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INDUSTRIAL  
RELATIONS

In the Matter of Arbitration

between

Grievance No. A8-NA-0332

UNITED STATES POSTAL SERVICE

and

AMERICAN POSTAL WORKERS UNION

APPEARANCES: Barbara S. Fredericks, Attorney, for the  
Postal Service; Richard I. Weyodau for the Union

DECISION

This grievance arose under and is governed by the 1978-1981 National Agreement (JX-1) between the above-named parties. The undersigned having been jointly selected by the parties to serve as sole arbitrator, a hearing was held on 22 May 1980, in Washington, D.C. Both parties appeared and presented evidence and argument on the following issue:

Was the Postal Service in violation of Articles III, V, XIX, and XXXVIII of the 1978-1981 National Agreement and any applicable instructions when it failed to upgrade PS-9 electronic technicians in the Bulk Mail Centers to PS-10 electronic technicians?

By way of remedy, the Union asked that the reclassification be made retroactive to 14 days prior to the date the grievance was filed.

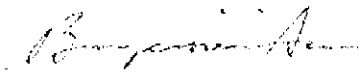
A verbatim transcript was made of the arbitration proceedings. Each side filed a post-hearing brief. Upon receipt of both briefs, the arbitrator closed the record on 8 July 1980.

On the basis of the entire record, the arbitrator makes the following

AWARD

The Postal Service was not in violation of Articles III, V, XIX, or XXXVIII of the 1978-1981 National Agreement or any applicable instructions, when it failed to upgrade PS-9 electronic technicians in the Bulk Mail Centers to PS-10 electronic technicians.

The grievance is denied.

  
Benjamin Aaron  
Arbitrator

Los Angeles, California  
28 July 1980

In the Matter of Arbitration

between

Grievance No. A8-NA-0332

UNITED STATES POSTAL SERVICE

and

AMERICAN POSTAL WORKERS UNION

OPINION

1

The fundamental issues raised by this grievance were also raised in Grievance No. AC-W-21675 between these two parties, in which I rendered the following award, dated 16 January 1980:

The Postal Service does not violate the 1975-1978 National Agreement and any applicable instructions issued thereunder when it fails to compensate electronic technicians, Level 9, at the Los Angeles Bulk Mail Center as electronic technicians, Level 10.

The grievance is denied.

Accordingly, this opinion will advert when necessary to the opinion and record in Grievance No. AC-W-21675 (incorporated by reference in the record of the instant case as EX-1 and EX-2), and will discuss only the evidence and arguments presented for the first time in Grievance No. A8-NA-0332.

The Union charges the Postal Service with having violated Articles III, V, XIX, and XXXVIII of the 1978-1981 Master

Agreement (JX-1). Article III (Management Rights) provides in part:

The Employer shall have the exclusive right, subject to the provisions of this Agreement and consistent with applicable laws and regulations:

A. To direct employees of the Employer in the performance of official duties;

B. To . . . assign . . . employees in positions within the Postal Service. . .

C. To maintain the efficiency of the operations entrusted to it;

D. To determine the methods, means, and personnel by which such operations are to be conducted; . . .

Article V (Prohibition of Unilateral Action) prohibits the Postal Service from taking "any actions affecting wages, hours and other terms and conditions of employment. . . which violate the terms of this Agreement or are otherwise inconsistent with its obligations under law."

Article XIX (Handbooks and Manuals) provides in part:

Those parts of all handbooks, manuals and published regulations of the Postal Service, that directly relate to wages, hours or working conditions, as they apply to employees covered by this Agreement, shall contain nothing that conflicts with this Agreement, and shall be continued in effect except that the Employer shall have the right to make changes that are not inconsistent with this Agreement and that are fair, reasonable, and equitable. . . .

Article XXXVIII (Maintenance Craft) covers seniority, posting, and special provisions applicable to the maintenance craft. In neither the arbitration hearing nor in its lengthy post-hearing brief did the Union indicate which portion of

this article it believed the Postal Service had violated.

