

United States Post Office Department	*	
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United Federation of Postal Clerks	*	Case No. 242-PO-9
	*	Washington, DC
and	*	
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National Association of Mail Handlers, Watchmen, Messengers and Group Leaders	*	

U.S. Postal Service Brief to the Arbitrators.

Introduction

On March 25 and 26, 1971, Arbitrator N. Thompson Powers presided at a unit clarification arbitration hearing held pursuant to Section 11 of Executive Order 10988. The arbitration was sought by the United Federation of Postal Clerks (hereinafter the Clerks) when it filed a Request for Nomination of Arbitrators,^{1/} seeking a unit clarification regarding the assignment by the Post Office Department of certain positions to the unit represented by the National Association of Mailhandlers, Watchmen, Messengers and Group Leaders, AFL-CIO (hereinafter the Mailhandlers). The positions in question in this hearing are the Sack Sorting Machine Operator, level 4, Standard Position 2-367; Sack Sorting Machine Operator, level 5, Standard Position 2-438; and the Mailhandler Technician, level 5, Standard Position 2-498. By letter dated December 30, 1970, the Assistant Secretary of Labor notified the arbitrator of his nomination and selection, appointed him the arbitrator under the authority of Section 11 of Executive Order 10988, and authorized him to conduct a hearing and issue an advisory decision to the Postmaster General (JI. Ex. No. 16).

Background

Prior to the establishment of the three positions in question, the Post Office Department notified the Clerks and other labor

^{1/}Joint Exhibit 4, (JI. Ex. 4)

organizations, of the proposed salary levels and craft identification of the positions (POD Ex 14; POD Ex. 15). Consultation with the various organizations was scheduled (POD Ex. 16) and held as required by the collection bargaining agreement (JT Ex 1). The Post Office Department assigned the three positions in question to the Mailhandler unit. (JT Ex 2; JT Ex 10, letters attached). The positions in question were three of 12 proposed at that time, with the remaining nine being assigned to the unit of postal clerks. On December 30, 1968, after the consultation with the organizations, the positions were established and the units designated. Two of the three positions are sack sorting machine operators, the third a mailhandler technician. The two sack sorter positions can be discussed together, as the basic work is similar, with the degree of complexity being greater for the higher level job.

Discussion

Sack Sorting Machine Operators

The incumbents of SP 2-367 and SP 2-438, operate sack sorting machines. The sacks of mail are fed to the operator by a conveyor system. The level 4 operator reads the sack label, makes separation by ZIP Code, directs and alphabetical, and geographic grouping, presses a key or combination of keys on a keyboard which directs the machine to move the sack to an appropriate area for further handling or processing (JT Ex 13(a)). The level 5 operator also operates a keyboard to make separation by other than ZIP Code, directs, alphabetical, or geographic groupings.

(JT Ex 13(b)). In performing the required work both the level 4 and level 5 sack sorter operators are required to translate no more than 80 to 100 items into one of 10 to 30 different separations (Transcript, page 188, line 25 to page 189, line 23.^{2/}

^{2/}References to the Transcript will be cited hereafter as TR 1:1, referring to page 1, line 1.

To assist them in making the separation, reference boards, with all the potential items and their separation codes are posted near the operator. (TR 189:20).

Prior to the advent of mechanized sack sorting equipment, the same separation of sacks had to be accomplished. (TR 25:21). At that time (and currently in nonmechanized facilities) the work was performed by Mailhandlers, incumbents of Key Position 8.

(TR 63:6). The basic duties of a Mailhandler KP-8, is to move the bulk mail, making simple separations. (JT Ex 21).

The distribution clerk, Key Position 12, (JT Ex 21) makes distribution with scheme knowledge. Many definitions of "schemes" appear to exist. The lower end was expressed by Don Dunn, Executive Vice President of the Clerks, as relying on memory in making a separation of two items (TR 288:11). Carroll Hines, Assistant Director of Schemes and Routing Branch, Post Office Department, indicated the smallest state general scheme required the memorization of 125 items and the average state general scheme normally includes about 700 items (TR 181:13). The city scheme of Atlanta contains about 1200 items (POD Ex 10).

McBride, a level 6 sack sorter in Greensboro, is required to have scheme knowledge (POD Ex 4; TR 226:17) and the scheme which he has committed to memory contains several hundred items (POD Ex 11). Neither the Level 4 or Level 5 sack sorter is tested for scheme knowledge. Their reference boards, containing up to 80 items, contain all the potential items which might be utilized. Admittedly the reference boards might not be utilized for the decision on each sack. This may result from the fact that the machine operator had been making the same decision when he separated the sack by hand (TR 206:4; TR 214-20) or because the comparatively small number may be committed to memory, by the mere repetition of the job (TR 207:17). In either event, the boards usually exist, may be consulted, and the sack sorters, level 4

and 5, are never given a scheme examination.

