

C# 10577

REGULAR ARBITRATION PANEL

IN THE MATTER OF THE ARBITRATION)

between)

UNITED STATES POSTAL SERVICE)

and)

NATIONAL ASSOCIATION OF LETTER
CARRIERS)

K. BLACKNEY

WESTLAND, MICHIGAN

C7N-4B-C 8317

GTS: N/A

BEFORE:

James P. Martin

APPEARANCES:

For the U.S. POSTAL SERVICE:

Bennie J. Powell

For the UNION

Paul Diebolt

Place of Hearing:

Westland, Michigan

Date of Hearing:

November 6, 1990

AWARD:

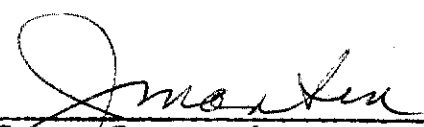
Management violated the Agreement when it failed to award the #2 V.O.M.A. position to the grievant; that the Grievance is allowed, and the grievant is to be made whole for all losses incurred as a result of the contractual violation.

January 28, 1991

RECEIVED

FEB - 4 1991

RONALD BROWN


James P. Martin
Impartial Arbitrator

ISSUE

Was Management in violation of the Agreement when it failed to award the No. 2 V.O.M.A. position to the grievant? If so, what is the remedy?

NATURE OF CASE

On March 24, 1988, the position of V.O.M.A. No. 2 was posted. The position was to be awarded to the senior qualified applicant. Applicants were required to submit an eight point personal qualification questionnaire along with their bid. On April 20, 1988, a notice was posted awarding two V.O.M.A. positions, one to an employee senior to the grievant, and one to an employee junior to the grievant. This Grievance was filed claiming a violation of the Agreement due to the fact that the grievant was senior to the employee who was awarded the #2 V.O.M.A. position, and the grievant was qualified for the position. Additionally, the claim was made that the request for eight points on the personal qualification questionnaire was improper, since the minimum qualifications for the position, as set out in EL303, related to only four elements.

In its answer to the Grievance, Management stated that the employee had 15 accidents in 15 years, which made her safety record disqualifying, and that the grievant was not qualified under the "ability to work without immediate supervision" element, because of a string of defective performances as a Letter Carrier: A negative attitude towards supervision, inadequate production, improper expansion of time on the street, and, as noted, an unsatisfactory safety record.

EL303 sets out four general provisions or requirements, and two special ones: B4, ability to work without immediate supervision; B5, ability to perform preventive maintenance; B10, ability to maintain records and prepare reports; B19, ability to instruct; sufficient knowledge of automotive equipment to evaluate commercial repair invoices, and ability to determine the efficiency of motor vehicle assignments and schedules and develop and recommend improvements. In the Postal questionnaire sent to the bidders, Management added four additional B-elements: B6, B7, B9, and B11.

At the Hearing Management acknowledged that it used the answers to all eight questions to evaluate the grievant as to having minimum qualifications. No evidence

was presented as to the claim in the answer to Step Two that the grievant had 15 accidents in 15 years. No evidence was presented as to any disciplinary action taken against the grievant, the withholding of Step increases, the placement of the grievant on restrictive sick leave, or any disciplinary actions of any other kind.

APPLICABLE CONTRACT PROVISIONS

.12 Senior Qualified Craft Positions. Seniority determines the relative standing of the career employee who is qualified and eligible to bid for such positions. Selections are made on the basis of seniority among those employees who meet the minimum qualifications.

.13 Best Qualified Positions. The qualifications of the eligible applicants are reviewed, compared, and ranked; on the basis of total qualifications, the best qualified eligible is identified and selected.

110 Purpose

The purpose of these qualification standards is to establish selection criteria so that U.S. Postal Service positions are staffed with fully qualified persons whose job performance will provide effective customer service and efficient postal operations. The qualification standards state the minimum knowledge, skills, abilities, and other requirements that are essential for successful job performance. Some qualification standards may also indicate desirable qualification factors which may be used in selecting applicants for best qualified positions.

150 Using Qualification Standards to Fill Vacancies

151 Posting Vacancies

Position vacancies to be filled by bid or application are posted in accordance with the applicable collective bargaining agreement and Handbook P-11. The qualification standard appropriate for the particular position must be included in the announcement. This handbook is the source of such qualification standards. Except as provided in section 142 of this handbook, no additions, deletions, or modifications are permitted.