## II

The Union's position in this case, as it was in Grievance No. AC-W-21675, is that the Postal Service has established that the "O.C.R. [Optical Character Reader] and the complexity of the O.C.R. . . .as a yardstick for creation of level 10 electronic technician [ET] positions," and that "the Process Control System [PCS] in the bulk mail centers [BMCs] is recognized as being as complex or more complex than the O.C.R. and therefore justifies the upgrading of these employees [ET-9s] to electronic technician level 10" (Tr. 13). In support of this contention the Union introduced the testimony of several witnesses.

William M. Tidewell, an ET-9 at the Greensboro, N.C. BMC, testified that he performs routine preventive maintenance, troubleshooting, and repair of PCS equipment located in the computer room, and of "peripheral equipment" (Tr. 16). He stated that he had contact with manufacturer's or contractor's representatives, but the only evidence introduced to support that statement (UX-1) concerned his relations with a contractor who supplied environmental control equipment--specifically, a fire alarm and sprinkler system and a mini-computer that controls the environmental system--none of which is related to the PCS. Through Tidewell, the Union also introduced a memorandum dated 16 December 1976 (UX-2) from the Greensboro

BMC to a contractor, signed by S. E. Staley, Jr., an ET-9, ordering replacement parts for a Teletalk inter-communications system. Tidewell testified that he did not know who directed Staley to write the order, but that he assumed it was the foreman of Supply; that he did not know whether Staley "on a regular basis writes to contractors requesting equipment"; that he did not think this was part of Staley's job; and that, as far as he knew, the order in question was the only one Staley had signed (Tr. 41-42).

Tidewell testified further that if a part needs to be purchased for any kind of a machine, he must "absolutely" get permission from Supply before ordering one from a contractor (Tr. 32). He stated that there is a digital engineer (electrical) at the Greensboro BMC with whom the ETs discuss problems with the PCS "if we discuss it with anybody" (Tr. 33). He also stated that the ET-9s at Greensboro have the authority to make repairs of malfunctioning PCS equipment on their own initiative, after securing a work order number from Maintenance Control, but that they have never made any modifications of such equipment without first receiving a modification work order initiated by higher authority. Asked whether most of his job consisted of "troubleshooting the P.C.S.," and whether he was paid "for making repairs when the system breaks down or stops," he replied, "That's exactly right". (Tr. 40)

Finally, Tidewell testified that he had never had occasion

to contact the technical staff at Greensboro to assist him in resolving any problem relating to the PCS; that the technical staff knew less about such problems than did the ET-9s; but that the ET-9s sometimes discussed their problems with ET-9s at other BMCs.

Donald L. Myers, an ET-9 at the Philadelphia BMC, who is also maintenance craft president and a former steward of the local Union, testified that the Philadelphia BMC has a technical staff consisting of two technical people and a superintendent; that the superintendent is on loan to the Control and Logistics Department; and that one of the other two staff members is a technical digital engineer. He stated that ET-9s had performed modification work at the Philadelphia BMC "prior to approval and without approval from higher levels" (Tr. 47). Specifically, he testified (Tr. 66-67):

I have been informed by my immediate supervisor and all of the supervisors on my shift, including the tour superintendent of maintenance, as well as various people on the technical staff, that on the operational aspects of the B.M.C., if there are changes that I feel . . . are necessary and should be made, to make them immediately without question.

Myers described this work as consisting of "design changes to the system" (Tr. 48), and gave two examples. The first involved "a problem with the interface between the line printers and the computer network, which resulted in lost pages of reports. He and a fellow ET-9 designed a correction for this which they initiated and verified, and which they then submitted as a

suggestion. Thereafter, an engineering change notice, incorporating their suggestion, was sent to all other BMCs. The second example involved the installation of "a modem connection for interfacing with our system so outside offices could have contact with us" (Tr. 49); it was initiated at the request of a data processing supervisor from another department, with no direct authority over the ET-9s. Myers did not know whether that supervisor had first obtained permission from one of Myers' superiors to seek the latter's assistance.

