SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES TO DISPUTE ) Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees
and
Terminal Railroad Association of St. Louis

QUESTIONS AT ISSUE:

(1) Did the Carrier violate the provisions of the February 7, 1965 Agreement, particularly Article I, Section 1, and Article IV, Section 1, when it removed Ralph N. Littrel from the position of General Foreman on August 15, 1966 and refused thereafter to compensate him at the normal rate of compensation of the position to which he was regularly assigned on October 1, 1964?

(2) Shall the Carrier be required to compensate Ralph N. Littrell at the normal rate of compensation of the position to which he was regularly assigned on October 1, 1964 commencing with August 16, 1966 and for each date thereafter?

OPINION OF BOARD: The Claimant, between the dates of May 23, 1964 and August 16, 1966, held the General Foreman's position in the Mail and Baggage Department--a partially excepted position. Upon abolishment of said position on August 16, 1966, in the normal exercise of his seniority he obtained a Foreman position in the Mail and Baggage Department. Thereafter, the Organization verbally petitioned J. W. Hammers, Jr., Manager Labor Relations, to protect the Claimant's salary pursuant to Article IV, Section 1.

The Carrier initially attacks the claim on the basis of the time limit rule. Insofar as such is concerned, a claim in writing was submitted within 60 days. However, the objection raised by the Carrier is directed at whether such claim was submitted to the proper officer, i.e., the Superintendent. In this regard, the submission includes an exchange of correspondence on the property between the General Chairman and Manager of Labor Relations relative to the merits of this dispute. Subsequently, on January 13, 1967, the Manager of Labor Relations wrote the Organization that no claim had been filed with the officer of the Carrier authorized to receive same.

We do not look with favor upon the Carrier's contention. From September 13, 1966 to January 13, 1967, the highest designated officer of the Carrier discussed and negotiated the instant claim with the Organization fully cognizant of its time limit provision. We hold that there was proper compliance with the time limit rule.

The next question raises the substantive issue as to whether a partially excepted position--a supervisory position--is entitled to the protection of Article IV, Section 1, of the February 7, 1965 National Agreement. In this regard, the parties refer to the February 7, 1965 Letter of Understanding. The Organization interprets such letter to mean that the rate of pay of the enumerated officials included therein is protected as of October 1, 1964. On the other hand, the Carrier's interpretation of such letter is that when an employee is bumped by such official, then the bumped employee's rate of pay is protected as of October 1, 1964. Hence, the parties disagree even as to the interpretation to be placed on their Letter of Understanding. Consequently, the alternative is to refer to basic facts. Is a partially excepted employee covered by the effective Agreement between the parties? Rules 1, 4 (d) and 14 are applicable to the instant position. Rule 1 determines the hours of service and working conditions of the General Foreman. Rule 4 (d) provides for retention and further accumulation of seniority. Rule 14 provides for the exercise of displacement rights. In the event of complete separation from the service, then Rules 24 and 25 are applicable--investigation and hearing, culminating in an appeal. Additionally, these partially excepted positions are also covered by National Wage Agreements. However, we cannot ignore the fact that the rate of pay of such position was not subject to negotiation. Further, that the position was fully appointive with full right of removal and not predicated upon seniority in such appointment. We have, therefore, concluded that in view of said position being a supervisory one, such was not subject to the protective provisions of Article IV, Section 1.

Award

Answer to questions 1 and 2 is in the negative.

Murray M. Rohman
Neutral Member

Dated: Washington, D. C.
March 7, 1969