

In the Matter of the Arbitration Between:

UNITED STATES POSTAL SERVICE

AND

AMERICAN POSTAL WORKERS UNION,
AFL-CIO

Case Nos. H8T-5D-C-15971
and H8T-5D-C-16038 -

Hearing held April 12, 1983

Before Richard I. Bloch, Esq.

APPEARANCES:

For the Union

Richard Wevodeau

For the Postal Service

Lawrence Handy

OPINION

Facts

On December 24, 1980, two vacancies were posted in the Portland, Oregon facility. The postings were for Maintenance Craft positions; Position 95-2901 advertised a vacancy for an Electronic Technician, PS-9 with a basic workweek of 7:30 a.m. to 4 p.m. Monday through Friday. Position 95-2903 was for an Electronic Technician, PS-9 with a workweek of 7:30 a.m. to 4:00 p.m., Sunday through Thursday.

Both Notices of Intent included a handwritten inscription at the bottom: "Must be qualified and able to maintain the following equipment; PSDS, ABMPS, 5062MT and computer-assisted

instruction." Moreover, one of the Notices included a hand-written phrase: "These are OSMC positions."

The manner of posting, specifically inclusion of the qualifying remarks noted above, led to the filing of the instant grievance.

Issue

Did the Employer violate Article XXXVIII of the National Agreement by the manner in which it posted the contested Notices of Intent?

Union Position

The Union says that, under the applicable language of the National Agreement, Management may insert no particular portions of the job in the Notice of Intent. Moreover, it claims that, to the extent these specific qualifications served to result in a selection on other than a strict seniority basis, they constituted a violation. In this case, it is claimed, employee Boettcher was improperly bypassed. It requests that the Management be required to post properly and to award the job on strict seniority principles.

Management Position

The Employer says it canvassed employees by seniority, as required by the Agreement. Boettcher's name was not on the so-called preferred assignment list, nor had he submitted a specific bid. Accordingly, says Management, he was properly bypassed.

Relevant Contract Provisions

ARTICLE XXXVIII
MAINTENANCE CRAFT

E. Definitions

. . . 3. Duty Assignment. A set of duties and responsibilities with a recognized position regularly scheduled during specific hours of duty.

4. Preferred Duty Assignment. An assignment preferred over his present assignment by an employee eligible to bid for such assignment when it is posted for bid. This bidding is done among qualified employees in the same level and occupational group.

. . . 6. Seniority for Preferred Assignments. This seniority determines relative standing among regular work force employees eligible to bid for preferred assignments. It is computed from entry into a regular work force position in a particular position designation and level. It continues to accrue so long as service in the same position designation, level and installation is uninterrupted.

. . . Section 2. Posting

A. In the Maintenance Craft all vacant duty assignments shall be filled as follows:

. . . 2. All vacant or newly established craft duty assignments shall be filled from a preferred assignment eligibility register established on the basis of assignment selection forms submitted by maintenance craft employees.

. C. Promotion

1. The Employer shall establish a promotion eligibility register to be used for the purpose of filling craft vacancies where promotions are involved. Employees shall be listed on this register in order of qualifications, and all positions for promotion shall be awarded to the best qualified applicants, except those positions set forth in Section 1, E8 of this Article.

. . . E. Information on Notice of Intent

1. The duty assignment by position title and number

- (e.g., key, standard, or individual position).
2. PS salary level.
 3. Hours of duty (beginning and ending).
 4. The principal assignment area (e.g., section and/or location of activity).
 5. Qualification standards, including occupational code numbers when such standards and numbers are available.
 6. The fixed schedule of days of work.
 7. Physical or other special requirements unusual to the specific assignments.