Myers testified further that he had worked directly with LOGICON and Honeywell contractors who were on site at the Philadelphia BMC, prior to the opening of that installation and, in the case of the LOGICON contractor, for a nine-month period thereafter. He also stated that there had been instances when he had "gone through" his supervisors and had got permission to contact contractors in connection with problems he had encountered with their equipment (Tr. 50).

Concerning his supervision, Myers testified that there are three supervisors on his shift and one, a former ET trained by LOGICON, to whom he "supposedly" is to report. He added, however, that this supervisor "himself admitted that he is not knowledgeable in the system and is not very helpful" (Tr. 50-51). Myers stated that the technical staff provides a support function for the Maintenance Department. He added (Tr. 51):

We do not report to them; they do not direct us. They may come to us with problems for assistance in certain



things that they have problems with, but they are basically a function. . . [of] Maintenance Control, for reporting and assigning work.

Myers testified at some length about a mail questionnaire that he had sent to ET-9s at all other BMCs operated by the Postal Service. The questionnaire was prepared for use in this arbitration, a fact of which the respondents were aware. It was sent to one ET-9 at each installation, who was requested to consult with all other ET-9s at his BMC before preparing his replies. Questionnaires were sent to each of the 21 BMCs; replies were received from 17. In respect of the presence at the installation of a technical staff, the Atlanta BMC reported that there were none on site; the Dallas BMC reported that there was only a mechanical engineer on site, "who is not really versed in the Process Control System"; and the Springfield BMC reported that their on-site technical assistance left when LOGICON left, and that they have a digital systems engineer, who is not qualified (Tr. 64-65). Myers also stated that the "basic response from all the B.M.C.'s was that even if they [i.e., the technical staffs] were on call, which a majority of them were not, they would not be of assistance." (Tr. 52-53) Asked specifically about the response from the Los Angeles BMC on this point, Myers conceded that "they did say they had a technical staff, and. . . that it might be possible that they could get some technical on-site assistance" (Tr. 56).

In respect of the influence of ET-9s in purchasing equip-

ment, Myers stated that 16 of the 17 BMCs responded "that they did" (Tr. 53). Twelve responded that they dealt with contractor's representatives and with vendors. Fifteen reported that they ordered parts on their own initiative, and one that they made recommendations for parts to be ordered (Tr. 54). The Los Angeles BMC reported that they influenced the purchase of equipment, had dealings with contractors and equipment representatives, dealt with vendors, and ordered parts.

Myers testified that, in his opinion, the PCS "is more complex and involves more difficult troubleshooting" than the OCR (Tr. 55). He admitted, however, that he had never done any troubleshooting on the OCR, or observed such troubleshooting being done by anyone else. He stated that his "familiarity with the O.C.R. comes from several discussions with some O.C.R. technicians," and also from O.C.R. factory representatives (Tr. 57).

Finally, Myers testified that, despite the allowable area of independent action he had described, he had no authority to refuse to carry out any orders issued by supervision.

Terry R. Irvin, an ET-9 employed at the Washington BMC, testified that there is a technical staff at this installation; that the digital engineer position was vacant from May, 1978 through November, 1979; that the technical staff, at "numerous times," have come to the ET-9s for help in resolving a problem they cannot resolve themselves; that the ET-9s have "never"

asked the technical staff for help in resolving problems that they themselves could not resolve; and that he has often called ET-9s at other BMCs for help with such problems (Tr. 76-77). He stated that no one on the technical staff at the Washington BMC "has the capability of [providing] assistance" (Tr. 78).

Irvin testified further that the ET-9s at the Washington BMC have no authority to initiate modification work orders, and that with one possible exception (an ET-9 who has been detailed to work directly with and under the supervision of a contractor on a fire alarm system), ET-9s do not have authority to call contractors or vendors without prior permission from supervision. He also stated that ET-9s are required to write no reports relating to the PCS other than in the daily log.

