

SPECIAL BOARD OF ADJUSTMENT No. 293  
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES  
versus  
THE CENTRAL RAILROAD COMPANY OF NEW JERSEY

STATEMENT OF CLAIM:

- (1) That the Carrier violated the Agreement by assigning a Grinder and a Grinder Helper to perform Trackmen's duties in connection with cutting brush at Franklin Junction, Wilkes-Barre, Pennsylvania, on September 11, 1959.
- (2) That two senior furloughed Track Laborers be compensated at their pro rata rate of pay for a proportionate share of the time equal to the number of hours consumed by the Grinder and the Grinder Helper in performing this work referred to in Part (1) of this claim.

OPINION OF BOARD:

On the morning of September 11, 1959 the Supervisor of Track received a complaint concerning an excessive growth of brush and weeds along the Carrier's right-of-way at Franklin Junction and was instructed to correct this condition immediately. The section gang for this area was then working at Ashley, approximately  $1\frac{1}{2}$  miles away. The Carrier states that the only employees available at the time were a Grinder and a Grinder Helper. In any event, these two employees were assigned to cut the brush and weeds. They completed this task in approximately six hours, using brush hooks and axes. They were continued on their regular rates as Grinder and Grinder Helper while performing this work.

The confronting claim is based on the Organization's contention that the Grinder and Grinder Helper were used to perform work outside their seniority sub-department and that this work belongs to Track Laborers (Trackmen). Compensation in pro rata amount is requested for the two senior furloughed Track Laborers. The Carrier denies that the subject work is reserved to Track Laborers and asserts the Grinder and Grinder Helper were properly utilized on the subject occasion.

Grinders and Grinder Helpers are in the Welders and Grinders sub-department of the Track Department. There is a separate seniority roster for this sub-department. Track Laborers are also included in the Track Department but are on a seniority roster for Laborers. Employees normally reach the Welder-Grinder group by promotion from the Laborer category. It is expressly provided in the Agreement (Exhibit 10) that all employees in the Welder-Grinder group "will be permitted to retain and accumulate their seniority as trackmen and will also be permitted to exercise displacement rights as a trackman in case of force reduction, change of headquarters or displacement. Voluntary transfers from this group to position of trackman will be considered a demotion and the employee will forfeit all seniority in this group."

We find that the handcutting of brush and weeds is normally the work of Laborers. Since employees in the Welder-Grinder group who had previously acquired seniority as Trackmen continue to hold and accumulate such seniority while in the Welder-Grinder group, we conclude that no Agreement violation results if they are used to perform Track Laborer work when there are no welding or grinding tasks for them to do. This interpretation of the contract also is reflected in the practice on the property. In the instant case, however, there is no indication that there was a shortage of grinding work for the subject Grinder and Grinder Helper to perform. They were given the disputed assignment only because there was a temporary increase in the volume of Laborer work to be done.

It cannot reasonably be said that the disputed assignment resulted from an emergency condition. The Grinder and Grinder Helper did not perform weed and brush cutting on September 11, 1959 as incidental to their regular grinding duties. We do not agree with the Carrier's contention that Agreement Rule 31 (Preservation of Rates) sanctioned its disputed action under the involved circumstances. That rule specifies the rate to be paid an employee "temporarily filling the place of another employee" but does not sanction the use of employees outside their seniority group under any and all circumstances.

We conclude that in the instant case the Grinder and Grinder Helper were improperly used to perform work accruing to employees on the Laborers' seniority roster. The claim will be sustained.

A W A R D

Claim sustained.

(s) Lloyd H. Bailer  
Lloyd H. Bailer, Neutral Member

(s) A. J. Cunningham  
A. J. Cunningham, Employee Member

(s) C. S. Strang  
C. S. Strang, Carrier Member

Jersey City, N. J.  
January 25, 1962