

Award No. 2124
Docket No. MW-2019

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Sidney St. F. Thaxter, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
GALVESTON WHARVES COMPANY

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

(1) The Carrier violated the provisions of Memorandum of Agreement signed and made effective August 14, 1940, in abolishing all positions in the Bridge and Building Department effective April 28, 1941.

(2) That the two senior foremen who suffered a wage loss as a result of the Carrier's rearranging the forces in the B. & B. Department, which arrangement was made in violation of the agreement, and all other employes who suffered a reduction in their earnings, be reimbursed in an amount equal to what their earnings were prior to said readjustment.

(3) That these positions be reestablished in accordance with the provision of Memorandum of Agreement reached between the Carrier and the representatives of the Brotherhood of Maintenance of Way Employes effective August 14, 1940.

(4) That the employes involved in this claim be compensated for the difference between what they received and what they would have earned if they had been permitted to remain in the positions held prior to April 28, 1941.

EMPLOYES' STATEMENT OF FACTS: Under date of August 14, 1940, a Memorandum of Agreement was reached between the Carrier and the representatives of the employes of the Galveston Wharves Company. The memorandum of agreement provides for two B. & B. gangs to be maintained under the provision of the agreement between the Brotherhood of Maintenance of Way Employes and the management of the Galveston Wharves Company.

The agreement of May 1, 1940, also provides that when a pile driver gang is employed by the Carrier such gang be supervised by a foreman in addition to the regular B. & B. gang.

Effective 5 P. M. April 28, 1941, the Carrier placed in effect a bulletin eliminating all foremen's positions in the B. & B. Department with the exception of one. At the time this bulletin became effective there were actively engaged on the Galveston Wharves two B. & B. foremen and a Pile Driver foreman. Thus the Carrier consolidated three positions into one, maintaining the same number of employes in the service and supervised by one foreman instead of three as provided for in the memorandum of agreement of August 14, 1940. These employes were subdivided into separate units working under the instruction of an Assistant Foreman.

OPINION OF THE BOARD: That there is a controversy here seems obvious. But just what it is about and what this Board can do about it is quite another matter. The current agreement became effective May 1, 1940. A memorandum in addition to it was adopted August 14, 1940. The controversial part of this seems to be the provision providing for a reorganization of the B. & B. gangs classified under Article IV, Rule 1, Sec. 2, of the original agreement. The avowed purpose of this section was to place the white and colored employes in separate gangs. The number of men and their classification in these gangs was provided for. The memorandum provides that these positions shall be bulletined, and that the separation of white and colored men and the rearrangement of gangs shall not in any way interfere with seniority. Then we find the following provision: "The company agrees that it will use its best endeavor to keep these men in separate gangs, but the Committee and the Company realize that conditions may exist at sometime, where it would become necessary to have them mixed." April 18, 1941 the Carrier issued a bulletin abolishing all the positions covered by Article 4 of the Contract as amended by the memorandum, and called for bids for a new list of positions. The effect of this apparently was to consolidate certain gangs and to abolish certain positions.

We do not think it advisable or even possible to determine on the record before us what the effect of this change has been. The record is meager. Just what money, if any, may be due if the employes' contentions should be sustained does not appear. Moreover, the memorandum of agreement is vague and lacks definiteness. We do not think that we should attempt to determine its meaning except as we may have before us a specific dispute to which it applies. This is a matter which should if possible be settled on the property by the negotiation of a new agreement.

So far as this particular case is concerned, we are of the opinion that it should be remanded for a fuller record. We should not be called on here to express our opinion on what may turn out to be a purely supposititious case.

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 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 there is before this Board no dispute which on the record before us it is possible to decide.

AWARD

Case dismissed from this docket without prejudice and remanded for a more complete record.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 5th day of April, 1943.