



Award No. 15806
Docket No. TE-14694

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Bill Heskett, Referee

PARTIES TO DISPUTE:

TRANSPORTATION-COMMUNICATION EMPLOYEES UNION
(Formerly The Order of Railroad Telegraphers)

GULF, COLORADO AND SANTA FE RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Gulf, Colorado and Santa Fe Railway Company, that:

1. The Carrier violated the Agreement between the parties when it refused to assign the senior qualified applicant, J. M. Finck, to a bulletined temporary vacancy on the 9:30 A.M. to 5:30 P.M. printer clerk position beginning May 22, 1961, forward.

EMPLOYEES' STATEMENT OF FACTS: There is in effect an Agreement between the parties with effective date of June 1, 1951 and by reference thereto, it is made a part of this dispute.

There exists between the parties an unadjusted dispute which arose when Carrier issued a bulletin to employees under the Agreement on its Gulf Relay Division reading:

"Galveston
May 8, 1961
File 27538-Telegraphers

BULLETIN NO. 2
ALL CONCERNED:

The following temporary position in the Gulf Lines Relay Division is open for bid for a period of seven (7) days. Bids must be in this office by 5:00 P.M., May 14, 1961.

Location	Title	Class	Assigned Hours	Rate of Pay
Galveston	Printer Clerk	2	9:30 AM-5:30 PM	Rate applicable under Telegraphers' Schedule

Days of Rest - Saturday and Sunday

This position does not normally work on holidays.

Applicants must be experienced and qualified Printer Clerks.

'An employee having established seniority in Class 1 must thereafter remain in that class so long as he is able to hold a regular position therein, or forfeit seniority in such class * * *.'

Mr. Finck's regular assignment was Relief Wire Chief Position No. 1. Upon termination of the Class 2 temporary vacancy, Mr. Finck would have returned to his Relief Wire Chief Position in accordance with Article XXI, Section 10-g.

This is to advise your decision is not satisfactory, and the claim will be appropriately appealed to the Third Division for a final determination.

Yours truly,

/s/ R. O. Norton
General Chairman"

(Exhibits not reproduced.)

OPINION OF BOARD: On 8 May, 1961, Carrier bulletined the temporary Class 2 position of Printer Clerk at Galveston, Texas. Claimant, Finck, who was a regularly assigned employee of a Class 1 position at Galveston, bid on the position as follows:

"Provided this does not affect in any manner my Class 1 seniority, please accept this as my bid on Bulletin No. 2, Temporary Vacancy, Class 2, Galveston, Texas."

On 22 May, 1961, a Class 2 employee junior to Claimant was assigned to said position. The Carrier justified its action upon its view of the provisions of Article XXI, Section 5-c, of the then current 1 June, 1951, Agreement, the pertinent part of which reads as follows:

"SECTION 5-c. An employee having established seniority in Class 1 must thereafter remain in that class so long as he is able to hold a regular position therein, or forfeit seniority in such class, unless, as a result of a force reduction, the employee, in order to remain in the office in which the reduction occurred, is compelled to displace in Class 2, in which event his seniority in Class 1 will be protected provided he files bids on all positions bulletined in that office in such class. * * *"

The Organization contends that by other provisions of the agreement Claimant held the higher seniority and should have received the position.

Without surrendering his Class 1 seniority, it is clear and unequivocal that Section 5-c prohibits a Class 1 employee from accepting a Class 2 position, except for the instances therein enumerated, none of which instances were applicable to Claimant. Here, Claimant was seeking to reserve his Class 1 seniority and the Carrier was correct in denying him the Class 2 position.

The claim should be dismissed.

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 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; and

That the Carrier did not violate the Agreement.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 20th day of September 1967.