McBride stated that he had scheme knowledge and held a sack sorter level 5 position in 1968, prior to the date the position was established (TR 246:14). He admitted he did not know the position number (TR 246:24), and it is likely that he held an individual position (IP), which is used until a standard position can be established (TR 310:5). McBride's level 5 was not the level 5 sack sorting machine operation, SP 2-438, in issue, and the scheme knowledge requirement was not tied to that position. That knowledge did qualify him for the level 6 position, to which he was promoted.

The Clerks note that the mailhandlers position description, KP-8, which was established by an Act of Congress, indicates "occasional simple distribution of parcel post," apparently contending that such language proscribes the mailhandlers from separating bulk mail. Such an interpretation would overlook other portions of the KP-8 position description, namely item (A) of Duties and Responsibilities, which states in part "Separates all mail received by trucks and conveyors for subsequent dispatch to other conveying units, and separates and delivers working mails for delivery to distribution areas."

Furthermore, to accept the Clerks' contention is to suggest that the Congress, which wanted to make clear the difference between an incidental (occasional) and a primary function of simple distribution of parcel post, was unable to make the distinction between parcel post (which it specified under Duties and Responsibilities, (F)(ii)) and bulk mail (which it specifies under Basic Function). The Clerks appeared to ignore the distinction between bulk mail and individual pieces of mail, thus making the limitation on parcel post distribution carry over to sack sorting. The two have always been considered separate and distinct. (TR 126:1;

TR 154:19) The encoder operator position, for example, was assigned to the Clerks' unit because it deals with single pieces rather than bulk mail. (TR 159:7).

Any possible confusion arising from the fact that the sack sorting machine operator, level 5, is referenced to Key Position 12, a distribution clerk, was dissipated by Gordon Ewall's testimony. (Although the Clerks seemed to raise the issue, it must rely on the theory selectively because it also claims the sack sorting machine operator, level 4, belongs in the clerks' unit notwithstanding the fact that that position is referenced to Key Position 8, Mailhandler). The reference to Key Position is a statutory requirement for ranking the level of difficulty and responsibility of a job for pay purposes. (TR 87:106 and other parts). Only 4 key positions exist in level 5, and a standard position with that level of difficulty must be referenced to one of those four (39 USC 3501).^{3/} Clearly it is not an effort to match functions (TR 106:16) although functions must, of course, be considered to assess the level of difficulty. Other factors enter into ranking a position for pay purposes. For example, the actual job duties may be ranked at a level 4, but the working conditions may modify the level. For example, the fact that a machine is machine paced rather than operator paced may add a level for ranking purposes (TR 145:25).

Clerk Exhibit 12 and testimony of Don Dunn (TR 282:5) indicates that in December 1966 and April 1967 the Post Office Department planned to assign the sack sorter position (level 4 and 5) to the Clerks' unit. Existing Post Office Department records on the position go back to 1968 and, therefore, do not reflect the deliberations of earlier years. Assuming, arguendo, that in 1966 and 1967 post office officials indicated that such a unit assignment would be made, it is not relevant to the decision made in late 1968. As noted herein, in the fall of 1968, the unions were informed of a proposed designation. Consultation was held pursuant to the contract, and the opportunity to change a proposed designation existed. The Post Office assumes that the Clerks

^{3/}See the 1970 pocket part of the U.S.C.A. through 1971 pocket part contains the new Title 39, as revised and reenacted by the Postal Reorganization Act.

union is not suggesting that the Department, upon further consideration, may not modify its tentative position. Such a concept would be contrary to the consultation rights contained in the National Agreement because consultation contemplates an open mind, not an irrevocable decision. Furthermore, it appears that the position of the Clerks was modified when it protested the craft designation of the level 4 sack sorter less than two weeks after it seemed to accept the proposed designation (see JT Ex 1, page 1, paragraph 2).

Mail Handler Technician

The craft assignment of the Mailhandler Technician position, SP 2-498, is the third position assignment challenged by the Clerks. The thrust of the Clerks' argument must be based on the testimony of Don Johnson. Johnson stated that in the Louisville post office the Mailhandler Technician position is clearly related to the Distribution and Dispatch Expediter position, SP 2-382, Clerks Ex. 7 (TR 254-5). This asserted close relationship merits even closer evaluation.

