony presented at the hearing convinces us that Carrier's action was not arbitrary or capricious.

Limiting our consideration to matters properly presented while the dispute was under consideration on the property, we are of the view that there was sufficient evidence presented to substantiate the disqualification and, accordingly, we will permit the action to stand.

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 Employes involved in this dispute are respectively Carrier and Employes 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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A.W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 30th day of May 1979.