

REGULAR ARBITRATION PANEL

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

CASE NO: C94C-1C-C 97020463

LOCAL UNION NO: KAL96357

CLASS ACTION GRIEVANCE

POST OFFICE: HARRISBURG, PA

OPINION AND AWARD

BEFORE: Lawrence R. Loeb, Arbitrator

APPEARANCES:

On Behalf of the Postal Service:

Timothy Burke
Labor Relations Specialist

On Behalf of the Union:

Lu-Ann Glaser, President
Keystone Area Local

Place of Hearing:

Harrisburg, PA

Date of Hearing:

January 11, 2001

Date of Decision:

February 11, 2001

Contract Provisions:

Articles 15 and 19

Decision:

The grievance is sustained in part
And denied in part.

SYNOPSIS

The Postal Service violated the Contract when it did not reinstate the employees covered by a pre-arbitration settlement within a reasonable period of time. Management's failure to issue a Step 2 answer and its decision at Step 3 to rely on the non-existent Step 2 answer prevented it from raising certain arguments at arbitration because it could not establish that it had fully disclosed its position at Step 2 as required by Article 15. The Union is not entitled to recover the amount of dues it could not collect from the effected employees.

I. STATEMENT OF FACTS

The eight individuals encompassed by this grievance were terminated in August 1994 for scheme failure and removed from the rolls of the Postal Service. The Union protested that action in a grievance denominated as Case No. KAL-94-1141. Approximately 23 months later the parties entered into a pre-arbitration settlement resolving that dispute. The settlement, which was drafted by the Manager of Labor Relations for the Harrisburg District, provided:

As a result of our discussion on this date, it is mutually agreed that the above cited grievance is resolved in accordance with the following:

The 8 grievants on attached list shall be reinstated to career appointments as Mail Processors. Grievants shall serve a new 90 days probationary period but will not be assigned to scheme or mandatory machine training during the 90 days period. Grievant's seniority shall be the dates of their prior appointments.

By virtue of this full and final settlement agreement, this document shall also serve as the union's official notification to management that it is withdrawing this case from arbitration. Additionally, both parties agreed that this settlement is non-precedent setting and will not be cited by either in any subsequent grievance or arbitration hearing.

Grievants will return to full-time flexible positions but will receive no back pay.

The agreement was executed on July 23, 1996. It was not until April 12, 1997, however, that four of the employees covered by the grievance were reinstated. Of the other four, one tried to come back to work, but failed the drug test. None of the three remaining grievants responded to the notice advising them to return to work.

On September 3, 1996, the Union initiated the present grievance complaining that the Service had yet to implement the July 1996 settlement. In it the Union fingered the Manager of Human Resources as the individual responsible for not immediately reinstating the eight employees. The reason he gave the Union for not acting on the settlement as the Union believed he should have was that there were currently no vacant positions in the Harrisburg GMF for those employees and that they would not be returned to duty until such vacancies existed. The Union believed his position was in total derogation of the settlement agreement in which it had waived

back pay for the eight individuals covered by the original grievance in return for the Service's promises to immediately reinstate them. By way of remedy the Union demanded that the employees listed in the settlement agreement be immediately reinstated; that the 90 day probationary period referenced in the settlement agreement be nullified; that each of the employees be compensated for any losses which they may have incurred as a result of the Service's failure to immediately reinstate them and that it be made whole for the dues which it could not collect due to Management's breach of the pre-arbitration settlement.

The Service denied the grievance at Step 1 following which the Union timely appealed it to Step 2. The record reveals that the parties discussed the matter on several occasions, but their efforts to settle the grievance proved unsuccessful. Once that happened Management should have issued an answer spelling out its reasons for denying the grievance. It never did. Faced with the prospect of allowing the grievance to remain at Step 2 while it waited for the Service's response and risk having the Service argue that the Union abandoned it by not timely appealing the matter to Step 3 the Union did just that on November 8, 1996. Within a month and a half the parties met to discuss the matter following which Management issued a letter on December 26, 1996 denying the grievance on the basis that:

It is Management's position that the Step 2 response adequately addresses management's position on this issue. No violation has been established.

The remedy requested is inappropriate considering the facts of the case. Accordingly, the grievance is denied.

Stunned by that response the Union forced the matter to arbitration. While the parties were waiting for the case to be scheduled the individuals who had negotiated the July 23, 1996 settlement executed another agreement pertaining to the same grievance. This one provided:

The parties agree that the leave computation dates for the individuals returned to duty via Pre-Arbitration settlement CAC-1C-C-95033226 will be adjusted to their original seniority date with credit for intervening period. [sic]

It was upon these facts that this matter rose to arbitration and award.

