

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 32381  
Docket No. TD-32668  
97-3-95-3-605**

**The Third Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.**

**(American Train Dispatchers Department/International  
( Brotherhood of Locomotive Engineers**

**PARTIES TO DISPUTE: (**

**(CSX Transportation, Inc.**

**STATEMENT OF CLAIM:**

**“(A) CSX Transportation, Inc. (‘Carrier’ or ‘CSXT’) violated its train dispatchers fundamental agreement applicable in the Jacksonville Centralized Train Dispatching Center (‘JCTDC’) including Appendix 6 Section 3 and 4 (A) thereof when it failed to use claimant guaranteed assigned train dispatcher (‘GATD’) K. N. Nanna as the senior extra train dispatcher to fill a temporary vacancy on Monday September 5, 1994.**

**(B) Because of said violation, CSXT shall now compensate claimant K. N. Nanna one days pay at the rate applicable to chief dispatchers pay for Monday September 5, 1994.”**

**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 were given due notice of hearing thereon.**

After Claimant had been scheduled to qualify on the AP console on second shift, on Monday, September 5, 1994, a vacancy developed on the first shift Chief Train Dispatcher's assignment. Claimant, the senior extra Train Dispatcher at the time, was available to fill the vacancy without violating the Hours of Service Act. He was not prevented from working the vacancy by some other provision of the Agreement. He was qualified to work the vacancy, and was situated so that he could have arrived in time to commence work at the starting time of the vacancy.

Carrier, however, called a junior employee for the vacancy on the grounds that Claimant "had a preference of second shift." Carrier is not privileged to bypass Section 4(a) of the Agreement on its perception of what shift an eligible employee may or may not desire.

The claim will be sustained.

### **AWARD**

Claim sustained.

### **ORDER**

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
**By Order of Third Division**

Dated at Chicago, Illinois, this 30th day of December 1997.