

SPECIAL BOARD OF ADJUSTMENT NO. 1016

Parties
to the
Dispute

BROTHERHOOD OF MAINTENANCE OF
WAY EMPLOYES

and

CONSOLIDATED RAIL CORPORATION

Cases 60-61-62-63

AWARDS 60-61-62-63

STATEMENT OF CLAIM

The Agreement was violated when the Carrier disqualified Allegheny 'B' Bridge and Building Mechanics C. Wilkinson, J. Saggese, W. Hirsch and D. Vizza and terminated their seniority rights as such on July 10, 1989.

The Agreement was further violated when the Carrier filled the Claimants' former positions with Allegheny 'A' Seniority District employees.

As a consequence of the violations referred to in either Part 1 and/or Part 2 above, the Claimants shall be placed on the Allegheny 'B' B&B Mechanic Roster with seniority dating from June 12, 1989 and they shall be allowed compensation equal to all lost time at the difference in the rates of pay between B&B mechanic and Class 2 Machine Operator rates.

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OPINION OF THE BOARD

Claimants Wilkinson, Vizza, Hirsch, and Saggesse were employed by Carrier as Class 2 Machine Operators on the Allegheny "B" seniority roster. They all bid on Bridge and Building Mechanic positions, but did not hold seniority as Bridge and Building Mechanics. Under Rule 3, Section 2, Claimants requested the opportunity to demonstrate their qualifications. Prior to being tested, however, they were awarded the positions effective June 12, 1989, pending qualifications.

On July 10, 1989, Claimants were given a practical application test in the presence of two BMWE Union officials and a number of Carrier officials. As a result of the test, it was concluded by Carrier that Claimants were not competent to work as a B&B Mechanic and they were disqualified. The B&B jobs they formerly held were ultimately awarded to B&B Mechanics from the Allegheny "A" roster. The Organization considered the disqualifications of the four employees a violation of the Agreement and filed claims on their behalf. The claims were denied by Carrier and were ultimately placed before this Board for resolution.

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What is at issue here is whether Claimants received a fair and equitable evaluation of their ability to perform the duties of a B&B Mechanic before they were declared not qualified and relieved of the B&B positions they were conditionally awarded on June 12, 1988.

This Board has reviewed the record before it and has concluded the following:

(1) Carrier clearly has the right to evaluate employees and set standards that employees must achieve in order to hold certain positions. In this regard, it had the right to give Claimants a test of their ability to perform certain carpentry tasks. It also had the right, based on those tests, to decide if Claimants were not qualified to be B&B Mechanics.

(2) Carrier has an obligation in testing and evaluating employees to apply reasonable standards and require that equally difficult tasks be performed in a uniform testing and evaluation procedure.

From a review of the record, this Board does not conclude that fair and equitable testing and evaluation was applied in this instance. The record indicates that Claimants were tested once at the job site and found to be

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satisfactory. Due to some suspicion, not supported in the record, Claimants were required to perform additional test projects at the B&B shop in Altoona, Pa. The record indicates that these tests were administered under adverse conditions. Claimants were not supplied sufficient tools with which to work. Claimants contend that one circular saw and one saw horse were made available for both teams to use and this was inadequate. The record does not contain any Carrier statement to the contrary.

This Board is also mindful of the fact that no documentation concerning the results of the tests or the basis for deciding that Claimants were not qualified are contained in this record.

In the final analysis, it appears from the total record before this Board that Carrier officials were over zealous in their desire to see Claimants disqualified for the B&B Mechanic positions in question. Based on our conclusions, the Board directs as follows:

Claimants shall be paid the difference between B&B Mechanic and Class two Machine Operator pay from July 10, 1989, until the jobs for which they were disqualified were completed or abolished.

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Claimants shall be granted a B&B Mechanics seniority date on the Allegheny "B" roster effective June 12, 1989. If and when Claimants exercise these rights, they shall be subject to qualification as required by Agreement.

AWARD

The claim is sustained per
Opinion of the Board.

R.E. Dennis
R.E. Dennis, Neutral Member

S.V. Powers
S.V. Powers, Employee Member

J.H. Burton
J.H. Burton, Carrier Member

SEP 09 1991

Date of Approval