

REVIEW COMMITTEE

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IBEW 

PACIFIC GAS AND ELECTRIC COMPANY
245 MARKET STREET, ROOM 444
SAN FRANCISCO, CALIFORNIA 94106
(415) 781-4211, EXTENSION 1125

CASE CLOSED MAY 6 1982
LOGGED AND FILED

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
LOCAL UNION 1245, I.B.E.W.
P.O. BOX 4790
WALNUT CREEK, CALIFORNIA 94596
(415) 933-6060
R.W. STALCUP, SECRETARY

D.J. BERGMAN, CHAIRMAN

REVIEW COMMITTEE DECISION

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

Humboldt Division Grievance No. 19-159-80-15
Review Committee File No. 1527-81-11

Statement of the Case

On October 31, 1980, Company laid off a temporary additional Mechanical Helper at Humboldt Bay Power Plant for lack of work. The grievant, at the time of this layoff, had gained regular status and, therefore, had rights under Title 206 of the Physical Agreement. Union alleges that Company did not allow the grievant to exercise all of this Title 206 options. The grievant's employment date was November 26, 1979.

Discussion

The grievant was issued a letter on October 17, 1980 notifying him that his Mechanical Helper position was being eliminated. The letter further stated, incorrectly, that "under Title 206, you have the right to fill any appropriate vacancy at the plant." (emphasis added) The provisions of Sections 206.3, 206.4 and 206.5 were not applicable to the grievant. However, Section 206.6(a) did apply as it states:

"If Company cannot effect a demotion or displacement of an employee in accordance with Section 206.3 and, if in addition, such an employee cannot for any reason effect an election in accordance with Section 206.4 or 206.5, he may elect to displace that employee in the Division, in a beginning classification who has the least Service provided he meets the qualifications of the transfer."

In the October 17, 1980 letter, the grievant was informed that he could fill a vacant Auxiliary Operator position (there were no other vacancies) provided he met the qualification for transfer, i.e., passed the ACT. The Company determined that this was the grievant's only option other than layoff because of the General Rules contained in Section 206.1, specifically, Paragraph (c), which states:

"Where a vacancy in an appropriate classification exists, the filling of such vacancy in accordance with the appropriate provisions of this Title shall be substituted for the displacing of another employee as provided herein. If such vacancies exist at more than one headquarters, Company shall provide an employee with a list of such vacancies and the location thereof. He may then elect to fill any such vacancies."

The grievant was given until October 31, 1980 to pass the ACT. On that date, he failed the test and was laid off at the end of the workday.

The employee in the Division who had the least service was a Groundman, hired on August 11, 1980. The Union argued that the intent of Title 206 was to protect seniority and that it was inappropriate to lay off the grievant when there was still someone junior to him on the payroll. Further, that since the grievant could not qualify for the Auxiliary Operator, he then should have been able to displace the Groundman.

Company responded that it has consistently held that a vacancy equals "the junior employee" (employee with the least service) and that a single employee subject to demotion or layoff cannot "shop around" except where there are multiple vacancies as provided for in Subsection 206.1(c).

Decision

The Review Committee agreed that the grievant was afforded his contractual rights under Title 206. Had there been more than one vacancy in the same bargaining unit (Physical), the grievant would have had his choice. If, for example, he did not qualify for his first choice, he could have made another selection and been appointed to it as long as he qualified within the ten-day layoff notice period.

FOR COMPANY:

- L. C. Beanland
- F. C. Buchholz
- J. B. Stoutamore
- D. J. Bergman

By *[Signature]*

Date 4-22-82

FOR UNION:

- G. W. Abrahamson
- W. H. Burr
- P. Pelucca
- R. W. Stalcup

By *[Signature: Roger Stalcup]*

Date 4/22/82