

C#10611

REGULAR REGIONAL ARBITRATION PANEL

In the Matter of the Arbitration
between
UNITED STATES POSTAL SERVICE
and
**AMERICAN POSTAL WORKERS
UNION, AFL-CIO**

GRIEVANT: L. Allen
POST OFFICE: Peoria, IL
CASE NO.: C7C-4L-C 24628
(One Question
Limit At Safety
Meetings)

BEFORE: EDWIN H. BENN, Arbitrator

APPEARANCES:

For the U. S. Postal Service: Lawrence Williams, Postal Service Advocate

For the Union: Percy Harrison, President, Chicago BMC Area Local

Place of Hearing: Peoria, Illinois

Date of Hearing: June 28, 1990

AWARD: The grievance is sustained. Supervisor McDonald shall cease and desist from limiting employees at the Peoria facility to one question as a group at weekly safety meetings.

Edwin H. Benn
Edwin H. Benn
Arbitrator

Date of Award: June 30, 1990

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I. ISSUE

Did the Postal Service, through Supervisor Star McDonald, arbitrarily limit employees to asking only one question as a group at weekly safety meetings?¹

II. FACTS

The undisputed facts show that on January 17, 1990 Tour III Supervisor Star McDonald told LSM employees at the required weekly safety meetings that from then on they could only ask one question as a group or no questions. Prior to that time, employees were permitted by McDonald to ask questions without a specific numeric limitation.² The evidence further shows that prior to January 1990 McDonald permitted questions depending upon time constraints and relevancy of the questions.³

III. DISCUSSION

The Service argues that no contractual provision, rule or regulation requires a question and answer period at safety talks and that the limitation placed upon questions by McDonald was a proper exercise of managerial authority under the Agreement. The Union argues that limitation on the number of questions that could be asked in the fashion accomplished in this case was arbitrary and capricious and further was inconsistent with the Service's overall safety programs which encourages employee participation.

Clearly, the manner in which safety meetings are conducted is the exercise of a managerial prerogative under Article 3 of the Agreement. But the right to exercise managerial authority carries with it the obligation not to act in an arbitrary or capricious

¹ The parties did not agree upon the specific wording of the issue. The Service asserts that the issue is whether it is required to allow a question and answer session following a safety meeting. The Union poses the issue more narrowly as whether the Service violated various sections of the Agreement by imposing a policy of one question as a group or no questions. Considering the facts and arguments presented and for reasons set forth in the discussion *infra*, I find that the appropriate statement of the issue is that set forth above.

² McDonald's limitation on questions was her own personal policy. According to Manager Safety and Health Services Chuck Slobodnik, there is no blanket Service policy imposing the kind of limitation on questions established by McDonald.

³ Grievant testified that at the safety meetings her questions related to safety or production issues. LSM Clerk Sheryl Hundemer testified that some questions asked by the employees at the meetings were safety related while other questions were not related to safety issues.

fashion. Whether the Service, through McDonald, could eliminate all questions at the weekly safety meetings is not the real issue in this case. Along with the elimination of questions, Supervisor McDonald decided that when she would allow questions, there would be only *one* question and that one question would be limited to employees *as a group*. Similarly, whether the Service is required to have an unlimited question and answer period after safety meetings is also really not the dispute. A strong argument exists that the Service, within its managerial discretion, can make the weekly safety meetings into a pure lecture format with no questions.⁴ But again, that is not what happened in this case. Here, for each meeting, McDonald placed a one question limit on the group as a whole. Therefore, the narrow issue is not whether McDonald could eliminate all questions at safety meetings, but the precise issue is whether the determination that when permitted to ask questions, employees as a group could only ask *one* question was an arbitrary or capricious exercise of a management right.⁵

“[A]ction is arbitrary when it is ... without rational basis, justification or excuse.”
South Central Bell Telephone Co., 52 LA 1104, 1109 (Platt, 1969). This record is devoid of a rational explanation as to why when Supervisor McDonald permitted questions she limited questions by the employees to one for the group. Arguably, the purpose of the limitation was to prevent the meetings from getting out of hand and to keep a focus on the

⁴ The wisdom of eliminating all questions is left to the Service. However, the testimony of Safety Manager Slobodnik shows that the purpose of the safety program is to seek employee input, especially from those employees who may not understand the topic being discussed. *See also*, EL-801 §§ 311 (“The aim [of the supervisor in promoting safety and health] is to secure maximum employee participation”) and 313.2 (informing supervisors to “ensure maximum employee participation ...” at the once weekly safety talks). Thus, the “no questions” portion of McDonald’s limitation would appear to run counter to the purposes of the safety program.

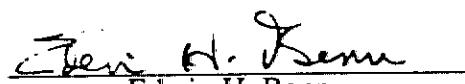
⁵ That framing of the issue is also consistent with the manner in which the grievance was progressed. The focus of the grievance was upon the one question limitation and not upon the ability of McDonald to refuse to take any questions. Grievant stated in her grievance “On January 17, 1990, Supervisor Star McDonald, tour 3 LSM, unilaterally implemented an arbitrary and discriminatory policy for tour 3 LSM which limited them to asking one question per week in safety talks.” Further, in the Step 3 appeal, the Union did not question the cutting off of all questions, but focused upon the allegation that “Management unilaterally implemented an arbitrary and discriminatory safety policy for Tour 3 LSM which limited them to asking one question per week in safety talks.”

nature of the meeting - i.e., to keep the discussion centered upon safety related matters. However, if the employee questions were unrelated to safety matters being discussed or if the questions caused a meeting to run over the allotted time, then McDonald simply did not have to respond at that time and could have directed the focus of the meeting back to the safety issue at hand or she could have ended the meeting and directed the employees back to production or other functions depending upon the time of day.⁶ The evidence shows that McDonald controlled these meetings. Many ways existed for McDonald to exercise that control. But the inquiry remains, why only *one* question as a group? There is simply no explanation in this record for that choice.⁷

Given the circumstances and without an adequate explanation provided for the limitation, I find the one question limitation placed upon employees as a group by Supervisor McDonald at safety meetings was "without rational basis, justification or excuse", *South Central Bell, supra*, and hence, arbitrary. The grievance shall be sustained.

IV. AWARD

The grievance is sustained. Supervisor McDonald shall cease and desist from limiting employees at the Peoria facility to one question as a group at weekly safety meetings.


Edwin H. Benn
Arbitrator

Dated: June 30, 1990

⁶ LSM Clerks Barbara Mulkey and Joe Leonard testified that prior to the January 1990 limitation imposed by McDonald, McDonald followed such a procedure and would take questions and then, when appropriate, simply state that no further questions would be allowed.

⁷ McDonald did not testify.