

SPECIAL BOARD OF ADJUSTMENT NO. 1016

Parties
to the
Dispute

BROTHERHOOD OF MAINTENANCE OF
WAY EMPLOYEES AS THE REPRESENTATIVE OF

J.J. Saggese, Jr.

vs.

CONSOLIDATED RAIL CORPORATION

Case No. 76

AWD 76

STATEMENT OF CLAIM

- (1) The Carrier violated the Agreement when it failed to allow Claimant J. J. Saggese, Jr. the opportunity to qualify for Class 2 and Class 3 positions in accordance with Rule 3, Section 2.
- (2) Because of the aforesaid violation, Claimant Saggese shall be given seniority rights.

RULE 3, Section 2
Qualifications for Positions

In making application, or in the exercises of seniority, an employee will be permitted, on written request, or may be required, to give a reasonable practical demonstration of his qualifications to perform the duties of the position.

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OPINION OF THE BOARD

Claimant J.J. Saggese, Jr., held seniority on the Allegheny B Seniority District as a Trackman and as a Class 3 Machine Operator. On April 26, 1990, he submitted a bid for numerous positions listed on Bulletin 50 advertised in the Allegheny A Seniority District. He was not awarded any of the positions. Carrier concluded that Claimant was not qualified on the jobs listed and that he did not request in writing, separately from his bid, an opportunity to demonstrate his qualifications in accordance with Rule 3, Section 2, of the Schedule Agreement.

The Board has decided at least one other case involving the identical issue (Case No. 59). In that case, we denied the grievance based on the following reasons:

Carrier takes the position in this instance that Claimant was not a qualified bidder for the B&B Mechanic position and that he did not request an opportunity in writing to give a demonstration of his ability to perform the duties of the position.

This Board has reviewed the record, as well as Third Division Award 27631, Referee Zusman, wherein the Referee stated that "Rule 3, Section 2, is specific as to a 'written request' which must be made in addition to the application for an advertised position."

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In accordance with basic labor relations principles, this Board is compelled to follow the decision rendered by Referee Zusman in Award No. 27631. The Board is denying the instant claim based solely on the fact that Claimant did not request in writing an opportunity to demonstrate his ability. Based on the Zusman Award, this Board concludes that a request to qualify must be made in writing separate from the bid.

We see no reason not to apply the same concept in this instance.

AWARD

The claim is denied.



R.E. Dennis, Neutral Member



S.V. Powers, Labor Member



J.H. Burton, Carrier Member

1-10-92

Date of Approval