

Local Presidents
Maintenance Craft Directors

Brothers and Sisters,

National panel Arbitrator Shyam Das recently ruled on the interpretive dispute in case I94T-4I-C 98116745, which has been referred to as the 'Line J' case. He has interpreted the application of the 1983 MS-47, Housekeeping Postal Facilities Handbook and remanded the case to regional level for application of his award. We believe some explanation is warranted with respect to the impact of this award.

A brief history before we continue: The MS-47 Handbook is the controlling document that establishes staffing of the Maintenance Craft custodial workforce in all postal facilities. It directs what work is to be performed by specific tasks and frequencies of those tasks. In the 1983 MS-47, unit performance times and frequencies of those required tasks are used to complete the custodial staffing package which consists of three parts – PS Form 4869, the inventory; PS Form 4839, the schedule; and PS Form 4852, the summary. By a previous national level arbitration award (Howard Gamser, A8-NA-0375, October, 1981) the Service was required to abide by the unit performance and frequency requirements of the 1974 MS-47 Handbook. Subsequent to this the MS-47 was revised in 1983 in a bilateral agreement between the Service and the Union. And we have developed a rich history of enforcement of custodial staffing packages since that time under the 1983 MS-47 in the light of the Gamser award. But in December 2001, the Service unilaterally issued a completely revised version of the MS-47 Handbook. The APWU filed a national level grievance over the revision of the Handbook, which is pending arbitration. It remains the position of the APWU that we do not recognize the December 31, 2001 MS-47 as a valid handbook.

Our analysis below is solely based on, and must be understood in the context of, the 1983 MS-47 Handbook and the recent national award by Das on 'Line J' of the PS Form 4852 of the 1983 MS-47.

Primary points:

1. The case before Das (he repeatedly made this clear) only involved a fully staffed facility.
 1. Das also noted the case was (emphatically) not a staffing case.
 2. We must distinguish application of Das. Where an office is clearly understaffed or where we are contesting the level of staffing, our approach must primarily address the work associated with the unfilled positions.
2. Das reinforced Gamser and dismissed the Service's claim that Gamser only applied to the 1974 MS-47. This being the case, the Service cannot contend that Gamser does not apply to the 2001 MS-47.
3. Das clarified and elaborated on the scope of Gamser, especially in light of the 1983 MS-47 language describing how staffing level is determined. Das took Gamser's ruling that required the Service to abide by the unit performance and frequency standards of the MS-47 and ruled that the unit performance and frequency standards applicable in any given office were those found in the construction of the PS Form 4852 for that office.
 1. The real importance of this is to dismantle the Service argument that, in any given office, at any given time, it only needed to satisfy the bare minimum frequencies listed in Chapter 4 of the MS-47.

4. This leads to the fundamental ruling by Das that 'Line J' does not so much identify an absolute number of hours-per-week that must be worked as it serves as an important tool to measure the Service's compliance with its obligations.
 1. In this regard, Das found that the Service is, in fact, obligated to perform all the work it has identified as necessary by including it on the PS Form 4852.
 2. This means that we must look to the work, not just the hours.
5. Exceptions to the required work issue were identified by Das. He found that seasonally impacted work – principally, if not exclusively, snow removal and lawn care – may legitimately not be performed at the level otherwise dictated by the PS Form 4852.
 1. He also addressed "unexpected absences" as a possible reason the Service could justify a failure to perform all work. This may be expected to give the Service an angle to argue "unexpected absences" as an excuse in a given case.
 2. We believe this can be adequately overcome simply by holding the Service to the standards of MS-47, 340.
6. There is good reason to expect the Service to attempt to argue some of our grievances ought to be dismissed because they fail to be "fully properly documented" as was discussed in the case before Das.
 1. As this is certainly not a new argument for the Service, it cannot be viewed as having gained ground just because of Das.
 2. Each case we still have pending will ultimately be judged, at least in part, on the basis of how well it is documented by both sides.
7. This raises the point that we must look at our cases with an eye toward the documentation of work, more so than hours.
 1. Where the Service failed to properly document the performance of custodial work (lack of PS Forms 4776 or equivalent) it cannot prove that any custodial work was performed.

It ought not be missed that the 'Line J' case originated, in part, because the Service (in this fully staffed facility) refused to use and provide PS Forms 4776 to document custodial work. We have fought for years to bring the Service into compliance on this issue. In spite of seeming agreement at the headquarters level, the Service in the field has failed miserably on this point. We must use this failure to our advantage. Unfortunately, this point is not specifically addressed in the Das award.

If it is not the hours, but the work that is at issue – it is the Postal Service who had the obligation under MS-47, 330 to fully document the performance or lack of performance of custodial work. Each of our pending cases must be presented, when remanded, in this context. While we may attempt to shift the burden of proof to the Postal Service, we must nonetheless prepare to prove that failure to perform work cannot be justified by any of the permissible exceptions described by the Das award.

We look forward to working with you on your pending grievances that may now be addressed under the rulings by Arbitrator Das. Please review your cases and feel free to contact us regarding any of these issues.

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