II. POSITION OF THE UNION

In 1996 the parties, in good faith, entered into an agreement that called for the reinstatement of eight members of the Bargaining Unit who had been wrongfully terminated by the Service. At least the Union entered into the agreement in good faith believing that the Service did also. The agreement itself was simple and straightforward. In unambiguous language it called for the eight named employees to be reinstated as mail processors and returned to full-time flexible positions. In return for accepting those terms the grievants agreed to give up their right to back pay. They did so with the expectation that Management would live up to its end of the bargain. It didn't. The reason it failed to implement the settlement is that the Human Resource Manager intervened after the agreement was signed and put his own interpretation on it. According to him, the Service did not have to bring the people back until there were vacancies available for them.

It is an indefensible position, as Management well knows, because under the interpretation it is trying to foist on the Arbitrator if there had been a hiring freeze in place for ten years the grievants would have had to wait ten years to be reinstated. Not only is that an absurd contention, but it is one which no one, neither the Union nor Management, ever had in mind when the pre-arbitration settlement was signed. If the Service had wanted to add that language, if it wanted to have that condition as part of the agreement then it should have brought the matter up at the bargaining table so the Union would have had an opportunity to express its views on the subject. The Service did not do that, though. Instead, after the parties reached the agreement which Management drafted the Employer tried to alter it by effectively inserting a provision which was never discussed let alone agreed to and was not written down anywhere. The law is clear, though, that a contract is to be construed against the party who drafts it. It is also clear that where an agreement is complete on its face it cannot be varied or changed by outside evidence. That, however, is exactly what the Service is trying to do in this case.

The worst part of the situation is that Management cannot even arrive at a consensus definition for the term "vacancy." At least one witness tried to take the position that the word means that there are part-time flexible positions available. Management's other witness, however, did not agree with that definition, maintaining that a vacancy would exist whenever there was a

change in the complement at the Harrisburg GMF. Regardless of which definition the Employer chooses to apply, the record reveals that there were positions available for the eight grievants. Of equal significance, the Service undercut its own position by offering to hire all eight of the employees back at the exact same time. If there were openings, the openings did not occur simultaneously. The very fact that the Service chose to bring the employees back en masse means that the Employer had absolutely no justification for keeping them out of work for nine months.

It did not become implicit in the pre-arbitration agreement was the understanding that the eight employees would be brought to work as soon as possible within a reasonable time. Waiting nine months before acting was not reasonable. Because it was not the grievants are entitled to be made whole which means to be paid all of the funds they lost. The Union too is entitled to be made whole which means to be paid for the amount of dues it lost as a result of the Service's failure to implement the 1996 agreement. This is not a case where an employee is entitled to back pay and the Union can collect its dues from that award. These employees were taken off the rolls entirely when they were wrongfully terminated in 1994. Because they were there is no way for the Union to recoup the loss it suffered except by having the Arbitrator put the parties back into the position they would have been in had Management not breached the 1996 settlement agreement. That requires that the Service reimburse the Union for the dues which it would have collected, but was not able to.

At arbitration the Service put forward a number of reasons why it should not be bound by the pre-arbitration agreement. The Arbitrator should ignore all of them because the Service did not raise any of those claims at the prior steps of the grievance procedure as it was required to do by the Contract. It is axiomatic that Management has an obligation under Article 15, just as the Union does, to fully disclose its position at Step 2. There was no Step 2 answer from the Service, though, and the Step 3 answer relies on the Step 2 answer. Therefore, it too does not exist. Under the circumstances, the Service is barred by the principles outlined in the Contract from presenting any new arguments which all of its arguments are. Consequently, it has no way to defend this matter. Because it does not the grievance must be sustained and the grievants, including the Union, be made whole.

III. POSITION OF THE EMPLOYER

Not only are the facts in this case not in dispute, but, of greater significance, they support Management's position that the Service did not violate the Contract when it did not immediately place the eight grievant's into mail processing jobs after the 1996 pre-arbitration agreement was signed. The reason it did not is simple. The Harrisburg GMF was overstaffed with mail processors at the time. Everyone knew that was the situation and everyone understood that because of that situation the Service could not hire anyone until such time as mail processing positions became available. Over the ensuing nine months no mail processors were hired and none were transferred into the facility which simply reenforces Management's position that it could not bring the grievants back to work because there were no positions available into which to slot them.