The Union's principal witness was James L. Wade, who at present is the director of plant maintenance at the Washington BMC. He has formerly held other management positions in the Postal Service, including superintendent of maintenance at the Philadelphia BMC and teacher at the Oklahoma Postal Training Operations (OPTO).

Wade testified at considerable length. He stated that he had prepared the original ET-9 job description, which, however, had to be approved by the Office of Compensation. He also stated that he had had nothing to do with the ranking (evaluation) of that position. He agreed with the arbitrator's summary of part of his testimony, as indicated in the fol-

lowing colloquy(Tr. 103-04):

MR. AARON: Mr. Wade, as you know, in job evaluation there are a number of different functions. One is to define a job as accurately as possible.

THE WITNESS: That's correct.

MR. AARON: And the other is to assign it a certain value relative to the values of other jobs --

THE WITNESS: That's correct.

MR. AARON: -- that are included within the system. . . . I understood you to say that you thought that the ET-9 job description was accurate, that the ET-9's presently perform the functions described in that description, and furthermore, that they do not perform any functions that are not described in that description, so on the description side, you find the ET-9 description perfectly satisfactory; it is on the evaluation side that you disagree?

THE WITNESS: That is correct.

MR. AARON: And comparing that job specifically with the O.C.R. classification, you feel that the ET's who work on the P.C.S. ought to have the same level of job as those working on the O.C.R.'s, namely, ET-10?

THE WITNESS: Yes, that is basically correct.

MR. AARON: Is that a correct summary of your --

THE WITNESS: Yes, I think it is.

MR. AARON: And on the question of the ET's working on the P.C.S., undertaking modifications and so forth, I understand your testimony to be that ordinarily, in the overwhelming percentage of the time, no modifications may be initiated except after the work order has been prepared . . . from higher up and sent down, but that on a very limited number of occasions there is a delegation of authority for a particular job or on a particular piece of equipment, and I assume that that was not necessarily a formal delegation; it might be informal, simply by word of mouth.

THE WITNESS: Normally it would be, yes.

MR. AARON: That's a correct summary of your --

THE WITNESS: Yes, it is.

In several respects Wade's testimony contradicted that of Irvin. After stating that OCR ET-10s "do not have the tech staff support that is provided at the B.M.C.'s" (Tr. 97), he went on to say that the technical staff "has a very useful function at the Washington B.M.C., at any B.M.C."; that they provide various reports to both the B.M.C. manager and the region on the workings of the PCS; and that part of their assignment is "to be involved, to keep up with the P.C.S., the changes, the modifications that take place" (Tr. 101-02).

Contrary to the implication of Irvin's testimony, Wade said he had personally been called at night "on problems that affected the P.C.S., which the ET's would be working on" at the Washington B.M.C. (Tr. 98).

On the other hand, Wade agreed with the Union's counsel that "the actual performing of the change or the modification or the alteration is done through the high technical skills of the ET's." He added (Tr. 106):

I'll stipulate that tech staff, these engineers are part of the management supervisory personnel at the facility, and they cannot perform maintenance on the equipment by national agreement. Just as I can't go down and physically do a repair on the equipment myself, the tech staff cannot either. They are there as a support function, and to maintain documentation, the library and this type of thing, and just support the total operation.

Explaining the conflict of opinion over the ability and usefulness of the technical staff, Wade stated (Tr. 105):

The P.C.S. or any of these systems are complex systems, and there's often a very long training requirement necessary to become proficient on these pieces of

equipment. . . . [V]ery often the tech staff engineers are the ones that are promoted to higher management positions, so there is some turnover in these positions for one reason or another, and because of the long duration and training, you would get this conflict of opinion as to what their technical ability is. The digital engineer at Washington has not been trained on P.C.S. at this time. . . .

He will be trained as soon as we can get the proper training set up for him.

