

**REVIEW COMMITTEE****PG and E****IBEW** 

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 R.W. STALCUP, SECRETARY

**CASE CLOSED**  
**LOGGED AND FILED**

OCT 22 1984

D.J. BERGMAN, CHAIRMAN

RECEIVED OCT 22 1984

- DECISION  
 LETTER DECISION  
 PRE-REVIEW REFERRAL

General Construction Grievance 03-1248-83-91  
 P-RC 929

October 18, 1984

Grievance Issue

Whether the rehire of an ex-employee into the Tractor Operator A classification constituted a bypass of a current employee with preferential promotional rights under Section 306.9 of the Agreement.

Facts of the Case

On September 12, 1983, the Civil-Hydro Department rehired into the Tractor Operator A classification an ex-employee who had resigned on July 19, 1979. The grievant, a Heavy Truck Driver, who had Section 306.9 preferential promotional rights to Tractor Operator A, worked on the same job as the rehired employee, but was not promoted. The grievance, which was filed on October 19, 1983, alleges that the ex-employee's rehire constituted an improper bypass for promotion. The Company's position on the issue presented by the grievance was that no promotion occurred in the cited instance, therefore, no promotional bypass occurred, and consequently there was no violation of the Agreement.

The grievant approached his General Foreman on September 15, 1983, reminded the General Foreman that he (grievant) previously had held the TOA classification, and opined that he could do the work the rehired employee was doing. The grievant told the LIC that he also had held the TOA rate many times on a temporary upgrade basis. He also told the LIC that the General Foreman told him on September 15 that he would "check into" the grievant's qualifications and "get back" to him, but that the General Foreman never returned to him with his findings.

The General Foreman told the LIC that he did not consider the grievant qualified to do the TOA work on the job in question. He noted that the grievant had held the TOA rate on a regular basis for only two weeks in the Gas Department in 1973. The grievant's Foreman and Working Foreman agreed with the General Foreman's statement that the grievant was not qualified for the work in question.

Discussion

At the outset, Pre-Review Committee notes that the grievant approached his General Foreman on September 15, 1983 and discussed the subject TOA job, but that the grievance was not filed until October 19. Therefore, it

is clear that the grievance was not timely filed. This renders moot the question of whether the grievant was qualified for the job in question.

Regardless of this, however, the Committee believes that the main issue raised by the grievance should be addressed here. Restated, this issue is whether General Construction can hire someone into an above-entry level classification when a qualified employee with preferential promotional rights is working in the same geographic promotion/demotion area. Section 305.5 of the Agreement read, in part,

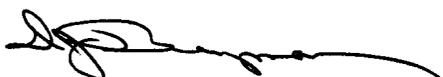
Employees who have two years or more of continuous service with Company (as defined in Section 106.1) shall be given preferential consideration as follows for promotions occurring in the department of General Construction in which they are employed:

- (a) In the case of each such promotion, such preferential consideration shall first be given to that employee who qualifies under the provisions of Section 306.9, then to that employee who has the greatest Service and is at the top rate of pay in the classification next lower in the normal line of progression to the one in which the vacancy exists, provided that the employee is fully qualified to perform the duties of the job which is vacant, and provided further that the employee is headquartered in the area in which the vacancy exists. As used herein, the term "area" means the geographic promotion/demotion area established by the respective General Construction Department as indicated in Exhibit II,---

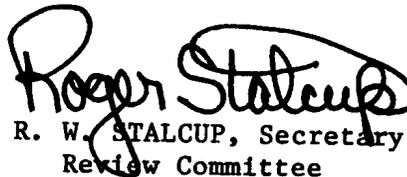
Although this language does not specifically address the question at hand (and neither does any other Section of the Agreement), it is evident to the Committee that, because of the way the language is structured, it is intended to apply in all cases in which the Company decides to replace someone in an above-entry classification or to increase the number of employees in an above-entry classification in a geographic promotion/demotion area. Therefore, in future such cases, the Company supervision must effect the provisions of Section 305.5 or, alternatively, transfer an employee into the promotion/demotion area from another area. The hiring of someone into an above-entry classification would be appropriate only if no qualified employees with preferential promotion rights under Section 305.5 are working in the promotion/demotion area where the need exists.

#### Decision

This case is closed on the basis of the foregoing, without adjustment.



D. J. BERGMAN, Chairman  
Review Committee



R. W. STALCUP, Secretary  
Review Committee