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and

AWARD IN DOCKET NO. 20

STATEMENT OF CLAIM: The claim in dispute has been identified by the Organization as follows:

"Claim of the System Committee that:

1. The Carrier violated the effective Agreement by failing to assign Assistant Steel Bridge Crew Foreman Helge Mattson to the position of Steel Bridge Crew Foreman as advertised in the Carrier's Bulletin No. 1, dated May 24, 1961.

2. That Assistant Steel Bridge Crew Foreman Helge Mattson be now paid at the Steel Bridge Crew Foreman's rate of pay for each working day from June 26, 1961, less any earnings made in other Railroad employment, and continuing up to the time he is assigned to the position of Steel Bridge Crew Foreman."

FINDINGS: Rule 16 is as follows:

"RULE 16, MAKING PROMOTIONS

Promotion shall be based on ability and seniority; ability being sufficient, seniority shall prevail, the management to be the judge, subject to appeal."

Under this rule the claimant can prevail only by showing that the management's judgment was exercised arbitrarily, capriciously or discriminatorily.

Rule 25 governs "APPEALS". It provides that an employee, who considers himself unjustly treated, may request an investigation. None was requested in this case and, as a consequence, the record leaves much to be desired.

The Employees base their case primarily on the fact that claimant was an Assistant Foreman and served as acting foreman during absences of the Foreman on vacation and etc. The management judgment was based on his failure to progress satisfactorily, in that he did not exhibit the leadership or technical knowledge sufficient to qualify for the foreman position, and on his safety record.

It must be recognized that filling a position for short temporary vacancies may not require the fulfillment of the full responsibility of the position in the same way as necessary by the regular occupant. The fact that one has done so is not, of itself, full proof of his ability to fulfill the position on a permanent basis.

The record in this case simply does not permit a finding that the management exercised its judgment arbitrarily, capriciously or discriminatorily.

AWARD: Claim denied.

Dated at St. Paul, Minn., this 26th day of November, 1963.

(s) Dudley E. Whiting
Dudley E. Whiting, Referee

(s) A. J. Cunningham
Organization Member

(s) T. C. DeButts
Carrier Member