

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 21483
Docket Number MW-21328

James C. McBrearty, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
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(Southern Pacific Transportation Company - T&L Lines

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

(1) The Agreement was violated when Track Department Foreman R. C. Chavez was permitted to displace Laborer-Driver Blas Gonzales on June 17, 1974 (System File MW-74-87).

(2) Claimant Blas Gonzales now be allowed travel pay, mileage and expenses as set forth in the appeal letter of October 10, 1974 to the Carrier's Manager of Labor Relations.

OPINION OF BOARD: The parties agree that the only issue to be decided by the Board is whether a "voluntary relinquishment" is encompassed within the purview of Article 8, Section 2 of the Agreement.

Article 8, Section 2, reads:

Employees declining promotion will not lose their seniority. Employees promoted and afterward demoted through failure to qualify or other cause will not lose their accumulated seniority in the grade to which returned and will be allowed to take former position if still vacant and unassigned; otherwise, they will displace the junior employee of their class.

In the instant case, Track Department Foreman R. C. Chavez voluntarily relinquished his position as a foreman, and then displaced Laborer-Driver Blas Gonzales, who had taken over the position vacated by Chavez, when Chavez was promoted to a foreman.

The big question is whether the voluntary relinquishment of the foreman's position by Chavez is a "demotion for other cause" under Article 8, Section 2, thereby making the displacement of Gonzales by Chavez improper.

Webster's Third New International Dictionary (Unabridged Edition, 1971), defines "demote" as "to reduce to a lower grade or rank; relegate to a subordinate or less important position." Roberts' Dictionary of Industrial Relations defines "demotion" as "the process of moving an employee to a position

lower in the wage scale or rank. It may be involuntary, resulting from inefficient or careless work in the form of a penalty, or voluntary resulting from a curtailment of production, and without prejudice to the employee."

From these definitions of the terms "demote" or "demotion," as well as the context of Article 8, Section 2, the Board finds that the "voluntary relinquishment" of the foreman's position by R. C. Chavez is not encompassed within the purview of Article 8, Section 2.

The "voluntary" aspect of demotion referred to in Roberts' Dictionary of Industrial Relations specifically refers only to the situation where management gives the employee a choice of taking a demotion. It does not encompass the situation where the employee takes it upon himself to voluntarily relinquish his position without being "forced" into making a "choice" by management. (See Labor Policy and Practice (BNA) 24:(301-304))

The phrase "or other cause" in Article 8, Section 2 does not refer to a voluntary relinquishment such as in the instant case, but to reasons other than "failure to qualify" why management might demote an employee. Encompassed here would be demotion for business reasons such as lack of work in the employee's department.

For the foregoing reasons, therefore, the Board has no alternative but to deny the claim.

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.

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Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this 31st day of March 1977.