

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25368
Docket Number MW-25105

George S. Roukis, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Missouri-Kansas-Texas Railroad Company

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

(1) The Agreement was violated when the position of welder helper as advertised in Circular No. 20 dated September 11, 1981 was awarded to a laborer junior to Laborer G. R. O'Brien (System File 200-214/2579).

(2) The position of welder helper shall be awarded to Mr. G. R. O'Brien with seniority as such dating from October 6, 1981.

OPINION OF BOARD: The adjudicative issue in this dispute is whether Carrier violated the Rules Agreement when it did not award the position of Welder Helper to Claimant. The applicable provisions are Article 3, Rule 1 and Article 5, Rules 1 and 3.

The Board takes judicial notice that it has carefully addressed this issue involving the same parties in prior Awards and has consistently ruled that under the controlling Agreement, an employee holding seniority in a lower classification is not automatically entitled to a promotion to a higher classification. See Third Division Award Nos. 11587, 24622 and 25070. In the case before us there are no unique factual or interpretative distinctions, nor subsequent changes in rule language that would compel a reconsideration of the primary issue. The question and decisional parameters are the same. The case herein is merely a thoughtful reconsideration of the same arguments articulated in the predecessor cases.

In this instance, Claimant who is employed as a Track Laborer had submitted a request to fill the position of Welder Helper that was advertised via Circular No. 20 on September 11, 1981. The position was not filled since, according to Carrier, bids were not received from employees holding seniority in the classification of Welder Helper. A claim was filed on November 6, 1981, wherein Petitioner asserted that the position should have been assigned to him in accordance with the Rules Agreement.

However, as we painstakingly stated in our prior decisions an employee holding seniority in a lower classification is not by virtue of this seniority entitled to a promotion to a position in a higher classification. There is plainly no automaticity. It would ill behoove the efficacy and operational practicality of the grievance adjustment process if this Board deviates from soundly reasoned decisions where positional arguments are the same. We have already answered this question and, as such, the claim is denied.

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:


Nancy J. Lever - Executive Secretary

Dated at Chicago, Illinois, this 29th day of March 1985.