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INDUSTRIAL
RELATIONS

In the Matter of Arbitration
between

UNITED STATES POSTAL SERVICE

and

Case No. H1M-NA-C 13

NATIONAL POST OFFICE MAIL HANDLERS,
WATCHMEN, MESSENGERS AND GROUP
LEADERS DIVISION OF THE LABORERS'
INTERNATIONAL UNION OF NORTH AMERICA

and

AMERICAN POSTAL WORKERS UNION

APPEARANCES: Edward F. Ward, Jr., Esq. and David P. Cybulski,
Esq. for the Postal Service; William B. Peer,
Esq. for the Mail Handlers; Asher W. Schwartz,
Esq. and Arthur M. Luby, Esq. for the Postal
Workers

DECISION

This grievance arose under and is governed by the 1981-1984 National Agreement between the Postal Service and the Mail Handlers (JX-1). The grievance was appealed to arbitration on 19 November 1982 (JX-3). The Postal Workers (APWU) asked to intervene, and on 16 February 1983, the Postal Service, the Mail Handlers, and the APWU executed a Memorandum of Understanding (JX-8) providing in part:

It is hereby agreed. . .to submit the following issues to arbitration:

* * * *

2. Whether the bargaining-unit position entitled Mail Distributor, SP 2-200 was assigned to the appropriate national craft unit.

The parties agree to accept the respective arbitration Awards rendered pursuant to this Memorandum of Understanding as final and binding. . . .

The undersigned having been jointly selected by the parties to serve as sole arbitrator, hearings were held on 11 March and 13 May 1983, in Washington, D. C. All three parties appeared, were represented by legal counsel, and presented evidence and arguments on the issue set forth in the numbered paragraph 2 of the above-quoted Memorandum of Understanding dated 16 February 1983.

A verbatim transcript was made of the arbitration proceedings. Although the parties had agreed to submit post-hearing briefs, Mr. Peer, attorney for the Mail Handlers, wrote to the arbitrator on 31 May 1983 that the Union was waiving its opportunity to submit a brief "because it believes its position is adequately framed in the record and that no useful purpose could be served by delaying the disposition of this cause." The Postal Service and the APWU, however, each elected to file a post-hearing brief. Upon receipt of both briefs on 16 July, the arbitrator closed the record.

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

AWARD

The bargaining-unit position entitled Mail Distributor, SP-200 was assigned to the appropriate national craft unit, namely the clerk craft.

The Mail Handlers' grievance is denied.



Benjamin Aaron
Arbitrator

Los Angeles, California
31 August 1983

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OPINION

I

Article 1 (Union Recognition), section 1.5 (New Positions) of the 1981-1984 National Agreement between the Postal Service and the Mail Handlers (JX-1) provides in its entirety:

A Each newly created position shall be assigned by the Employer to the national craft unit most appropriate for such position within thirty (30) days after its creation. Before such assignment of each new position the Employer shall consult with the Union for the purpose of assigning the new position to the national craft unit most appropriate for such position. The following criteria shall be used in making this determination:

- A1 existing work assignment practices;
- A2 manpower costs;
- A3 avoidance of duplication of effort and "make work" assignments;

- A4 effective utilization of manpower, including the Postal Service's need to assign employees across craft lines on a temporary basis;
- A5 the integral nature of all duties which comprise a normal duty assignment;
- A6 the contractual and legal obligations and requirements of the parties.

B The Union shall be notified promptly by the Employer regarding assignments made under this provision. Should the Union dispute the assignment of the new position within thirty (30) days from the date the Union has received notification of the assignment of the position, the dispute shall be subject to the provisions of the grievance and arbitration procedure provided for herein.

Article I, Section 5 of the 1981-1984 National Agreement between the Postal Service and the APWU (JX-2) is identical.

On 14 June 1982, James C. Gildea, Assistant Postmaster General, Labor Relations Department, wrote to Lonnie L. Johnson, National Director of the Mail Handlers (JX-3), advising him that the Postal Service had created a new bargaining-unit position entitled Mail Distributor, PS-4, and enclosing a copy of a description of that position (PSX-2). Gildea also stated that, based on its preliminary review, the Postal Service believed that the new position "should most appropriately be assigned to the Clerk Craft of the American Postal Workers Union." Referring to paragraph B, section 1.5 of the National Agreement, Gildea urged that the necessary consultation with the Mail Handlers be concluded

promptly. Identical letters were sent on the same date to Presidents Biller of the APWU and Sombrotto of the National Association of Letter Carriers (JX-3).

On 12 July 1982, Gildea again wrote to Johnson (JX-3), enclosing a copy of the final position description of Mail Distributor, SP 2-200, PS-4, and notifying him that, pursuant to Article 1, section 5 of the Mail Handlers National Agreement, the position was being assigned to the clerk craft.

On 22 July, Johnson replied to Gildea, advising him that the Mail Handlers "dispute your assignment of this position and do hereby grieve, pursuant to Article 15.3 (D)" (JX-3). The grievance was denied, the Mail Handlers appealed it to arbitration on 19 November 1982, and the Memorandum of Understanding between the Postal Service, the Mail Handlers, and the APWU (JX-8) was executed on 16 February 1983.

At about the same time that it created the Mail Distributor position, the Postal Service had also created the position of Mail Processor, PS-3, which it also assigned to the clerk craft. The APWU grieved against the level of both jobs, arguing that each should be evaluated at one higher level. The Mail Handlers, in turn, also challenged the assignment of the Mail Processor position to the clerk craft, and claimed that it, like the Mail Distributor job, should have been assigned to the Mail Handlers. All four cases were eventually appealed to arbitration. Before his untimely death, Arbitrator

Howard Gamser had held one day of hearing on the issue of the appropriate level of the Mail Distributor position, which is still unresolved. The instant grievance involves only the appropriateness of the assignment of that job to the clerk craft.

