

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 31251
Docket No. MW-30955
95-3-92-3-853

The Third Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(National Railroad Passenger Corporation
(AMTRAK - Northeast Corridor)

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

- (1) The Agreement was violated when the Carrier advertised a gang foreman position (MLGFN-1) at Morrisville, Pennsylvania within Bulletin No. 012-91, dated June 10, 1991, with the requirement, '*** MUST BE QUALIFIED ON NORAC & PHYSICAL CHARACTERISTICS.' (System File NEC-BMWE-SD-2973 AMT).
- (2) As a consequence of the violation referred to in Part (1) above, the bulletin will be rescinded, the MLGFN-1 position shall be readvertised without the NORAC and physical characteristics qualifications and the Carrier shall refrain from advertising those positions with such qualifications until a new rate of pay can be mutually agreed upon."

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

At the outset, the Carrier protested new evidence offered by the Organization in its Submission. The Board noted Carrier's objection and will not consider any evidence so presented in its deliberations.

This case arose when, on June 10, 1991, Carrier advertised a Gang Foreman position. In that bulletin, the requirements for applicants included that such persons "must be qualified on NORAC and Physical Characteristics." On June 28, 1991 the Organization filed a claim on behalf of all covered employees in the ET Line Department, New York Division. In that claim, the Organization alleged that Carrier had violated Rule 2 and the Scope Rule of the Agreement when it unilaterally altered the qualifications for the position at issue beyond those "historically required for [that] position." Carrier denied the claim, and it was subsequently progressed in the usual manner including conference on the property, after which it remained unresolved.

It is the position of the Organization that the added qualifications for the position of Gang Foreman materially changed the job requirements, in violation of the Scope Rule and Rule 2. Accordingly, Carrier should rescind the bulletin until the Parties can negotiate an appropriate increase in pay rate, commensurate with the new qualification standards. Carrier maintains that it is within its managerial rights to require all Gang Foremen to be NORAC and physical characteristics qualified. Further, Carrier asserts that the Organization must show a material change in the duties of the position in order to prevail in its claim for renegotiation of the rate of pay.

In a similar case (Third Division Award 26295) the Board held as follows:

"... [T]he Carrier retains the right to set the qualifications for a job ... as long as there is a rational basis for it."

We concur with the Findings of Award 26295. So long as the upgraded requirements are reasonably related to the job at issue, and the duties of the job have not been significantly altered, Management retains the right to revise qualifications for existing jobs. See also, Third Division Awards 25212 and 29863.

AWARD

Claim denied.

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 1st day of November 1995.