Through Wade the Union introduced several exhibits bearing on matters covered in his testimony. In a memorandum dated 15 June 1977 to tour superintendents, electronic shop (UX-3), Wade had attached a copy of the "Guidelines for use of Electronic Technician Level 10 Positions," dated 28 March 1974 (quoted in my opinion in Grievance No. AC-W-21675) and had commented in part as follows:

Attached are the requirements and procedures that must be followed to get some or all of our ET's promoted. The base line for justification is comparability to an OCR Technician PS-10.

I have taught maintenance on both systems and I firmly believe that the BMC total system is more complex. However, to get comparability in pay we must convince others. . . . Give me in writing your reasons why our system is equally complex in the skills required to maintain the total system. It will help if we list all the components (sub-systems) that comprise our system.

Wade testified that he also had prepared and submitted to higher authority a PS Form 820 (request for ranking of position), dated 22 September 1977 (UX-4), which sought a reclassification of ETs from level 9 to level 10, and which read in part:

At the time the positions were originally evaluated, the total scope of the work was unknown and the guidelines

provided by the Regional instructions were not available. It is appropriate that a review of this proposed ranking change be made at this time.

At this Bulk Mail Center, with twenty-one (21) maintenance tours per week, it is felt that no less than eight (8) positions are required. The Washington Bulk Mail Center is unique, in that the Electronic Technicians maintain both the processing equipment as well as the Bulk Mail Engineering Test Facility. The critical nature and scope of work justifies eight (8) positions at the level PS 10 grade.

In the lengthy justification attached, Wade had indicated that, in his opinion, the comparison job used was the OCR ET-10; that the ET-9 job ranked "above" the ET-10 job in respect of "difficulty of work," "conditions of performance, including physical requirements and hazards," and "experience requirements"; and that the ET-9 job ranked "substantially above" the ET-10 job in respect of "responsibility exercised," "scope and variety of tasks," and "skill or knowledge requirements."

The Union also introduced similar requests from BMCs in Philadelphia, Denver, and Jersey City (UX-5). Wade testified that he had discussed the proper classification of ET-9s at various times with other management personnel at other BMCs, including those at Denver, Philadelphia, and Greensboro, and that "it was their opinion that P.C.S. is at a level 10 . . . degree of difficulty" (Tr. 93).

Charles M. Chamberlin, a postal operations analyst, was called by the Union principally to testify about a 1977 review he had conducted of the grade level of ETs maintaining Enrichers in the general post office in New York City. His findings were

embodied in a memorandum dated 27 July 1977, from Blair J. Wildermuth, Director of the Office of Maintenance Management, to J. R. Shoop, General Manager, Evaluation Division, Office of Compensation (UX-6). Paragraph 4 of that memorandum read as follows:

The complexity of the equipment is similar to OCR I. However, it is important to note that the aid of built-in diagnostics greatly simplifies troubleshooting on the Enricher. Therefore, an ET-10 is not required for maintaining the Enricher.

An ET-10 was justified for OCR I not solely on the complexity of equipment but because of the difficulties this complexity made in troubleshooting the system. OCR I is hard wired and is still considered prototype hardware. There are few diagnostic aids available. Also, the peculiarities of the machine are so pronounced that were plug-in printed circuit boards available for OCR-I, there is no assurance that these boards were interchangeable from machine to machine. Additionally, OCR-I has a magnetic drum memory--the Enricher does not. All of the above combines to make the OCR I Technician a level 10. The complexity of troubleshooting is just not there in the Enricher. It is actually simplified by virtue of its being a more modern, more completely engineered system than OCR I.

Chamberlin conceded that he had used the OCR "as the yardstick on which to measure the complexity of the [Enricher] equipment" (Tr. 122), but he explained further that the "degree of the employee's participation, how much he is allowed to do on that system, and the complexity of the system, . . . together make up the grade." Furthermore, he stated, "the total job description may have duties that are. . .non-technical, managerial, things of that sort, that will have a value or a weight in the final determination" (Tr. 123).



Contrasting the work on the OCR with work on the PCS, Chamberlin stated, corroborating Wade, that there is no technical support staff assigned to the OCR. The OCR ET-10 thus becomes "the primary source of troubleshooting" (Tr. 124), and the ET-10s were originally sent to Philco-Ford for "a very long [training] course" (Tr. 125).

