



SPECIAL BOARD OF ADJUSTMENT NO. 173

Award No. 24
Case No. 15

PARTIES TO DISPUTE: Brotherhood of Railway and Steamship Clerks,
Freight Handlers, Express and Station Employees

Union Pacific Railroad Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood of Railway
and Steamship Clerks, Freight Handlers, Express and Station
Employees that:

(1) Carrier violated rules of Agreement effective May 1, 1955 when they refused to assign Claimant Leona M. Miller to position of Miscellaneous Claim Adjuster General Claims Department, Omaha, Nebraska, advertised in Personnel Bulletin No. 35 dated April 9, 1956.

(2) Carrier shall now assign Claimant Leona M. Miller to position of Miscellaneous Claim Adjuster and compensate her for the difference between what she has been paid as Steno-Typist, rate \$342.67 per month and \$371.45 per month, Miscellaneous Claim Adjuster rate, from April 11, 1956 and continuing until Claimant Leona M. Miller is placed on position of Miscellaneous Claim Adjuster."

FINDINGS: The 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.

The Board has jurisdiction over the dispute involved herein. The parties to said dispute were given due notice of hearing thereon.

Rule 8 of the BRC Agreement dictates that, in instances of promotions, when several applicants possess adequate fitness and ability, seniority shall be the decisive factor governing the choice of successful candidate. Nowhere in this broad concept of the seniority preference is any expression given to the proposition that accident of sex shall constitute a disqualifying factor.

From a reading of the job specifications contained in Personnel Bulletin No. 35 dated April 9, 1956, advertising a vacancy in the Miscellaneous Claim Adjuster position in the Unadjusted Accounts Bureau, Freight Claim Office, it cannot be presumed that female employees were ineligible to bid thereon. The fact that road work is included among the job requirements does not, in itself, preclude the acceptability of females for such performance. Carrier's obligation under Rule 59(a) for the safety and protection of its employees is no greater with respect to a female incumbent than it is for a male employee.

Actually, a review of claimant's qualifications abundantly establishes that she was competent to satisfactorily perform the job demands. That being so, her superior seniority standing entitled her to be tapped for this promotion ahead of Ben Van Horn.

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Inasmuch as claimant resigned from Carrier's employment on April 24, 1957, the recovery herein may not extend beyond that date.

- AWARD: 1. That Carrier violated the terms of the Clerks' Agreement in rejecting Leona M. Miller's application for position of Miscellaneous Claim Adjuster, General Claims Department, Omaha, Nebraska, advertised in Personnel Bulletin No. 35.
2. That the Carrier forthwith shall remunerate Leona M. Miller for the difference between her straight time earnings as Steno-Typist and the straight time earnings that would have accrued to her as Miscellaneous Claims Adjuster during the period between April 11, 1956 and April 24, 1957.

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/s/ Harold M. Gilden
Chairman

/s/ A. J. Vandercreek
Carrier Member (I dissent)

/s/ C. F. Bignall
Organization Member

Omaha, Nebraska
February 24, 1959