

CASE NO. H8T-5G-C-8889

In the Matter of the Arbitration :
between :
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AMERICAN POSTAL WORKERS UNION :
 :
and : OPINION AND AWARD
 :
UNITED STATES POSTAL SERVICE :
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APPEARANCES:

For the APWU - Richard I. Wevodau, President
Maintenance Craft

For the USPS - Barbara S. Fredericks, Esq.
Office of Labor Law

BACKGROUND:

Pursuant to the provisions of the current collective bargaining agreement between the above-captioned Parties, the Undersigned was duly designated to serve as Arbitrator in a dispute which arose over interpreting as well as applying the 1978 Agreement. The case, having been properly processed through the steps of the grievance procedure, was brought on for arbitration at a hearing conducted in Washington, DC, on February 26, 1982. At that time, these Parties were represented as indicated above, and they were given full opportunity to present testimony and other evidence in support of their respective contentions.

By agreement, post-hearing briefs were filed. These were received in timely fashion and their contents duly considered.

THE ISSUE:

This grievance, which was originally initiated in January of 1980, alleged that two Electronic Technicians, Messrs. Sutphin and Wallace, were improperly classified and compensated. The Union demanded that these two employees be upgraded to Level

10, and that they be made whole for all time worked at Level 9 from the date on which this grievance was filed.

CONTENTIONS OF THE PARTIES:

On behalf of these grievants, the Union contended that they should be upgraded because of the varied skills they had to possess, the varied types of equipment they were required to maintain and the extensive training and formal schooling they had to receive to perform their duties as an ET-9. The Union pointed out that an ET-10 was only required to maintain one piece of stand-alone equipment, the Optical Character Reader. The Union alleged, in this case, that it was not basing its opinion that these grievants were entitled to an upgrade because they were involved with the Process Control System (PCS), and that type of maintenance is more complex than working on the OCR. According to the Union, that was the issue presented to National Arbitrator Aaron in two previous cases to which the USPS made reference and in which the Union's request for an upgrade was denied. The Union asserted that the issue here, "... is the variety and scope of duties performed by the grievants as well as the performance of certain key elements in the ET-10 job description which heretofore the USPS stated set the ET-10 apart from the ET-9."

More specifically, in this case, the Union alleged that these technicians had direct contact with outside contractors with no prior permission or screening of such contacts by supervision required. In addition, these technicians worked under the direct supervision of a management official without technical training or schooling who was not capable of assisting them in the diagnosis of equipment problems and who could not direct the type of remedial action which should be taken in the event a problem with the equipment was encountered.

Management argued that the Union failed to meet its burden establishing that the USPS breached its agreement with the Union in its refusal to upgrade the two electronic technicians employed at the Santa Ana facility. According to the Employer, the Union did not prove that these grievants performed duties outside those listed in the ET-9 job description.

The Employer claimed that the fact that certain duties of the ET-9 and ET-10 overlapped in these respective job descriptions did not provide a basis for justifying the raising of the pay grade

of these grievants. The Employer also contended that the number of different systems or pieces of equipment maintained could not be considered determinative or the basis for justifying such an increase. Superior performance, by the aggrieved, also cannot be regarded as justification for placing their jobs in a higher pay grade. Justification for such an adjustment would have to be established by proving that these grievants were assigned, "... those extra duties that reflect the additional responsibilities of a Level 10."

The Employer also asserted that, based upon an exchange of proposals at the negotiations for the 1978 collective bargaining agreement, it was clear that the Union was seeking to gain in this arbitration that which it was unable to secure at the bargaining table.

OPINION OF THE ARBITRATOR:

The original grievants in this case were David Wallace and A. Sutphin. They were employed as Electronic Technicians, PS-9, in the Santa Ana, CA Post Office. Since the case was initiated, Mr. Sutphin left the Postal Service. He was replaced by Robert Kendrick, who the Union claimed performs the same duties as the original grievant.

According to the Union's chronology, the USPS issued job descriptions for the Electronic Technician, PS-8, PS-9, and PS-10. In early 1980, the Southwest Coastal Area Local of the APWU submitted a grievance on behalf of Mr. Sutphin and Mr. Wallace requesting that they be upgraded to the position of ET-10, effective January 25, 1980, and that they be reimbursed for the period they had served since the initiation of the grievance at the ET-9 rather than the ET-10 level.

Essentially the Union based its claim upon the fact that Mr. Wallace was trained on the Mark II Facer-Canceler, ZMT, PSDS and ESP systems while Mr. Sutphin was trained on the Mark II, LSM, ZMT and PSDS. Both also underwent several self-study courses at the Postal Employee Development Center. The initial response from Postal officials to this grievance was that it had to be denied. The USPS stated that all the duties performed by Wallace and Sutphin were covered by the ET-9 job description. The USPS further responded to the grievance by pointing out that the Level 10 job description called for the technician to perform maintenance on Magnetic Drum Memories, such as those found in the OCR, whereas

the Level 9 Technician worked with Core Memories. Management claimed that the OCR I maintenance required a higher degree of skill and more training than the maintenance performed by the Grievants on the equipment at their facility. Management also claimed that the Level 10 position was only authorized at facilities having the OCR I.

The Union, in this proceeding, argued with justification that the Regional Instructions issued in 1974, setting out guidelines for the use of the Level 10 position, noted that in the future there might be equipment employed which because of its complexity and the degree of skill required to maintain it would warrant employing a Level 10 Technician to service such equipment in addition to the OCR I for which a Level 10 position was considered appropriate.

