NATIONAL RAILROAD ADJUSTMENT BOARD

Award Number 25106

THIRD DIVISION Docket Number x-24086

Wesley A. Wildman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Boston and Maine Corporation

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Boston and Maine Corporation:

On behalf of P. Riley, D. Walsh, D. Works, G. Isle, R. Russett, and D. Russom, for any loss of pay they suffered because a Carrier abolished Leading Signal Maintainer positions that have existed since about 1960 and re-established them as Signal Maintainer positions (continuing claim initiated April 14, 1980)."

OPINION OF BOARD: The action by Carrier which gave rise to the instant claim was the abolishment of six Leading Signal Maintainer positions and their subsequent reestablishment as Signal Maintainer jobs at, of course, a lower rate of pay.

The relevant language in the Agreement between the parties is as follows:

"Article 1

Classification

...

section 5 -- Leading Signal Maintainer

A Signal Maintainer working with and responsible for the work of one or more Signal Maintainers shall be classified as a Leading Signal Maintainer. However, the number of employes he will be responsible for shall not exceed a total of five (5) at any one time.

...

Section 8 -- Signalman, Signal Maintainer

An employe qualified and assigned to perform work generally recognized as signal work, shall be classified as Signalman or Signal Maintainer.

..."

"Article VII

Miscellaneous

...

Section 8. Established positions shall not be discontinued and new ones created under a different title covering relative the same class of work for the purpose of reducing the rate of pay or evading the application of the rules of this Agreement.

...."

The facts in this case are simple and are not in dispute. The abolished Leading Signal Maintainer positions had been in existence for some twenty years. The incumbents on the lead jobs before abolishment did not perform any supervisory or "lead" function whatsoever, as contemplated by the classification description (Article 1, Section 5) but, in fact simply did the work of Signal Maintainer (Article 1, Section 8). (The record does not disclose whether, at anytime during the twenty year existence of the lead jobs, the incumbents ever performed any lead functions.)

The Organization asserts that Article 7, Section 8 precludes the Carrier from abolishing the Lead positions. They argue that within the meaning of Article 7, Section 8, (1), these Lead jobs are long and well "established positions", (2), that the positions have been "discontinued" (abolished) and "... new ones created ..." (the Signal Repairman jobs), (3), that the work being done now is "... the same class of work ..." as that done previously, and, (4), that the action of the Carrier in "discontinuing" the Lead positions was for the sole and exclusive "... purpose of reducing the rate of pay ..." as forbidden by Article 7, Section 8. While the Organization's position constitutes a wholly understandable and even immediately appealing interpretation and application of Article 7, Section 8. it is not a position which this Board finds ultimately persuasive.

In Article 7, Section 8, does "... relatively the same class of work ..." (which we take to mean "substantially the same work or job content") refer to the work actually being done on the old "established position", or does it refer to the work or job content which the title and description (as negotiated by the parties) of the "established position" specifies should be performed to justify the rate of pay bargained for the job.

It seems reasonable to this Board that "established position" should have its roots in the classification descriptions in Article 1 if there is a description which is clearly applicable and-appropriate, and that the concept of "same class of work" has reference to the essential "work" of that job contemplated by and specified in the description of the job. Thus read, Article 7, Section 8 does not preclude Carrier in this instance from abolishing "established positions" not actually existing or in fact being performed.

The important protection afforded to employes by Article 7, Section 8 is not to provide for the permanent freezing of individuals into pay for higher rated positions or jobs not actually being performed or existing but lies, rather, in forbidding the Carrier from effectively cutting the negotiated rate on an established position which is being performed as the parties anticipated in the classification description, by simply changing the name of the job without substantially changing its content.

Finally, as this Board does not find Article 7, Section 8 controlling in this case, and as Article 1, Sections 5 and 8 (ultimately dispositive of the issue before us) are wholly straightforward and lacking in ambiguity, we do not find Carrier bound by its apparent twenty or less year practice of paying a higher rate to Signal Repairman than required by the Agreement.

Pursuant to the above, the claim is denied.

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: Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 23rd day of October, 1984.