

In the Matter of the Arbitration Between:

UNITED STATES POSTAL SERVICE

AND

Case No. H8T-3D-C-27355

AMERICAN POSTAL WORKERS UNION

Hearing Held March 15, 1983

Before Richard I. Bloch, Esq.

APPEARANCES:

For the Union

Richard I. Wevodau
Director of Maintenance Division
American Postal Workers Union

For the Employer

Donald J. Cowan
Manager, Grievance Branch

OPINION

Facts

This grievance arises over the assignment, in the Atlanta BMC, of a Level 3 Custodial Labor, SP6-13, to operate a gasoline-powered rider model 240 Tennant Sweeper, used to clean the parking area. The Union contends that employees so assigned should be paid at a higher level--PS-4--during those periods of the assignment.

Issue

Did Management violate the Labor Agreement by failing to upgrade Custodial Laborers when assigned to operate the Tennant Sweeper?

Union Position

The Union contends that the equipment in question is more properly comparable to that assigned to PS-4 job duties such as a Mechanic Helper or Materials Handling Equipment Operator. It notes, among other things, that the job description of the Custodial Laborer omits any reference to the equipment in question.

Management Position

Management contends that while admittedly larger than "pedestrian type" sweepers or other equipment, the Tennant Sweeper is nevertheless relatively basic in operation and not comparable to some of the mobile material-handling equipment found in higher level jobs.

Relevant Contract Provisions

ARTICLE XXV - Higher Level Assignments

1. Higher Level work is defined as an assignment to a ranked higher level position, whether or not such position has been authorized at the installation.
2. An employee who is detailed to higher level work shall be paid at the higher level for time actually spent on such job. An employee's higher level rate shall be determined as if promoted to the position...

Analysis

The Custodial Laborer operates two gasoline-powered Rider Sweepers. The Model 240 is larger and similar to that used to clean the streets. The other, a Model 90, is used inside the Bulk Mail Center. The inside Sweeper is a battery-operated, rider-type machine. The outside sweeper is also a

rider-type, but gasoline-powered. It would appear that the Union is confining its claim to the gasoline-powered vehicle only.¹

Management notes that Custodial Laborers were not, in fact, assigned to a higher ranked position while operating the equipment in question. Nevertheless, the upgraded pay should not be denied simply on the premise that no formal assignment had been made. The question in this case is whether, in fact, the duties in question may be said to properly constitute Level 4 duties.²

Having carefully examined the evidence and arguments in this case, the Arbitrator concludes that this grievance lacks merit.

At the outset, it is clear that operation of the Sweeper in question has not previously been assigned to any of the higher level classifications cited for comparison by the Union. The sole claim is that it is of such nature as would warrant the higher level pay. For several reasons, however, one concludes that the higher level ranking is not appropriate.

¹In its brief, the Union claims that operation of both pieces of equipment is beyond the scope of the Custodial Laborer's job. This seemingly is at odds with its position at the hearing, which was that operation of the small, battery-operated rider-type sweeper does not warrant a higher level. See Transcript, p. 61.

²Management acknowledges this approach; but it contends that the facts in this case do not justify the higher pay. In its brief, it argues "There may be times when equipment comparisons are viable in determining higher level pay disputes under Article XXV; but standing alone under the facts of this case, no such determination can properly be made without amending or distorting Article XXV."

In January of 1983, the Union and Management agreed in a Fresno, California settlement, that operation of a battery-powered riding sweeper did not entitle a Level 3 Custodial Laborer to higher pay. And, as indicated above, the Union here contends that it is the gasoline-powered aspect of the Model 240 that makes the difference.

The Union centers its contentions around the Position Description and the Qualification Standard for the Custodial Laborer position. Neither document specifically refers to the Tennant Sweeper and, as the Union notes, to the extent any equipment is specifically mentioned, it would appear to be hand-operated.³ It is clear enough from the evidence, however, that these documents are not regarded as fully descriptive of each and every aspect of the job or the included equipment. In the appropriate case, omission of a particularly significant piece of equipment may be meaningful as reflecting the parties' intent that such equipment not be assigned. Yet, if the gasoline-powered sweeper is not included in the description, neither is its battery-powered counterpart, which is similar and, one finds, considered to be part of the job.

³The Position Description refers to the necessity of operating "a variety of power-driven equipment such as floor scrubbers, floor sanders, waxers and wall washers" among other things. The Qualification Standard includes the ability "to use hand tools such as power cleaning equipment (waxers, polishers, mowers, etc.)."

Additionally, it is clear from the evidence that the classification in question is responsible for operating lawn mowers, which are both rider-type and gasoline-powered. Several conclusions flow from this observation. First, it is apparent that neither the rider nor the gasoline-powered aspect of the equipment is, in itself, controlling, since these pieces of equipment are clearly within the job. Second, one notes that these mowers have not been specifically noted in the job description. This, too, underscores the conclusion that the Position Descriptions are meant to be relatively more general than specific in nature.

The Union also cites Handbook M-52 which, in Section 214, establishes the requirement that one operating equipment of this nature possess a government operation license--SF-46. The Union notes that such a requirement is listed neither in the Job Description nor the Qualification Standard, although it is referred to in higher level descriptions. This, it is claimed, is evidence of the fact that such operation has simply not been a requirement of the job. Again, however, the evidence indicates that (1) omission of this fact in the Position Description and in the Qualification Standard is not, in itself, controlling; (2) such license apparently is required for operation of both the inside sweeper and the rider driven, gas-powered lawn mowers, which are clearly part of the job and (3) operation of power-driven riding equipment

has been an inherent part of the job for some years. This latter fact is indicated by the testimony and reflected in the MS-47 Handbook dealing with "housekeeping" which, as early as 1974, referenced "rider-type" power sweepers. It is true that the Handbook serves primarily as a staffing guide and does not determine pay levels. It is also apparent, however, that this piece of equipment is not somehow to be regarded as a newly-found addition to the classification.

In the final analysis, the emphasis must be on careful examination of the equipment in question. In this case, the finding is that the Tennant Sweeper is not properly comparable to Level 4 Material-Handling equipment such as, for example, a fork lift. The Sweeper is controlled by a foot pedal and once set in motion, it is operated forward only with no necessary adjustments to the equipment. A fork lift, on the other hand, requires a variety of manual operations, including levers that control lifting and tilting of the equipment. Also, when the fork lift is fully loaded, there are occasions when it must be driven in reverse and maneuvered in confined locations such as when loading or unloading trucks. In the overall, the duties involved with that type operation are significantly more demanding than those here at issue. On the basis of all the evidence, the finding is that operation of the Tennant Sweeper does not warrant higher level pay

during the time of such operation. For these reasons, the grievance will be denied.

AWARD

The grievance is denied.



Richard I. Bloch, Esq.

May 13, 1983 .