

In the Matter of the Arbitration
between

AMERICAN POSTAL WORKERS UNION

and

UNITED STATES POSTAL SERVICE

CASE NO: HIT-3A-C-7223

OPINION AND AWARD

Appearances:

For the APWU - Richard I. Wevodau, Director,
Maintenance Division

For the USPS - Donald J. Cowan, Manager
Grievance Branch, Southern Reg. Office

Background:

This grievance was initiated at the Dallas Bulk Mail Center. It was triggered by facts and circumstances which apparently are not in dispute.

In March of 1982, the Postal Service decided to send supervisor Jerry Pille to attend Course No. 55676-02 BMC-MIS, Maintenance Control, at the Technical Training Center in Norman, Oklahoma. The APWU grieved this decision. It alleged that, pursuant to the provisions of Article 38, Section 3-B-2(a) and (g), Management could not assign a supervisor for such training in lieu of a member of the bargaining unit for whom such training would be job related. The Union argued that there were seven Maintenance Control Clerks at the Dallas BMC. Only one of these employees had received this training. The Employer decided to send a Stock Room Supervisor whose normal duties would not make him eligible to receive training in this specific course. The Union demanded that the senior Maintenance Control Clerk, on the current overtime desired list, be paid 40 hours overtime as an appropriate remedy for this alleged breach of the Agreement.

The Postal Service questioned whether this grievance was arbitrable. It claimed that no provision of the National

Agreement limits or implies a limitation upon the right to train supervisors as deemed necessary by the Postal Service. As to the merits of the Union's claim, if that issue were to be addressed, the Postal Service contended that the language in the National Agreement, upon which the Union apparently relied, did not establish a priority or percentage of billets at Norman, Oklahoma which were reserved for bargaining unit personnel and precluded supervision from filling such slots. According to Management, billets could be reverted, assigned to different Regions, different installations within a Region, and so forth. Management always reserved the exclusive right to allocate the use of the available billets and did not relinquish that right during collective bargaining.

Statement of the Case:

The Union correctly pointed out that the issue of arbitrability was raised for the first time at the arbitration hearing. An examination of the manner in which the Postal Service addressed this grievance at the various steps of the grievance procedure revealed that the Postal Service simply maintained that the supervisor assigned to attend the course met the eligibility requirements. It also asserted that the grievance, as prosecuted, did not appear to present a national issue and should, "...be appealed to directly to regional arbitration in accordance with the provisions of Article XV of the National Agreement." At the fourth step, once again Management denied this grievance on the merits alleging a contractual violation did not occur. Management concluded that craft employees were not disadvantaged nor that the remedy requested by the Union would be appropriate.

For the reasons set forth above, consideration of the merits of the Union's claim is in order in this arbitration proceeding. This was a belated challenge to the arbitrability of the case.

The Union disclaimed any jurisdiction, by virtue of its bargaining status, over the manner in which Management assigned its supervisory non-bargaining unit employees. The Union took the position that the course was job related for bargaining unit personnel and for that reason Management could not deny bargaining unit employees their right to attend such course in favor of making such an opportunity available to a non-bargaining unit employee.

The Union argued that, over the course of negotiating

several national agreements, starting in 1973, it was able to achieve language in Article 38, Section 3-B, which guaranteed that all training that was going to increase an employee's skills had to be offered first to senior qualified volunteers within the occupational group, level, and tour where the need for the skills existed.

In the 1981-1984 Agreement, that language reads:

2. Other Training

- a. 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.
- b. All maintenance craft development training which provides an employee with additional skills for potential promotion or reassignment will be offered to qualified volunteers who are first on the appropriate promotion eligibility registers. (underlined language added in 1981 Agreement)

This newly added language in Section 2-b, underlined above as well as the incremental changes which were made in 2-a, the Union asserted, indicated that a limitation was placed upon who can attend job related training schools. This is job related training, the Union argued, as such is defined in Part 711.51 of the E&LR Manual. In addition, Mr. Pille, who was the supervisor selected by Management to attend the course and to use the one slot allocated to the Dallas BMC in March of 1982, did not perform duties or possess a job title listed in the eligibility requirements for the course. His regular job duties would not involve him in the maintenance control function.

Because the new language added as Section 2-g of the 1981 reads as follows, Management argued that it did not establish that bargaining unit employees would be given preference in assignment to training courses or that Management was required to exclude supervisors from receiving such training before all eligible bargaining unit employees had been given an opportunity to be trained.