At the initial hearing of this case on 11 March 1983, counsel for the Mail Handlers asked the arbitrator to postpone the hearing until the two grievances filed by APWU against the levels assigned by the Postal Service to the positions of Mail Distributor and Mail Processor, respectively, had been arbitrated. He also asked the arbitrator to order the Postal Service and the APWU to permit the Mail Handlers to intervene in those cases, although conceding that "[t]here is in existence . . . no joint agreement between the Mail Handlers and the APWU which would in haec verba permit our intervention" (Tr. 11). These requests were vigorously opposed by counsel for the Postal Service and for the APWU, and were denied by the arbitrator on the ground that he had no power to grant them (Tr. 69-70). At the Mail Handlers' request, however, the arbitrator did agree to postpone the hearing because two of that Union's key witnesses were unavoidably absent from the hearing on 11 March. The merits of the case were heard at the hearing on 13 May 1983.

II

The job description of Mail Distributor, PS-4, reads

In part:

BASIC FUNCTION. Distributes mail manually, not requiring scheme knowledge, in accordance with established procedures. . . .

DUTIES AND RESPONSIBILITIES

1. Manually distributes mail of all classes using only ZIP Code knowledge, alphabetical and/or geographical groupings in accordance with established procedures.
2. Manually distributes mail to lock box sections.
3. Performs miscellaneous duties incidental to mail processing in accordance with mail processing work assignment guidelines.
4. Performs other job related tasks in support of primary duties.

The Postal Service's Mail Processing Work Assignment Guidelines are embodied in Regional Instruction 399, dated 15 November 1978, which appears at pages 117-36 of the 1981-1984 Mailhandlers' National Agreement and also in Joint Exhibit 5.

The basic function of the Mail Distributor position is nonscheme manual mail distribution, although the position description also refers to a few other miscellaneous duties. Regional Instruction 399 contains numerous references to manual distribution of various types of mail: specifically, operations 030, 040, 043, 044, 045, 060, 070, 073, 074, 075, 100, 134, 150, 160, 168/169, 170, and 200; these operations include manual distribution of incoming primary and secondary letters, state distribution letters, sectional center distri-

bution letters, nonpreferential distribution letters, outgoing flat primary and secondary, state distribution flats, sectional center distribution flats, outgoing flat secondary nonpreferential, outgoing parcel distribution, sectional center distribution, box section primary and secondary, incoming flat primary, and incoming parcel distribution. In each of the above cases, in which the words "manual distribution" are specifically used, the designated primary craft is the clerks.

The Mail Handlers' principal witness, James D. Bratcher, is Administrative Technical Assistant to National Director Johnson. He sponsored several exhibits (MHX-3, 4, and 7), consisting of a series of job postings taken from selected postal installations in which heavy lifting was identified as part of the Qualification Standard of the Mail Distributor. Bratcher's attention was directed to a footnote in Regional Instruction 399 that reads in part:

In offices where the tasks of . . . obtaining unprocessed mail. . . is [sic] an integral part of the distribution function, the entire operation is a function of the primary craft performing the distribution.

Asked, on cross-examination, to state his opinion whether Regional Instruction 399 precludes a Clerk Craft Mail Distributor from being involved in heavy lifting in Operation 200 [Incoming Parcel Distribution], Bratcher replied: "[I]f this work cannot be separated away from the primary, cannot

be efficiently separated, . . . then it becomes part of the distribution function. . . . Yes, he [i.e., the Distribution Clerk] could do it" (Tr. 135-36).

Also on cross-examination, Bratcher engaged in the following colloquy with counsel for the Postal Service (Tr. 123-24):

Q. Who manually distributes letters in the Postal Service, which craft?

A. Clerk Craft does.

Q. Who manually distributes flats in the Postal Service?

A. Clerk Craft.

Q. Which Craft manually distributes [individual] letters involving no-scheme?

A. Clerk Craft.

Q. Which Craft manually distributes flats without the benefit of schemes?

A. Individual flats, Clerk Craft.

Witnesses for the Postal Service testified that for many years the Clerks have been responsible for nonscheme distribution of flat and letter mail. In view of the testimony elicited from the Mail Handlers' principal witness, I think it unnecessary to summarize in further detail the testimony of the Postal Service's witnesses.

III

Despite the voluminous record in this case, the testimony

and written evidence submitted by the Mail Handlers falls far short of proving that the position of Mail Distributor, SP 2-200 was improperly assigned to the Clerk Craft. The evidence is overwhelmingly to the effect that this work has traditionally been performed by Clerks. Regional Instruction 399, which has been incorporated in the Mail Handlers' and the Clerks' 1981-1984 National Agreements, assigns this work to Clerks. Occasional assignments of this work to Mail Handlers in some post offices, if it has occurred, has no effect on the issue in this case. Even if the nonscheme manual distribution of mail sometimes incidentally involves heavy lifting, it is clear that such work nevertheless belongs to the Clerks.

Discussion of the relative costs of assigning the disputed position to Mail Handlers or to Clerks is irrelevant; ultimately, the cost will be determined by the pay level assigned to the position--an issue not involved in this case.

For the foregoing reasons, the Mail Handlers' grievance is denied.



Benjamin Aaron
Arbitrator