

SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES)
TO)
DISPUTE)
Brotherhood of Railway, Airline and Steamship Clerks,
Freight Handlers, Express and Station Employes
and
Western Pacific Railroad Company

QUESTIONS
AT ISSUE:

1. Did the Carrier violate Article IV, Sections 1 and 3 thereof, of the February 7, 1965 Agreement when they arbitrarily, without stated reason, disqualified Employee M. Bapatsicos from his position of Chief Clerk on August 31, 1971, and failed and refused to thereafter compensate him at the rate thereof?
2. If the answer to the above is in the affirmative, shall the Carrier now be required to compensate Mr. Bapatsicos at the applicable rate of said position beginning with September 1, 1971 until violation is corrected?

OPINION
OF BOARD:

Our analysis of the issue as framed by the Organization has convinced us that a resolution thereof pursuant to the February 7, 1965 National Agreement, is dependent upon a determination of Claimant's qualifications. In this posture, we are aware, however, that pursuant to the February 7, 1965 Agreement, we are not empowered to determine Claimant's qualifications. Nonetheless, we have enunciated in prior decisions our authority to interpret the language of Article IV, Section 3 thereof, specifically, what constitutes a "voluntary action" within the meaning of that provision under existing facts and circumstances. See our Award Nos. 13 and 26.

Therefore, it is our considered view, that the facts as contained herein are insufficient at this juncture to apply Article IV, Section 3. Consequently, we are convinced that the matter should be remanded to the property for a proper application of the aforestated principles which are evidenced herein.

AWARD:

The instant dispute is remanded to the property for the purpose of resolving Claimant's qualifications in the light of our opinion.


Murray M. Rohman
Neutral Member

Dated: Washington, D. C.
June 29, 1973