Although the Union may say otherwise, the manner in which it handled this grievance demonstrates that it recognized that the parties agreed that the eight employees would not be returned to work until such time as there were positions available to them. That conclusion follows from the fact that the Union waited eight weeks after it could have filed this grievance to initiate it. If it really believed that Management violated the Contract by not immediately bringing these eight employees back to work then it should have filed this grievance much sooner than it did. That it waited so long before it took any action indicates that it, as well as Management, understood that the eight employees would not be returned to work until there were positions available for them at the Harrisburg GMF. That did not take place until April 1997. At that point Management did what it promised to do, reinstate the individuals who wanted to return to work with the Postal Service. Four of the eight decided not to take advantage of the opportunity. That they made that choice is not the Employer's fault and it cannot be held accountable for their decision to seek employment elsewhere.

When the situation is viewed as whole it is clear that Management did what it was required to do as soon as practicable. Its actions were reasonable under the circumstances and fully in keeping with the terms of the 1996 settlement. During the course of these proceedings the Union argued that there could not be any terms other than those specifically expressed on the face of the document because the individuals who negotiated that agreement left nothing out. It was,

according to the Union, whole and complete when it was signed. The argument ignores the obvious which is that in 1998 the parties returned to the bargaining table to negotiate a second agreement to cover a situation which should have been dealt with in the original settlement. The fact that they had to enter into a subsequent accord dealing with an issue that they missed in 1996 utterly destroys the Union's contention that the 1996 agreement is complete on its face.

It is forced to take that position because it recognized that if it does not then it has to admit what both parties knew at the time the agreement was signed which is that the Service could not bring these individuals back to work until there were positions available for them. Assuming for the sake of argument that the Union were correct that the Service should have brought the employees back to work immediately upon the signing of the agreement then the Union and Management would have faced the bizarre situation that because these were probationary employees and there was no work for them to do they would have been terminated again. That was never the parties intent, but that would have been the result if they had adopted the position which the Union is pressing on the Arbitrator today. Any time an interpretation of a contract leads to a ridiculous result, as would be the case if the Union's view were to prevail, it has to be rejected.

So too must the remedy which the Union is seeking. There are a number of reasons it must be, not the least of which is that the pre-arbitration settlement itself provides that the grievants will receive no back pay. The language is clear and unequivocal. It says they will get no back pay. Since the parties understood that the grievants could not be returned to work immediately, but had to wait until there were positions available it follows that they could not be entitled to any back pay for the period of time it took Management to find slots to put them in. Equally absurd is the Union's claim that it should be entitled to receive monies for the dues that the employees did not pay while they were waiting to be placed into their positions. The Contract does not allow for punitive damages, but that is exactly what the Union is asking for in this instance, the Arbitrator to impose a penalty on the Employer by directing that it pay the Union dues for individuals who were not employed by the Postal Service at the time and could not be employed by the Postal Service.

IV. DISCUSSION

There is probably no one who has graduated from college that did not wake up months or even years later in a cold sweat panicked by a nightmare that they did not complete an assignment and that their whole life was about to crumble because of it. Lawyers face the additional horror of the bar examination, a multi-day test of seemingly improbable questions filed with multiple issues which must be analyzed and solved in a ridiculously short period of time and in an insufficient amount of space. Such dreams fade with time or at least they are supposed to. Yet, here in the guise of this grievance is the kind of question that would terrify any law student, awake or asleep. On its surface there is no reason it should. The issue presented by this grievance in the parties' viewing is innocuous: Did the Postal Service violate the Contract when it did not immediately reinstate the eight grievants covered by the pre-arbitration settlement? If the parties have no difficulty formulating the issue neither do they have any problems resolving it.

For the Union the answer is simple. Of course, Management violated the agreement by taking nine months to reinstate the eight employees on whose behalf the Union entered into the pre-arbitration settlement. The reason the answer is so simple is that the settlement is complete and full on its face and provides for the employees' immediate reinstatement to the Postal Service. It is a valid contract because the eight employees waived back pay as the price for their immediate reinstatement. For the Service the answer is just as simple, it did not violate the Contract because both parties understood that the grievants would not be reinstated until there were vacancies available for them to fill. That did not happen until April 1997, nine months after the pre-arbitration agreement was signed. During that period the Postal Service did not hire any mail processors because it did not have any need for them at the Harrisburg GMF. It was only when there were vacancies available that the Employer called the eight employees back to work which is exactly what the parties contemplated when they signed the pre-arbitration settlement. Were it only true that this grievance was so uncomplicated, but it is not.

