



Award Number 17489

Docket Number CL-16336

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

G. Dan Rambo, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP
CLERKS, FREIGHT HANDLERS, EXPRESS AND
STATION EMPLOYES**

SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5973) that:

- (a) Carrier violated the Agreement at Atlanta, Georgia, when it refused to assign Mrs. M. C. Smith with 36 years experience, to position of Stenographer (259), Freight Accounting Section, Revenue Accounting Department, instead of Mrs. M. S. Baughman, an employe with a few months service.
- (b) Mrs. Smith shall be compensated at the rate of \$19.93 each day, five days a week, for the period beginning October 1, 1964, and continuing until she is allowed the position of Stenographer (259), Freight Accounting Section, Revenue Accounting Department, Southern Railway System, Atlanta, Georgia.

EMPLOYEES' STATEMENT OF FACTS: This dispute is between the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes as the representative of the Class or Craft of employes in which the claimant in this case holds position and the Southern Railway Company.

Mrs. M. C. Smith is carried on the Southern Railway System, Auditor of Freight Accounts, Machine Accounting Bureau, Seniority Roster—Group 1, Clerks, with a seniority date of October 16, 1928. She, at the time of this claim, had been an employe of the Southern Railway Company for more than thirty-five years.

Mrs. Smith was assigned to a position of Stenographer in Stenographic Bureau, effective January 16, 1929, which she held until January 15, 1943, on January 16, 1943 she was assigned as Stenographer to Chief Clerk Overcharge Claims, which she held until January 15, 1945, on January 16, 1945 she was assigned as Stenographer in Office of Auditor of Overcharge Claims which she held until April 30, 1948. On May 1, 1948, she was assigned as Secretary to Auditor of Overcharge Claims which she held until December 15, 1962, on December 16, 1962, she was assigned as Secretary to Manager, Overcharge Claims which she held until the office was moved to Macon, Georgia, in July 1964, she did not choose to follow her position to Macon and became furloughed.

accordance with principles defined in Rule 15 (exclusive of the notes) in the following manner, except that merit, capacity and qualifications being sufficient, seniority shall govern:

The officer in charge where vacancy occurs will, within two days, bulletin such position to all employees of the group or class on the seniority district in which vacancy exists. Bulletin to show location, title, rate of pay, and preponderating duties of position, number of hours assigned per day, and number of days assigned per week, subject to reduction in weeks in which holidays occur by the number of such holidays. Employees desiring such position must, within five calendar days (except in General Offices at Washington, Cincinnati, Atlanta, and Chattanooga, where the period shall be two working days) after bulletin is posted, make written application to the officer issuing the bulletin. The bulletin shall expire at twelve o'clock midnight on the fifth or second day, as the case may be. From these applications the senior qualified employee shall be assigned to the position within fifteen (15) days, and bulletin will be posted giving name of successful applicant. If requested, copy of all bulletins will be furnished Local Chairman.

NOTE NO. 1: The word 'sufficient' as used above is intended to establish the right of the senior qualified employees to be assigned to new positions or vacancies covered by Section (a) of this Rule 16 over junior qualified employees."

OPINION OF BOARD: It is contended that Carrier violated the Agreement when it assigned Mrs. M. S. Baughman to the position of Stenographer (259), Freight Accounting Section, Revenue Accounting Department, rather than Claimant Mrs. M. C. Smith, a person of greater seniority with Carrier. Neither contender had seniority in that District though Claimant had been with Carrier more than thirty-five (35) years in a succession of positions and Mrs. Baughman had been with Carrier about six months.

The position was filled under provision of Rule 15 of the Agreement by the Director, Revenue Accounting, the appointing officer, and that decision was subsequently appealed with the appointing officer's decision being sustained by Carrier's officers.

Employees urge that the decision of the appointing officer was unreasonable and unjust and arrived at without foundation; that a reasonable assessment of Claimant's long years of experience in successively higher rated positions requires a finding that she was qualified, with merit and capacity for the position. However nothing is offered to offset the report of the appointing officer that he investigated the qualifications of both by interviewing present and past supervisors and on the basis of their reports determined that the qualifications of the two were not equal, that Mrs. Baughman was clearly of higher qualification.

This same issue between these same parties has been before this Board on many occasions, most recently in Awards 15929, 15784 and 15387 and their findings are controlling. Absent a showing that the decision of Carrier's representative was arbitrary, capricious or manifestly unjust this Board will not substitute its judgement for that of the representative and no such showing has here been made.

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 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 Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 26th day of September 1969.