

In the Matter of the Arbitration Between:

UNITED STATES POSTAL SERVICE

AND

Case No. H1T-3A-C-5761

AMERICAN POSTAL WORKERS UNION,
AFL-CIO

Hearing held December 9, 1982

Before Richard I. Bloch, Esq.

APPEARANCES:

For the Union

Richard Wevođau
Director, Maintenance Craft

For the Employer

Roland McPhail
Labor Relations Division

OPINION

Facts

The facts in this case are not disputed. In February of 1982, two employees at the Dallas, Texas, Post Office were selected for on-site training to be conducted by an outside vendor from March 1 through March 23, 1982. The need was for a trained mechanic for seven-day coverage on Tour 2 on the Mechanized Automated Mark-up System. The senior Mail Processing Equipment Mechanic was unavailable for the training because he was attending an off-site training course. The

next senior Tour 2 Mechanic on the volunteer list was selected. He had a scheduled work week of Sunday through Thursday, and was off Friday and Saturday. To cover those days, Management bypassed the next five senior Mechanics on the volunteer list and selected the first Tour 2 Mechanic on the volunteer list whose bid assignment included Friday and Saturday as regular work days.

Thereafter, this grievance was filed, alleging that Management's actions violated Article 38, Section 3(B) No. 2(a) of the National Agreement.

Issue

Was it a violation of the National Agreement for the Employer to assign the training in the manner here contested?

Union Position

The Union says the Labor Agreement requires Management to select the senior qualified volunteer by reference only to the "occupational group, level and tour." Management has no authority, it is claimed, to bypass personnel so as to accommodate differing workweeks. Thus, Management erred in considering bypassed employees' workweeks (none of which included Fridays and Saturdays) as disqualifying factors.

Management Position

The Employer contends that the contract language provides the flexibility for management to offer the assignment

not just within the particular group level and tour but also "where the need for the skills exists." The need in this case, says Management, was to cover the Friday and Saturday assignments. Accordingly, there was no violation.

Analysis

Resolution of this dispute depends first upon the careful examination of the Labor Agreement. The critical language is contained in Article 38(3)(B)(2)(a), which requires that the Maintenance Craft training opportunities here contested will be offered in a particular manner:

All job related maintenance craft training opportunities in levels 1 through 7 intended to increase skills in an employee's present assignment, will be offered first to the senior qualified volunteer within the occupational group, level and tour where the need for the skills exists.

As indicated above, the Union focuses on the fact that "work-week" is not among those elements appropriate for consideration in assigning the training. Management places heavy emphasis on the inclusion of the qualification "where the need for the skills exists."

There is more than one interpretation available for this provision. The contested language does require that seniority be considered in the context of "occupational group, level and tour." But the language also refers to "need." This leads to at least two possibilities. One might argue that once any need has been identified within a given group, level and tour, Man-

agement must proceed by strict seniority. That is, in essence, the approach here suggested by the Union. The problem with this, however, is illustrated by the instant facts. Here, after weekday requirements had been covered by selecting the most senior individuals, the only remaining "need" was for weekend coverage. That could not be satisfied in this case by selecting the next senior personnel. There was, then, no "need" for people whose work assignments did not cover weekends. Management need not have selected those individuals. But the need still existed on weekends. Surely this language may not be read as requiring the training of those who would not satisfy the need. Yet, applying the language as suggested by the Union would require either that this be done or that the slot be left vacant. But that is contrary to the assumption of the entire provision. Nor may one infer an intent to require restructuring workweeks or assignment on some overtime or premium basis. Had the parties intended that significant a deviation from the normal assignment pattern, it was incumbent on them to have so stated.

The more reasonable conclusion is that the parties intended to establish a suitable method for protecting seniority rights in those situations where a need has been identified. So long as Management proceeded, by seniority, to select the most senior individual in the occupational group, level and

tour where the need existed (in this case on Fridays and Saturdays) it was acting in accordance with the language of the agreement.

The Union notes that, during 1981 negotiations, Management proposed a modification to the existing language to include the terms "basic workweek" in addition to group, level and tour. Those changes were never made. The parties differ as to the conversation surrounding such proposed changes and the reason therefor. The Union says Management is now attempting to gain that which it could not achieve through negotiations. Management, for its part, says the proposed changes were for clarification purposes only.


On the one hand, as indicated above, even without clarification, the reasonable interpretation of the language as it stands requires the conclusion that Management's approach in this case was sound. Moreover, to the extent there is ambiguity, the practice of the parties strongly suggests that the language has been accepted and applied in a consistent manner since its introduction in 1978. Testimony by Management witnesses indicates that assignments have been accomplished in precisely this manner over the past five years. Yet, while the practice was apparently questioned at one point by the Union, it has never been previously grieved.

Under the circumstances, the conclusion is that Manage-

ment's actions are not inconsistent with the terms of the Agreement and that it did not err by the manner in which it assigned the training.

AWARD

The grievance is denied.



Richard I. Bloch, Esq.

April 6, 1983