152 Selection Decisions

152.1 In making selection decisions, qualifications are assessed using information obtained (1) from the employee's Official Personnel Folder or other official USPS records, and (2) from the employee's

responses to the questions relative to the specific "B-elements". For qualification standards without "B-elements", qualifications are assessed using the employee's responses to the specific knowledge, skill, or ability requirements contained in the qualification standard. All requirements contained in the qualification standard must be used on Form 1796, *Qualification Rating*, to determine an applicant's qualifications. (See Handbook P-11, section 525.23 for further instructions regarding Form 1796.) **Note:** The requirement for the use of Form 1796 does *not* apply to those positions covered by the Maintenance Selection system. (See section 152.5.)

152.3 For bargaining unit positions filled on the basis of "senior qualified", the senior bidder's qualifications are compared to the published qualification standard. The senior bidder is selected if qualified. (See Handbook P-11, section 525.12.) If management is unable to adequately evaluate the senior bidder's qualifications from information contained in the employee's OPF or other official records, management may request employees to describe in writing their qualifications. This description must address the requirements given on the qualification standard and, where applicable, the "B-element" questions given in Appendix I. If the senior bidder does not meet the requirements of the position, the next senior bidder is rated, and so on until the senior qualified bidder is determined.

Vehicle Operations-Maintenance Assistant—Level 6 (0341-06)

Document Date: November 30, 1987

Function

Conducts the vehicle operations program and maintenance function at a perimeter office where postal-owned vehicles are assigned.

Description of Work

See Handbook EL-201 (P-1), *Standard Position Descriptions*, for the occupation code given above.

Proficiency Requirements

1. General

Applicants must have demonstrated to a sufficient degree the following skills, abilities, and knowledge to assure adequate performance in the position:

B-4. Ability to work without immediate supervision.

B-5. Ability to perform preventive maintenance.

B-10. Ability to maintain records and prepare reports.

B-19. Ability to instruct.

2. Special

Applicants must have:

- a. Sufficient knowledge of automotive equipment to evaluate commercial repair invoices.
- b. Ability to determine the efficiency of motor vehicle assignments and schedules and develop and recommend improvements.

DISCUSSION

There are two types of positions, senior qualified and best qualified. The best qualified position allows the Postal Service to pick the best bidder, regardless of seniority, while the senior qualified position requires the Postal Service to award the bid to the senior employee who can meet the absolute minimum qualifications. These qualifications are pre-established by Management, in its Manual EL303. The position of V.O.M.A. has four elements listed as constituting the minimum for qualified. It states that it is the source of such qualification standards, and, with the exception of driving and typing requirements, no additions, deletions, or modifications are permitted. Management blithely ignored this requirement, and added four more of its own: The questionnaire required employees to inform Management, for its consideration, of four factors not to be considered in determining minimum qualifications. That, in and of itself, makes the selection process invalid, and a clear violation of the Agreement. In addition to this, Management failed to offer any substantial proof of the grievant's disqualification of one required factor and one arbitrarily-added factor. The grievant was purportedly

unable to work without immediate supervision. While allegations were made of certain failures, no substantial proof was presented. There was no discipline against the employee for not performing her job effectively without immediate supervision, and it is patently clear that Letter Carriers work without immediate supervision; there was no showing of any discussions; there was no withholding of Step increases because of inadequate performance; in short, while Management did not appear to like the grievant's performance, they certainly did not do anything to improve it. The evidence is totally inadequate to support the claim that the grievant did not meet the requirements of being unable to work without immediate supervision.

Next, in the Step Two answer, the grievant was accused of having 15 accidents in 15 years. The grievant testified that she drove 15 years in the Postal Service without an accident, and had spent five years without any accident while driving outside of her work. No evidence was presented on the part of Management that the grievant had indeed had 15 accidents in 15 years, and it is an affirmative obligation on the part of Management to prove what it claims. It did not do so in this case.

The grievant therefore is found to have met the minimum qualification standards for the V.O.M.A. #2 position, and she was the most senior employee who was minimally qualified for that position. Since she was not selected, she was denied her contractual rights, and the Grievance is allowed.

As to remedy, the grievant is entitled to be made whole. The grievant is entitled to the difference between Level 5 and Level 6 pay during the time she would have held the V.O.M.A. #2 position, and is further entitled to the overtime worked by the employee who was placed in that position, until some action was taken which would end this remedy, evidence of which was not placed in the record.