In this proceeding, the Union attempted to establish that Wallace and Sutphin, because they serviced and maintained many pieces of equipment and because certain duties contained in the Level 10 job description were required of them, should be entitled to Level 10. The Union acknowledged that in two previous Awards, Arbitrator Aaron stated that what must be considered is the work performed and not the employee who performs the work. This view had earlier been set out most clearly in a decision of Arbitrator Garrett in Case No. AC-NAT-11991, issued July 3, 1978, when he issued some fundamental guidelines which must be followed in establishing job descriptions and pay levels:

"3. It is the position which must be described and not individual incumbents who may be assigned to fill it. The fact that some incumbents may and often do have extraordinary skills and readily assume responsibilities going beyond the actual requirements of the position, as specified by Management, cannot effect determination of the proper salary level."

Acknowledgment of that fundamental principle must be restated here. Although the Union alleged that the issue in this case was not the same as those presented in the cases before Arbitrator Aaron, an examination of the testimony offered by its witnesses and the arguments which the Union presented, the skill in making diagnoses and exercising independent judgment by the grievants was emphasized. The Union did not meet the burden of proving that the maintenance skills required to service the types of equip-

present at the Santa Ana facility were at the same high level or possessed the same degree of complexity as those required to maintain the OCR I with its Magnetic Drum Memory. The testimony of management witnesses, which established that maintenance and repair on the Santa Ana equipment now involved primarily replacement of modular units and sub-assemblies rather than discreet assemblies as found in the OCR I, was not successfully rebutted by the Union witnesses.

The Union testimony was aimed at calling attention to the fact that both Wallace and now Kendrick do have contact with outside contractors and that they do not have a direct supervisor with sufficient technical knowledge so they could seek assistance in determining the correct approach to the maintenance problems which they faced on a daily basis. A close examination of the testimony of both Wallace and Kendrick would not support a conclusion that they had a relationship with outside consultants or the telephone company which could be regarded as more than peripheral to their principal duties. The Position Description for the Electronics Technician at Level 10 provides in this regard:

(D) Participates with contractor representative or electronics technician of higher level in installing or altering equipment as directed.

(E) Makes reports of equipment failures which require corrective action by contractor and follows up to see that corrective action is taken.

(H) Furnishes pertinent data to superiors and contract personnel on operating and testing problems.

The duties related to the intermittent contacts with outside contractors, such as Western Union and the Telephone Company and Data General, as were testified to by the Union's two witnesses, who are classified as PS-9 at Santa Ana, indicated no long-term inter-relationship nor consultation such as that contemplated in the quoted portion of the Level 10 job description above. In fact, many of the duties of the Level 10 Technicians of a diagnostic or preventive maintenance nature overlap the duties of the Level 9 Technician. Of course, as has been pointed out in the previous decisions referred to above, every job description at higher level must overlap, to some extent, the duties prescribed for the lower level job. Every Level 10 is not confined to performing just Level 10 duties.

In finding, from the evidence and arguments presented in this proceeding that these Level 9 Electronic Technicians at Santa Ana are appropriately classified, the Undersigned does not conclude that they are not performing a critically important job and handling it in a most commendable manner. They are highly trained and skilled technicians. To justify their ~~raise~~ upgrading, the Union would have had to establish that, based upon the job evaluation program initiated and installed by the Employer pursuant to Article III of the Agreement, the duties and responsibilities of these Grievants would be more accurately described in the Standard Position Description for the Level 10 position than it was in the Description for the Level 9 position. For the reasons set forth above, that conclusion cannot be made based upon the record made in this proceeding.

The Union recognized that it could secure an upgrading of this Level 9 position if it could successfully persuade the USPS in collective bargaining to revise the criteria contained in the Level 10 Standard Position Description to provide that Electronic Technicians, who have knowledge of more than one system or who is trained on one or more mail processing, HVAC or timekeeping system, shall be regarded as being properly slotted at Level 10. In the 1978 negotiations, from the documentary evidence in this record, it is apparent that the Union did not achieve this result.

In the initial presentation of this grievance, the Union asserted that several different provisions of the Agreement were violated by the failure to upgrade these Technicians. The Union cited Article XV, which does deal with the grievance and arbitration procedure to be followed. It also made reference to Article XXV, which deals with the detailing of employees to higher level positions and temporary assignments at a higher level. Finally, the Union referred to Article XXXVIII, dealing with the general provisions of the Agreement specifically applicable to the Maintenance Craft. No further effort was made to relate the alleged improper salary level of the two Grievants to requirements of these provisions.

As the Union pointed out, despite the right of Management to establish the job evaluation system and make the initial assignments of employees to what Management perceives as the appropriate salary level for each of the jobs as described, the employees covered by the Agreement have the right, pursuant to Section 235 of the Employee & Labor Relations Manual, to grieve the salary level, title or identification of their positions. Under this option, the Technicians at Santa Ana have been found to be performing job related duties and undertaking responsibilities described in the

Standard Position Description for Occupational Code 0856-01,
Electronic Technician, with a Key Position Reference No. 23,
and assigned a Salary Level 9, and their grievance must be
denied.

A W A R D

The Postal Service did not violate any of the provisions of the 1978 collective bargaining agreement when it did not upgrade the salary level of the Electronic Technicians at the Santa Ana Facility from Level 9 to Level 10, and this grievance is denied.


Howard G. Gamsler, Arbitrator

Washington, DC
June 23, 1982