John W. Duschesne, General Manager of the Postal Service's Built Systems Division, Office of Maintenance Management, who also testified for the Postal Service at the hearing on Grievance No. AC-W-21675, was called by the Union as a witness in the instant grievance. He was asked questions about two memoranda, the first of which dated 29 July 1976, was addressed to Joseph S. Barson, Action Team Leader, Indirect Labor Manning Subcommittee, Eastern Region, and was signed by Duschesne and by J. E. Fisherkeller, General Manager, Services Division, Bulk Mail Processing Department (UX-7). The subject of the memorandum was maintenance staffing at BMCs. It included a recommendation "that the Bulk Mail Processing Department arrange for additional approved craft position descriptions covering at least the following: . . . g. Level Ten (10), Electronic Technician." Duschesne affirmed that this memorandum constituted "not an instruction but a recommendation for the establishment of ET-10 positions in the B.M.C.'s" (Tr. 130). Asked why this recommendation had been made, Duschesne replied (Tr. 130-31):

. . . [T]here were engineering positions that we were recommending to be removed, and therefore the

technical support that had been available during the construction and start-up phase would be not as readily available, and therefore on those circumstances, or any circumstance at a B.M.C., we wanted to have it available for a manager at that site to be able to request filling of an ET-10, if it was required. In other words. . .just make it available, and I think that's what happened.

The recommendation, he emphasized, was contingent upon the removal of the technical staff. At the time of the arbitration hearing in the instant case, the technical staffs at the BMCs had been reduced from five to three (a supervisor and two engineers).

The second memorandum, dated 25 August 1979, was addressed to Regional General Managers, Maintenance Management Divisions, and was signed by Peter A. Jacobson, Director, Office of Maintenance Management, with the concurrence of four other management personnel, including Duschesne (UX-8). The subject of the memorandum was ET staffing at BMCs; it read in part:

This is your authority to staff one Electronics Technician PS-10 per operating tour, within the current total of Electronics Technicians complement at each Bulk Mail Center.

Evaluation of candidates should be per section 800c of Personnel Handbook, Series PL2B "Qualification Standards Bargaining Unit Positions." In the evaluation process you should be particularly attentive, to ensure that the successful applicants have demonstrated, to a sufficient degree, the proficiency requirements of:

- B-4 Work Without Supervision
- B-12 Maintaining Electrical Equipment
- B-42 Electronic Knowledge - (PCS specifically)
- B-45 Verbal and written communication.

Duschesne confirmed that the listed criteria are the ones that distinguish between ET-9s and ET-10s, but he again characterized the memorandum as expressing only "an opinion," saying that neither he nor the actual author of the memorandum, R. S. Graff, was a personnel expert (Tr. 133).

Duschesne testified further, in apparent contradiction of Myers, that there were technical staffs at all 21 BMCs, including Atlanta. This conflict was cleared up, however, when Duschesne explained that at Atlanta there is a technical staff supervisor, but no other staff on site.

Another management employee called by the Union as a witness was Wendall Galloway, Senior Job Analyst, Office of Compensation, Employee Labor Relations Group. Galloway had been the Postal Service's principal witness at the hearing in Grievance No. AC-W-21675. Much of his testimony in the instant case was repetitive of what he had given in the earlier case; it was discussed in my opinion in that case and will therefore not be summarized in detail here. Galloway testified in the instant case that he had had nothing to do with the development of the job descriptions or the qualification standards for the ET-9 and ET-10 positions; indeed, he declared that he has nothing to do with qualification standards for any positions, the responsibility for that function being assigned to the Methods and Selection group within Employee Labor Relations.

The Union introduced a copy of Postal Field Service Quali-

fications Standards for Electronic Technician, PFS-8/10 (UX-9). These standards list six experience requirements that are presumably applicable to both positions; it then adds the following:

For PFS-10 the candidate must also demonstrate the following:

- B-4. Ability to work without immediate supervision.
- B-6. Ability to use reference materials and manuals.
- B-19. Ability to instruct.
- B-54. Ability to schedule work.

