

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24754
Docket Number SG-23825

Josef P. Sirefman, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Southern Pacific Transportation Company (Pacific Lines)

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Southern Pacific Transportation Company (Pacific Lines):

(a) The Southern Pacific Transportation Company (Pacific Lines) has violated the Agreement effective October 1, 1973, between the Company and the employees of the Signal Department represented by the Brotherhood of Railroad Signalmen and particularly Rules 54, 59 and 72.

(b) That Mr. C. A. Dunivin be awarded the position of Signal Maintainer headquartered at Grants Pass per Signal Department Bulletin No. 355 dated May 21, 1979.

(c) That Mr. Dunivin be allowed, if a greater amount, the difference in his rate as Leading Signalman and that of Signal Maintainer from the date May 21, 1979. This to include payment for any overtime work performed on the Grants Pass maintenance district subsequent to May 21, 1979.

(d) That Mr. Dunivin be allowed \$2.00 per calendar day beginning June 21, 1979, and continuing until such time he is placed on the position of Signal Maintainer at Grants Pass. [Carrier file: SIG 138-11]

OPINION OF BOARD: Claimant C. A. Dunivin, a Leading Signalman with class 3 seniority effective November, 1961, bid for the Signal Maintainer position bulletined in May, 1979. The position was awarded to another employee with class 3 seniority dating to March, 1969. In essence the Organization claims under Rule 54 Assigning Positions (which provides in part "In transferring employees to fill vacancies or new positions in their own class, seniority shall govern") that Claimant being more senior should have had the 30 day qualifying opportunity that Rule provides. Both Leading Signalman and Signal Maintainer are class 3 seniority positions under Rule 34. The Carrier, while maintaining that the move from Leading Signalman to Signal Maintainer is a promotion governed by Rule 50 (a), which reads: "Promotions shall be based on ability, merit and seniority. Ability and merit being sufficient, seniority shall prevail-the Management to be the judge.", further contends that ability is implicit in Rule 54 transfers.

The Organization contends that as the Leading Signalman is paid 11 cents an hour more than a Signal Maintainer no promotion can be involved in this dispute. In the Board's opinion this is too limiting an approach to the issue at hand. Carrier points out that by the nature of the position a Signal Maintainer will draw substantial amounts of overtime not normally available to a Leading Signalman; and it is generally accepted doctrine that a Leadman's wages reflect some built in factor for supervision. In the Board's opinion, even beyond these considerations, the term "promotion" carries with it a sense of advancement in one of the following: rank, recompense, responsibility. The record clearly establishes that a substantially greater degree of individual responsibility is required of a Signal Maintainer.

However, even under Rule 54 it does not follow that one who does not possess "original fitness and ability" (Third Division Award 21243) would be the successful bidder solely on seniority. The 30 day qualifying period is for the purpose of developing satisfactory performance in the new position and is not the time during which to acquire "original fitness and ability" (Award 21243). A review of the record establishes that the two positions differ markedly. Claimant, as a Leading Signalman, works in the day time hours on projects which have been planned in advance. In contrast, the Signal Maintainer's skills and technical know-how are drawn upon to diagnose and promptly rectify problems in a complex system subject to constant technological change. Rather than working on planned assignments, he must be available to respond alone, at all hours and in any weather to emergency calls under remote and limited supervision.

This is not to say that Carrier's determination of original fitness is not subject to rejection by this Board as being arbitrary or unreasonable (Award 21243). In this claim however, the record establishes that about three years prior Claimant had been given a thirty day trial as a Signal Maintainer. Nevertheless, after a week of working with the incumbent preliminary to the start of the trial period Claimant determined that the position was not for him. Subsequently Claimant received instruction for failure to comply with rules and technical aspects of the Leading Signalman's position three times over 1977 and 1978. Thus there was ample basis for the Carrier to question Claimant's original fitness for the Signal Maintainer position. In the absence of any persuasive refutation in the record of the basis for the Carrier's decision the claim cannot be sustained.

The Agreement was not violated.

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 Employee involved in this dispute are respectively Carrier and Employee 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:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 30 day of March, 1984

