



REVIEW COMMITTEE

IBEW



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INTERNATIONAL BROTHERHOOD OF
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R.W. STALCUP, SECRETARY

MARGARET A. SHORT, CHAIRMAN

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

San Jose Division Grievance No SJO-95-53
Fact Finding No. 6254-95-271
Rev. 1-Pre-Review Committee No. 2070

YVONNE WONG
Company Member
Local Investigating Committee

ED CARUSO
Union Member
Local Investigating Committee

Subject of the Grievance

This case concerns the filling of a Working Foreman C position in Salinas and an alleged improper bypass of the grievant, a Miscellaneous Equipment Operator.

Facts of the Case

The grievant was hired October 2, 1972, held various Division Electric Department classifications. On March 28, 1994 he was displaced pursuant to Title 206 to Utility Worker. General Construction Gas Department. Effective June 1, 1994 he became a Fieldperson and then a regularly assigned MEO on January 9, 1995. Two Working Foreman "C" positions were filled on August 14, 1995 by employees in the Street Fitter classification who had less service than the grievant. These two positions supervised Street Fitters.

The Area Foreman testified the grievant was bypassed due to lack of qualifications as he had not held the classification of Street Fitter and therefore did not possess the required experience in meter protection necessary to be able to relocate and set meters and weld on plastic. The grievant testified that he is a certified welder and that he set meters for nine months (April 1994-January 1995) when he was a Fieldperson and MEO in San Francisco.

The grievant was later promoted to Working Foreman C on June 4, 1996 and continues to work in that classification. In addition, Payroll records indicates that the grievant was temporarily upgraded to Working Foreman B for intermittent periods of time.

Discussion

Company argued that even though the grievant was at the top rate of the next lower classification, he had less than 18 months experience in the Gas Department as he had spent most of his career in the Electric Department. Starting with the beginning classification of Utility Worker in the GC Gas Department Line of Progression through Fieldperson and MEO it takes a minimum of four and one-half years. Company did not cite Section 305.5(d) as a reason for bypass.

The Union argued that the grievant was the senior employee in the promotion/demotion area, at the top rate of the next lower classification and pursuant to Section 305.5(a) should have been awarded the Working Foreman "C" position. Unlike vacancies filled pursuant to Title 205, there is no requirement to have spent the equivalent amount of time to progress from the beginning step to the top step of the next lower classification to the vacancy being filled. However, even if there was such a requirement, this employee had spent the required time, (i.e. six months) in the MEO classification.

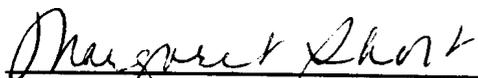
In Exhibit X, the Wage Schedule, under Working Foreman it states that the composition of the crew supervised determines the proper grade of Working Foreman, that the Working Foreman rate must be at least 4% above the highest classification supervised exclusive of the specialist classifications. It was agreed that Working Foreman C is the appropriate classification for a crew of Street Fitters and that MEO is next lower to Working Foreman C.

The Committee also discussed Letter of Agreement 82-69 which was an exhibit in the file and determined it applies to the Working Foreman B classification but not to Working Foreman C.

DECISION

The Pre-Review Committee agreed that the bypass of the grievant was inappropriate. The grievant is to be compensated at the Working Foreman C rate of pay in effect for 1995 and 1996 between August 14, 1995 and June 3, 1996 less those dates he was upgraded to Working Foreman B. In addition, there were some dates the grievant was upgraded to Backhoe Operator so the adjustment should pay only the difference between the Backhoe Operator rate and the Working Foreman C rate.

This case is considered closed on the basis of the foregoing.



Margaret A. Short, Chairman
Review Committee

5/29/97

Date



Roger W. Stalcup, Secretary
Review Committee

5/29/97

Date