#### Evaluating applicants

For each element, the applicants will be evaluated in terms of the required degree of ability indicated by the duties in the position description and the demands of the position to be filled.

Galloway was asked by Union counsel to explain why, if contacting contractor's representatives, dealing with vendors, supervising lower-level employees, and preparing written reports are such important elements of the ET-10 position, they were not included in the qualification standards for that position.

Galloway replied (Tr. 150):

I don't know. I would find those things important in writing qualification standards, but the people who write qualification standards may not have the same view as I have, being in classification, so I don't know.

Galloway also testified that the same qualification standards might apply to a variety of different jobs ranked at different levels.

The Union's final witness was Al Fouche, an OCR ET-10 employed in Detroit. He testified that there were no technical staff available in Detroit, but that he had frequently contacted OCRs in other OCR offices "to either aid or seek aid for repairs on breakdowns, problems within the OCR system" (Tr. 162). He also testified that he is not allowed to make purchases on his own from vendors; that he receives his instructions from a foreman who was formerly an ET-10; and that other than making entries in the daily log, he has never submitted to higher management any pertinent data on equipment breakdowns or on testing or operating problems.

Finally, Fouche testified that he had visited the Detroit BMC, had observed the PCS, and that in his opinion the PCS is more complex than the OCR.

The Postal Service offered no testimony in support of its position, saying that it took the same position it had advanced in Grievance No. AC-W-21675, and that it relied upon the record in that case.

### III

As noted earlier, the Union's position in this case, although supported by considerably more testimony and evidence than before, is basically the same as the one it took in Grievance No. AC-W-21675. This time, however, the Union has asked for the reclassification to ET-10 of all ET-9s employed in all 21 BMCs.

The case is obviously one of great importance to the Union,

and for that reason I have summarized in considerable detail the testimony and evidence adduced by the Union in support of its position. My decision in this case, however, remains the same as the one I reached in Grievance No. AC-W-21675.

Of the four provisions in the 1978-1981 National Agreement that the Union claims the Postal Service has violated, only one -- Article III (Management Rights) -- seems to me to have any substantial relevance. It remains unchanged from the corresponding provision in the 1975-1978 National Agreement, which governed the earlier case, and thus adds nothing to the Union's contentions. On the contrary, it establishes the exclusive right of the Postal Service, subject to limitations not shown to exist in this case, to direct and assign employees and to determine the methods, means, and personnel by which its operations are to be carried out.

The Union has placed considerable reliance on the testimony of Myers, based on his survey of PCS operations at the 21 BMCs. That testimony, however, is entitled to very little substantive weight. The survey was conducted in preparation for this arbitration and is, of course, entirely self-serving. Neither the survey instrument nor the written responses were introduced in evidence, nor were the respondents present and available for cross examination. Finally, some of the general conclusions reported by Myers on the basis of the responses were refuted either by the testimony of one or more of the other witnesses

called by the Union, or by the testimony in Grievance No. AC-W-21675. This was especially so in respect of Myers' testimony regarding the availability and usefulness of technical staffs at the BCMs.

Although the Union did not argue in this case, as it did in the earlier one, that the so-called Jellison memorandum of 11 May 1977 evidenced a decision by Postal Service management to employ ET-10s at the BCMs, it did place considerable reliance on the Wade memoranda of 15 June and 22 September, 1977 (UX-3 and UX-4), previously quoted. These memoranda, as well as Wade's testimony, indicate that he believed that work on the PCS is more complex than work on the OCR, and that the PCS ET-9s should, accordingly, be classified as ET-10s. Wade emphasized in his testimony, however, that he had expressed only an opinion; that he lacked expertise in job evaluation; and that he had no authority effectively to bring about the change in ranking that he had recommended. Of equal significance was Wade's testimony that the ET-9s perform all functions outlined in the job description of that position, and that they perform no others.

