

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19819
Docket Number MW-19686

Benjamin Rubenstein, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Southern Pacific Transportation Company
(Texas and Louisiana Lines

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

(1) The Carrier violated the Agreement when it assigned Extra Gang Laborer W. Gobar instead of Extra Gang Laborer J. Luna to perform overtime service on each day during the period from October 24, 1970 to November 9, 1970, both dates inclusive. (System File MW-71-26)

(2) In addition to the pay he has received, Extra Gang Laborer J. Luna be allowed one hundred sixty-four (164) hours of pay at his time and one-half rate because of the violation referred to in Part (1) hereof.

OPINION OF BOARD: The issue herein involves an interpretation of the Seniority provisions of the agreement between the parties, specifically: are the seniority provisions of the agreement applicable to overtime work, making it obligatory on the carrier to favor a senior employee over a junior, in assigning overtime work?

In deciding this issue we are guided by the well established principles that: 1. rights of parties to an agreement are spelled out in the agreement; and 2. that this Board may interpret an agreement, but has no right to enlarge its provisions, or add to it. The cases sustaining the above principles are so numerous that citing any, would be superfluous.

A careful reading of the applicable provisions of the agreement dealing with seniority, relied upon by the claimant, shows that although it defines seniority, it fails to assert any rights between senior and junior employees, except in cases of reduction of force, (Article 3) and promotions (Article 8, Section 1).

The situation in the instant case is distinguishable from that in Award 19758, wherein we sustained a claim for overtime work based on seniority provisions of the contract. There, the contract specifically asserted seniority rights in "consideration for positions". We held that the provision was sufficiently broad to cover overtime positions. The seniority provisions in the instant agreement are not, nearly, as wide. They are limited, as above stated, to reduction of force and promotions. We can not enlarge the agreement by widening the seniority clause.

In Award No. 16667, involving the same parties, the same agreement, and a similar issue, we said:

"We observe the great importance of seniority in the railroad industry and that it is incumbent on this Board because of the great body of established precedents to apply such Rules whenever possible to work assignments. We cannot however apply the Seniority Rules set out in the agreement to overtime when the Agreement is silent on this point yet detailed as to so many others".

We are bound by our decision in Award 16667.

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 Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

Ed. Hillen
Executive Secretary

Dated at Chicago, Illinois, this 20th day of June 1973.