

Award No. 12835
Docket No. SG-12335

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Don Hamilton, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

THE PENNSYLVANIA RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Pennsylvania Railroad Company:

In behalf of Assistant Signalman R. C. Gongloff for the amount of money earned by J. M. Meyers while working at the New Service Building, 21st Street, Pittsburgh, Pa., (BU) account of illegal displacement based on Merger Agreement of 5-24-51.
[System Docket 78 - Pittsburgh Region Case 41]

EMPLOYEES' STATEMENT OF FACTS: Effective November 1, 1949, the former Pittsburgh Division Seniority District and the former Monongahela Division Seniority District were combined into a single seniority district, to be known as the Pittsburgh Division Seniority District. The employees in service on the effective date of the merger continued to earn seniority on their original seniority district, though they would have seniority rights over the entire new Division over employees entering service after the effective date of the merger. Employees entering service after the effective date of the merger have seniority rights over the entire new Division.

The claimant in this dispute, Mr. R. C. Gongloff, was in service on the effective date of the merger, and he holds prior rights on the former Pittsburgh Division, with a Helper seniority date of 11-23-42 and an Assistant Signalman date of 11-12-56.

The other employee named in the Statement of Claim, Mr. J. M. Meyers, entered service after the effective date of the merger, and he has a Helper seniority date of 10-19-50, an Assistant Signalman date of 7-1-51, and a Signalman date of 6-7-55.

The claimant held an assignment of Assistant Signalman at BU, and Mr. Meyers held an assignment of Assistant Signalman at Pitt Tower. On abolishment notice dated March 5, 1958, the position held by Mr. Meyers was abolished effective that date. The Carrier permitted Mr. Meyers to displace the claimant effective March 5, 1958, and effective that date the claimant was furloughed in force reduction.

CONCLUSION

The Carrier has established that no violation of the Agreements occurred by reason of the Claimant having been displaced from his position and he is not entitled to the compensation claimed.

Therefore, the Carrier respectfully submits that your Honorable Board deny the claim of the Employees in this matter.

(Exhibits not reproduced.)

OPINION OF BOARD: This claim is concerned with the respective seniority rights of two assistant signalmen, pursuant to the merger of two seniority districts, the result of which is the Pittsburgh Division Seniority District.

Claimant Gongloff is seeking an award as a result of his displacement by assistant signalman Myers, March 8, 1958. Gongloff's seniority as a helper dates to November 23, 1942, while Myer's is October 19, 1950.

On June 8, 1951, both employees were given an opportunity to bid on an advertised assistant signalman's position. The Claimant, who would have been the senior applicant, failed to bid. Myers was awarded the position and established seniority as of July 1, 1951. Claimant thereafter applied and was awarded a position of assistant signalman with seniority effective November 12, 1956.

Myers' position was abolished on March 5, 1958, and he displaced Gongloff on that date. Claimant was then furloughed. The instant claim is the result of that displacement.

The controlling language in this dispute is found in the letter on page six of the Brotherhood's Exhibit No. 1, which reads, in part:

"Further, it was agreed that if an employee of the former Pittsburgh Division seniority district has established, since November 1, 1949, or thereafter, seniority in a class by reason of an award to a position in a higher class on the former Monongahela Division Seniority district, such seniority will apply only on the former Pittsburgh Division seniority district, except that he will be senior over employees hired November 1, 1949, or subsequent thereto who had not already established seniority in such higher class. The same principle applies if a prior right Monongahela Division employee were awarded a position under like circumstances on the former Pittsburgh Division seniority district."

It appears to the Board that this language governs the Claimant's rights in this case, and that the claim should be denied.

It is further pointed out that the employees have relied to some extent on a letter of January 20, 1959, written by Mr. Moore and approved by General Chairman Park, which reads in part:

"The letter of understanding dated April 4, 1956, covering the application of the Merger Agreement of May 24, 1951, is to remain in force and effect except that it is modified by the following:

It is agreed effective February 1, 1959:—

1. In the application of the Merger Agreement dated May 24, 1951, covering the former Pittsburgh and Monongahela Divisions merger effective November 1, 1949, all employes hired subsequent to October 31, 1949, will have full seniority rights as between themselves in accordance with the provisions of the Schedule Agreement. However, they will not be permitted to displace or outrank for seniority purposes any employe with seniority on one of the former Divisions prior to the merger of November 1, 1949, on the prior right employe's original or home seniority district.

Employes hired after October 31, 1949, will outrank for seniority purposes any employe assigned to a position on other than his original or prior right seniority district provided he is senior to the employe in the class involved."

Had this claim arose after February 1, 1959, it is possible that this language would then control and the claim would be upheld. However, the displacement complained of occurred March 5, 1958, and, in our opinion, is controlled by the letter of April 4, 1956, and not by the subsequent modification.

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.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 11th day of August 1964.