Chamberlin's testimony, not otherwise relevant to this case, established only that in evaluating the grade level of ETs maintaining Enrichers at the general post office in New York City, he had used the OCR as the yardstick by which to measure the complexity of the Enricher equipment; but he also emphasized that other factors, in addition to the complexity of the equipment, have a value in the final determination of

the appropriate level of a given position.

The memorandum of 29 July 1976 to Barson from Duschesne and Fisherkeller (UX-7), and the memorandum of 25 August 1979 from Jacobson on the subject of ET staffing at BMCs (UX-8), previously referred to, do not go much beyond the earlier Jellison memorandum. Neither does more than express an opinion or a recommendation by persons without authority themselves to effectuate any change in the status quo. Moreover, Duschesne testified in respect of the memorandum to Barson that the views expressed were predicated on the expectation that technical staff support would be removed from the BMCs, whereas such support has, in fact, been only reduced.

Galloway's testimony did not differ significantly from that which he gave in the earlier case. Tidewell's, like that of Myers, emphasized the complexity of the PCS, relative to the OCR; but his testimony that the ET-9s at the BMCs are given no support by technical staffs was in part refuted by Wade's testimony and by the record made in the earlier case.

Fouche's testimony was almost entirely irrelevant, inasmuch as it was confined largely to descriptions of what ET-10s do. Indeed, the argument implicit in his testimony is a two-edged sword; for if some ET-10s do not perform those aspects of their jobs upon which the level of ET-10 is based, it could just as well be contended that they are over-classified as that the ET-9s are under-classified.

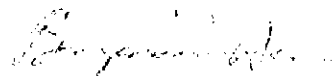


In my opinion in Grievance No. AC-W-21675 I noted that the Union appeared mistakenly to assume that if employees develop skills beyond those necessary for the satisfactory performance of a job, they should be evaluated on the basis of the skills they possess. In the instant case the Union has shifted its ground somewhat, and now argues that the skills necessary for the satisfactory performance of the ET-9 and ET-10 positions are exactly the same, because ET-9s actually do perform some of the ET-10 functions that were found in the earlier case to distinguish the ET-10 from the ET-9 position and, conversely, because some ET-10s do not perform some of those distinguishing functions. At bottom, however, the Union's position, rejected in the earlier case, has been reiterated here: namely, that overall complexity of the system is the true and controlling determinant of job rank, and that the PCS is more complex than the OCR.

These arguments are not persuasive. The job descriptions for ET-9 and ET-10 have not changed. Job duties and responsibilities (D), (E), and (H) of the ET-10 description, quoted in my previous opinion, are those that distinguish the ET-10 position from the ET-9. The Union has failed to demonstrate that ET-9s regularly perform any of these functions. On the other hand, it is clear that they do perform all of the duties and responsibilities of the ET-9 position. As already indicated, it is irrelevant for the purposes of this case that some ET-10s may not be performing some or any of those elements of their

job description that distinguish it from the ET-9; at any rate, we have only the uncorroborated opinion of one witness that this is true of the ET-10s at one installation.

By now it should be clear that the issue raised by the Union in these two arbitration proceedings must be resolved in a different forum. Even if I gave much more weight to the Union's testimony and evidence in this case than I have done, it would not justify an award ordering the reclassification of ET-9s at all BMCs, as to most of which there has been no specific and credible evidence introduced. I am not required to express any view of the relative complexity of the OCR and the PCS, and I accordingly refrain from doing so. It may be that there is merit to the claim that the ET-9 position deserves to be rated at the ET-10 level; if so, the decision must be reached unilaterally by management or in collective bargaining between the parties. The Union sought to accomplish the latter result in the negotiations preceding the 1978-1981 National Agreement. It failed. In both of these arbitration proceedings, it has also failed to show that in refusing to upgrade the ET-9 position to ET-10 the Postal Service has violated any provision of the National Agreement. The grievance is therefore denied.



Benjamin Aaron  
Arbitrator