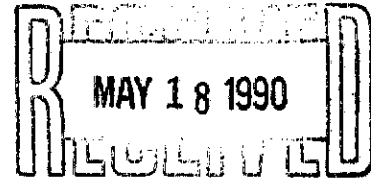


C#10026



WAYNE E. WHITE, NBA  
ATLANTA REGION

REGULAR ARBITRATION PANEL

In the Matter of the Arbitration  
between  
UNITED STATES POSTAL SERVICE  
and  
NATIONAL ASSOCIATION OF LETTER  
CARRIERS

GRIEVANT: CLASS ACTION  
POST OFFICE: GASTONIA, NC  
CASE NO: E4N-2GC34281  
NALC GTS 1681

BEFORE: WALTER H. POWELL

ARBITRATOR

APPEARANCES:

For the U. S. Postal Service: DENNIS MC PETERS, Labor Rel. Rep.

For the Union: D. ROBERT JOHNSON, Local Bus. Agent

Place of Hearing: GASTONIA, NC

Date of Hearing: MAY 8, 1990

AWARD: GRIEVANCE IS DENIED. Management did not violate the Local Agreement in using the number of employees on the current roster as the base.

Date of Award: May 15, 1990

Arbitrator

ISSUE

Whether the Postal Service violated the National and Local Agreement when it used the actual number of employees employed as the base for vacation choice and determination? If so, what shall the remedy be?

FACTS AND BACKGROUND

The parties were in general agreement about the facts leading up to the present grievance. Under Items 4 and 12 of Article 30 of the National Agreement, the parties are to negotiate and agree upon the following:

ITEM 4. Formulation of local leave program.

ITEM 12. The procedures for submission of applications for annual leave during other than the choice period. Before the last local agreement, the parties had agreed that fourteen ( 14 % ) percent of the carriers could go on vacation during one of the choice weeks selected. At the last negotiation the following language was agreed upon:

ITEM 12 - 12% or 10 letter carriers, whichever is the lessor thereof, will be granted incidental leave. Choice vacation and other inclusion therein will count toward the above percentage number.

At the Gastonia, NC Post Office there is authorization for 81 carrier positions. Two of those positions have not been filled, and at the present and since the inception of this grievance on September 8, 1986 there have been 79 carriers or full time equivalents employed by the Gastonia Post Office. Management allowed only 9 vacation spots based on the following formula  $12\% \text{ of } 79 \text{ equalling } 9.48 \text{ spots}$ . The Union contends that they had eighty ( 80 ) Carriers on the roster plus a new assignment for a relay route, and the base should be either 80 or 81 carriers. Thus this grievance is for an additional slot for the choice vacation week or permissible level of vacations to be granted.

UNION'S POSITION; There were 80 carriers on the roster. When a vacancy occurred, management did not fill the additional spot by hiring. The result was that the number of vacations spots have been reduced. Actually management has increased the number of full-time carriers by moving one of the Part-Time Flexibles to a regular position. Anytime that management wishes to reduce the number of vacation spots, management can refrain from hiring and thus cause a reduction in the number of available spots as the base to which the percentage is applied.

Management should restore the ten vacation spots based on either the 80 man roster in effect in 1985 or the authorized limit of 81.0

POSITION OF THE POSTAL SERVICE; The percentage is and should be based on the number of carriers available for work and assignment, not on a phantom number which might not be utilized. There has been no intent to deprive any of the carriers of the choice period. The number of carriers or full-time equivalents has remained the same for the past four years.

Vacations should be based on the number of people available to deliver the mail, not on a fictitious number of what might be. When the choices are made in November and subsequently approved, management cannot reduce the number of employees who are eligible for the choice weeks if there is a later reduction in force. If there is an increase in force, the numbers will be adjusted upward to reflect the increased population available.

#### DISCUSSION AND OPINION

There are no standards, guide lines or practices which can assist or steer the parties towards a proper conclusion. On the basis of what the parties agree upon, they selected a percentage, now the question is what is the proper base. The carriers were accustomed to having ten people take the choice week or weeks. Management to properly man the station in Gastonia must approximate the numbers to carry out the mission of the Postal Service. Ultimately only people can deliver the mail; thus authorization for increased carriers, or slots not

filled will be of little value in delivering the mails, if these slots aren't filled. At the time when employees make their request, there is a fixed number of employees eligible. If the number of eligibles ( those on board ) is used as a base, the number is a finite fixed figure with which management must properly plan.

If during the period between selection and acceptance and the choice vacation week, there is a decrease in the number of employees, management must cope with this change and use whatever techniques it may have available to honor the vacation choices. The employees are protected in either case, whether there is an increase or decrease in the population, their choices are not adversely affected. Contrariwise if the population is increased, management must readjust the number of allocated spots upward.

Management offered as proof of the 79 employees, the reported figure on Form 1832 C; the Union properly contradicted this as the basis for a decision, in that the form can and is amended at any time it is necessary to do so. The collective bargaining agreement allows the Postmaster the right to revert or abolish jobs. This flexibility is not only a management right; but an essential tool of management in meeting the demands of their station and their mission. The employees are protected in their choices, by the fact that once the decision is made ( sometime in January ) about choice vacation periods, they cannot be changed by management to adversely effect any employee who has had his choice approved.

Changing a part-time flexible to the status of a regular employee does not change the basic relationship in the number of employees used as the base at the time of the choice. One cannot accuse management of altering or changing the base figures to attain a desired result. The total number of employees on the roster at the time of the selection has been manipulated or changed to meet any specific need of management.

The number here as the base has been a constant now for the past several years, and the possibilities of change simply because there is an authorization does not justify the use of the higher number as the base against which the percentage should be applied.

Based on the facts presented, there is no finding that the Postmaster or the management at Gastonia erred in choosing the 79 employees then on the roster as the base for the determination of those who would have the choice vacation. The number arrived at was correct.

#### AWARD

GRIEVANCE IS DENIED. Management did not violate the Local Agreement in using the number of employees on the current roster as the base.

MAY 16, 1990



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WALTER H. POWELL, Arbitrator