

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23546
Docket Number SG-24047

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: { Brotherhood of Railroad Signalmen
(Consolidated Rail Corporation

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Consolidated Rail Corporation (former Lehigh Valley Railroad Company):

On behalf of R. L. Samala and E. Egurrola for the difference in rate of pay between Trainee/Assistant (\$7.45 per hour) and Signalman (\$8.68 per hour), \$1.23 per hour, for all hours worked from date of violation, April 12, 1979, to the date they were finally promoted to signalman (Samala August 9, 1979; Egurrola June 11, 1979)."

(System Docket 1438)

OPINION OF BOARD: This dispute deals with the Carrier's action of issuing a bulletin which cancelled a previously issued bulletin that advertised a vacancy.

In the prosecution of this claim, the Employees have asserted that the Carrier discriminated against two Spanish surnamed employees, and asserts that they were not given an opportunity to demonstrate an ability to fill the positions.

The Carrier states simply that after the vacancies were advertised, there was a re-organization which resulted in a decision that the positions were not, in fact, necessary, and as a result, there was a cancellation of the two vacancies.

We are inclined to agree with the contention that the Carrier has a right to take said action, unless there is a specific contractual rule which alters that right. We find no such rule here and, accordingly, we will 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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulsen

Executive Secretary

Dated at Chicago, Illinois, this 26th day of February 1982.