The position description of the Mailhandler Technician (JT Ex 13(c)) includes, under basic duties, that the incumbent "performs the sorting of pouches, sacks, and/or trays". His duties include, under (A) "examines, sorts and routes several hundred pouches and sacks of preferential mail daily," and "performs loading, unloading, dumping, sacking and other mailhandler functions as required." The duties (B) include, in addition to duties similar to those described in (A), that he "opens and dumps pouches and sacks" of mail. Guy Kissinger testified that, as a Mailhandler Technician, he "split pouches", i.e. separated pouches. (TR 219:6). After reading the label, he carries the sack to the appropriate nutting truck. (TR 220:4). Thus, the Mailhandler Technician performs the same physical moving of the bulk mail as does a Mailhandler. The difference in the position is that the Technician, in addition to mailhandler duties, maintains certain

records (Kisbinger "make/□ notations" of late arriving pouches-- TR 223:4) and trains employees (TR 221:16). These duties are merely additions to the basic mailhandler position. Along with the additional skill of being familiar with dispatch schedules must be considered the fact that a sheet containing this information is available to the technician. (TR 221:7) Like the Mailhandler, KP-3, no scheme knowledge is required.

Johnson testified that this position is closely related to that of the Distribution and Dispatch Expediter. But nowhere in that position description (Clerks Ex. No. 7) can it be found that the Distribution and Dispatch Expediter will physically move a sack. Johnson admitted that the Expediter might move a sack onto a nutting truck "upon occasion" to make sure it will get out on time. (TR 262:24). Johnson did not consider the moving of sacks a primary function of the Expediter. (TR 265:11). The Distributor and Dispatch Expediter must have scheme knowledge. (Clerks Ex. No. 7).

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It is clear that there is some overlap between the two positions. Overlap between positions is, as noted by Martin Steckel, a frequent occurrence, and in many cases, required by statute (TR 151:12). The overlap here relates to the Mailhandler-Technician's knowledge of dispatch schedules and his occasional notations of late pouches. These additional duties and responsibilities are added to all the duties of a Mailhandler. The technician moves bulk mail, but is charged with a greater awareness of the system than a mailhandler. The Distribution and Dispatch Expediter moves sacks only on occasion, in an effort to accomplish the overall objective of timely dispatch.

Conclusions

Section 11 of Executive Order 10988 provides that each agency is responsible for determining the appropriate unit for collective bargaining with Section 6(a) of the Order establishing

community of interest as the essential factor of an appropriate unit. The Civil Service Commission is charged with the responsibility of developing a program to carry out the Order and to guide the agencies.^{4/} Civil Service Commission guidelines included, in Section 5.15 of Employee Management: Cooperation in the Federal Service (POD Ex 12; TR 152), refers to community of interest as the essential ingredient in every appropriate unit, with consideration of skills, working conditions, common supervision, physical location or function.

Following these guidelines is difficult, and the difficulty is amplified by congressionally established overlapping of craft duties discussed above. However, in the case of the sack sorting machine operator positions, level 4 and 5, the basic function of the mail handler was mechanized and the sack sorter operator runs the mechanized equipment. The basic skills are those of the mail handler, the ability to separate bulk mail without scheme knowledge.

* → ^{1/}The additional skill of operating the keyboard can be learned in a very short period of time. (TR 208:20; 227:7)⁷. The function of separating and moving bulk mail is that of a mailhandler. The assignment of the position to the mailhandler craft was a matter of assigning the work to the craft which had traditionally performed that work. Emphasis was placed on the skills required and function being performed.^{5/} Consideration of these factors leads to the conclusion that the two positions were properly assigned to the mailhandler unit.

Application of the community of interest standard in considering the Mailhandler Technician position also leads to the conclusion that it was properly included in the mailhandler unit. The evidence clearly shows that certain duties and responsibilities

^{4/} (Section 12, Executive Order 10988)

^{5/} The third sack sorter position established at the same time was assigned to the clerks' craft. This was the result of the direct clash of two important factors in determining community of interest. Scheme knowledge was required, as traditional clerk skill; bulk mail was separated and moved, a traditional mail handler function. The position was assigned to the clerks after evaluating all the factors (TR 155:13).

were added to those of the Mailhandler, KP-8, resulting in the new position. One added duty, that of providing on-the-job training is similar to a duty of the mailhandler group leader, or position in the Mailhandler craft. (PCD Ex 5) Two duties, routing mail and maintaining records, are admittedly closer to work traditionally performed by Clerks. However, it is the basic mailhandler function which was built upon, and the additional duties are not so extensive as to change the nature of the job. The additional skill of being familiar with dispatch schedules cannot be considered an overriding factor, particularly when the employee has the information provided to him in written form.

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reference
boards

A complete analysis shows that the major portion of the Mailhandler Technician's skills and functions are identical to those of a mailhandler. Accordingly, the Post Office Department contends that it properly applied the community of interest standard and that the mail handler unit is the appropriate unit for the craft designation of the Mailhandler Technician.

The Post Office believes that its craft assignment of all three special positions was based on a properly applied community of interest standard. We point out that Section 11 of the Executive Order places the responsibility of determining the appropriateness of the unit on the Agency involved, and contend a challenger on such a determination has the burden of proving that the determination was not appropriate. The Post Office Department contends that the Clerks failed to sustain the burden of proving that the craft assignments in question were not appropriate.

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