Analysis

To a large extent, the parties here argue two different cases. The Union bases its claims on a purely contractual interpretation concerning addition of job specifics as well as the claim, referred to earlier, that by so doing Management improperly narrowed the field of available candidates for the preferred assignment. Management, for its part, says it is unprepared to respond to this particular claim, contending only that it followed the canvass-by-seniority requirements in this case. Boettcher's name was not on the list and he submitted no bid. Therefore, Management did not pick him, although it suggests it would have had he been on the list. The Union responds that he should have been on the list and that he was improperly omitted. Approached from this standpoint, the case is obviously a fact dispute--one, incidently, that the Union was not fully prepared to address. Among other things, employee Boettcher was not present.

Among the varied positions, however, there is at least one that is common and that constitutes a clear basis for disagreement. The Union flatly denies that Management may insert any particular job specifications on the Notice of Intent. Management says it may do just that. The finding is that it may.

In case H8T-5C-C-11160, Arbitrator Aaron considered a strikingly similar fact situation. At issue there was not whether such information could be appended, but whether such information was properly reflective of the job content. The Arbitrator concluded that management had not violated the agreement, inasmuch as the listed requirements were, in fact, part of the job. The inescapable inference is that, subject only to that sort of inquiry, there is no violation in specifying certain aspects of the job duties. But that does not resolve the critical issues in this case.

Review of the lower step documentation strongly suggests that the issue over which the parties differed was whether an employee could be disqualified from bidding because he or she was not trained on a particular piece of equipment at the time of the posting. In a "Statement of Policy" proffered to the Union at the third step, Management stated:

Maintenance is prepared to award these positions to the senior qualified electronic technician. We are not seeking to invoke the procedure of best qualified as this is not a true promotion. Nonetheless, because of the additional responsibility associated with these

positions, a degree of expertise is required on the part of the applicants which may disqualify some interested applicants from being considered.

From this, it is apparent that, while Management was not applying a "best qualified" approach, as in the case of a promotion, it was nevertheless imposing a "threshold" qualification requirement that stands in stark contrast to the Union's position that strict seniority is the only proper standard.

Such approach also stands in contrast to the requirements of the Labor Agreement. Article XXXVIII (2)(C) deals with promotions and talks in terms of "best qualified."¹ Article XXXVIII (2)(A)(2), however, deals with the preferred transfers here at issue and makes no reference whatsoever to qualifications, threshold or otherwise. The parties knew how to write this language and the absence of any qualification in this provision points unmistakably to the conclusion that no such qualification was intended. In a situation like this, Management is within its rights in listing various job specifics on the Notice of Intent. But it may not, by such listing, avoid what is otherwise a contractual obligation to select by pure seniority. If additional expertise is required of the successful applicant, such individual may be trained.

¹See p. 3, supra.

The question remains in this case as to whether, given these contractual foundations, a violation has been demonstrated. The evidence fails to support the existence of a violation. It is undisputed that, when the assignments in this case were made, the manager reviewed the preferred assignment list, as required by Article XXXVIII (2)(A)(2), offered the vacancies on the basis of seniority, and finally awarded it when two individuals in the proper line of progression accepted.²

Employee Boettcher was not offered the assignment because his name was not on the list and he did not submit a bid. The Union says Boettcher had, in fact, requested that his name be placed on the list and that Management had merely overlooked this. But there is insufficient evidence to conclude, as a matter of fact, that Grievant was improperly bypassed.

Summarizing, then, the finding here is that (1) there was no violation by the manner in which Management listed various job requirements on the Notices of Intent in this particular case, (2) in filling a position such as that here at issue, Management is obliged to comply with the

²In response to a direct question as to whether any of the individuals would have been bypassed had they not been trained on any of the listed elements, he candidly responded that they would have been trained, rather than bypassed, for to do otherwise would have been to abrogate the contract.

seniority requirements of Article XXXVIII (2)(A)(2); it may not add qualification requirements to a posting that would serve to narrow the field of eligible applicants or "disqualify some interested applicants from being considered"³ and (3) in this case, the facts presented do not prove the case that an employee was improperly omitted from the preferred assignment eligibility register.

AWARD

The grievance is denied.


Richard I. Bloch

September 23, 1983

³See "Statement of Policy," referred to supra, p. 5.