Section 2-g reads:

- g. The Union, at the national level, will be furnished annually with a copy of the yearly allocation of training billets.

The testimony in the is record, from Management witnesses, confirmed that it was common for supervisors to attend training sessions and that many had been assigned to attend this maintenance control course. That same testimony confirmed that it had been an undisputed practice, in Dallas and elsewhere, to send along some supervisors, from time to time, to attend various job related courses. No effect had been given to the fact that the number of billets assigned to the facility might limit attendance, because of the assignment of supervisors, to less than the eligible number of bargaining unit members who might wish to attend, or who might profit by increasing their skill through attending such a course. There was no successful rebuttal of the testimony from Management witnesses, which also established that the number of billets assigned to a facility might be changed by reverting some, transferring some, or assigning some to another Region. Such a practice had not been challenged.

The Employer offered documentary evidence to establish that another supervisor, in addition to Mr. Pille, attended the course in issue. Another Employer exhibit established the names of still other supervisors who had attended this same course for the period between June 8, 1981 and July 26, 1982. No issue was apparently raised over a failure to exhaust the list of eligible and available bargaining unit employees before allotting a billet or billets to supervisors.

The Union claimed that, a strict reading of the eligibility requirements to attend this course would establish that Supervisor Pille was not eligible. He was a Maintenance Stores Supervisor. His normal duties did not require that he have anything to do with BMC maintenance control. Those eligibility requirements limit attendance to: "Maintenance Control Clerks, Control Supervisors, Superintendent of Technical Maintenance, and other maintenance staff involved in maintenance control functions at Bulk Mail Centers." (Underlining supplied by writer)

Before being reduced from Level 17 to 15, at the BMC, Pille had been assigned as a Supervisor of Maintenance Control from February 1, 1975 until February 11, 1978. He was also, according to the testimony of the Maintenance Control Supervisor at the Dallas BMC, frequently assigned in 1981 and thereafter to fill in as a Maintenance Control Supervisor at the BMC. Even if one were to argue that being supervisor of stores, Mr. Pille's current assignment, cannot be directly related to maintenance

obligations, his assignment or detail to attend the school and this course in order to upgrade his skills so that he could once again be considered for the higher rated position of Maintenance Control Supervisor cannot be viewed as an arbitrary, capricious or illogical exercise of managerial discretion when the Maintenance Manager at the Dallas BMC made this assignment.

What this case comes down to is the question of whether any of the language in the current National Agreement, upon which the Union relied, or the bargaining history, support the claim that the allotment of billets has been restricted in a manner which requires priority be given to bargaining unit employees over supervisors in making assignments to maintenance craft training opportunities. Nothing in the past practice revealed by the testimony in this record would support such a claim. Supervisors apparently have been assigned at will by Management to attend courses without regard to the number of opportunities remaining for bargaining unit employees. The language of Article 38, Section 2-a. only requires that when an assignment of a billet is made to an eligible member of the bargaining unit the billet must first be offered to "the senior qualified volunteer within the occupational group, level and tour where the needs for the skills exists." Section 2-b. further provides that in developmental training opportunities they will first be offered, when allotted to the bargaining unit employees, to "qualified volunteers who are first on the appropriate eligibility registers." The language in neither Section, referred to above, reaches out to inhibit assignments of this nature to non-bargaining unit employees of the Service.

The language quoted above from the National Agreement, which dictates who will get such training assignments from those selected in the bargaining unit, as well as the language of newly written Section 2-g., which obligates the USPS to furnish the Union with a copy of the yearly allocation of the training billets, does not impose upon the Service any added obligation to first fill such billets with bargaining unit employees before affording supervision with further opportunities for craft training and development. The Technical Training Center at Norman, Oklahoma has been employed to train non-bargaining as well as bargaining unit employees in the same courses at the same time. The Union has not had Management agree at the bargaining table, and incorporate such agreement into the contract, that any priority would be given to providing billets to members of the bargaining unit or control over the allocation of billets would be granted to or shared with the Union.

This record and the language of the National Agreement relied upon by the Union does not support such a claim, and for that reason this grievance must be denied.

A W A R D

This grievance, filed March 23, 1982, at the Dallas Bulk Mail Center must be and hereby is denied.


Howard G. Gamser, Arbitrator

Washington, DC
January 19, 1983