Where the parties each see one simple issue there are many difficult ones made more complicated by their interconnection. Thus, the issue of whether or not the Postal Service violated the Contract in this case is really separate questions of whether the 1996 pre-arbitration agreement can or cannot be altered by the introduction of extrinsic evidence; whether it is missing

a significant provision, time for implementation, which can be presumed to be reasonable; and if that is so what is a reasonable amount of time. Those issues have consumed thousands of hours of litigation and occupied chapters in every text on the law of contracts. They are not simple issues. The situation is made more complex because the Service never issued a Step 2 decision and its Step 3 answer quixotically declares that it is repeating Management's Step 2 answer which never existed. This raises the issue of whether or not the Service fully disclosed its position at Step 2 as it was required to do under Article 15 and if it did not whether it has any right to raise any of the defenses which it brought to arbitration.

Were all that not enough, the parties further complicated the problem by taking inconsistent positions at different times during the proceeding. For its part, the Union argued both that the pre-arbitration settlement called for Management to immediately reinstate the grievants meaning to put them back to work as soon as the agreement was signed. At another time, however, it argued that the 1996 agreement called for the Service to reinstate the grievants within a reasonable period of time and then alleged that the nine months between the signing of the pre-arbitration settlement and the point when Management ultimately reinstated four of the eight individuals was unreasonable. The Service too, at one point, argued that the standard by which its conduct should be judged in this case was reasonableness. But at another time it took the position that it did not have to reinstate the eight employees until there were vacancies available for them and if that took ten years then so be it, they would have to wait ten years to be reinstated. The Service added one final ingredient to the mix when two of its witnesses expressed slightly different views with regard to the meaning of the term "vacancy." Thus, the individual who signed the agreement on behalf of the Postal Service testified that the eight employees could not be brought back until there were vacancies available for them to fill, which meant that a reduction in the PTF's would trigger the reinstatement. The Manager of Human Resources with whom the Service's representative supposedly conferred before he entered into the pre-arbitration agreement and the one who interpreted it after it was signed testified that a reduction in either or both the PTF compliment or the full compliment would trigger a vacancy. In addition, he stated that at the time of the pre-arbitration settlement the Harrisburg GMF had a hiring board which would discuss vacancies and make a recommendation to the District Manager who had the final

say about hiring. Yet, the person who actually notified the eight grievants that they were to be brought back to work, the Senior Personnel Service Specialist, stated that she was given the pre-arbitration settlement and told to bring all eight of the employees back to work at the same time.

Inconsistencies aside, there is no evidence in the record that Management ever raised any of the arguments which it introduced at arbitration at either Steps 2 or 3 of the grievance procedure. While the parties did meet at Step 2 and discuss this matter and may have discussed it on more than one occasion the Service never issued a Step 2 answer so it is impossible to tell with certainty from any of the testimony presented in this case what arguments, if any, Management's representative made during the course of the Step 2 meeting. The Contract places an obligation on both parties to fully disclose their positions at Step 2 so that they may fully bargain over whatever issue it was that brought them to that point and that neither is subsequently ambushed at arbitration if the case goes that far. By implication the agreement places upon Management the additional burden of memorializing each party's position in its Step 2 answer. If the Union does not believe that the Service adequately encapsulated the arguments it put forward at Step 2 in that answer then it has a right to file additions and corrections in order to ensure that it fully disclosed its position at Step 2 as it was required to do under the Contract. So adamant were the signatories to the National Agreement that the parties were to settle grievances at the lowest possible step of the grievance procedure and that if they could not that they were to fully disclose their position so that neither would be surprised at arbitration that they placed upon their Step 3 representatives the additional duty of insuring that all relevant facts and contentions were addressed at Step 2. If they believe that did not happen they were given the power to return the grievance to Step 2 with directions that the Step 2 representative more fully develop the relevant facts and contentions and further consider the matter after they have done so. Nothing which the drafters expected to happen occurred in this case.

The parties did meet at Step 2 and there was at least one and perhaps more discussions regarding this case, but that is as close as Management came to disclosing its position. It never issued a Step 2 answer or formally indicated why it was denying the grievance. Worse, when the matter got to Step 3 the Service denied the grievance on the grounds set forth in the Step 2 answer. Since there was no Step 2 answer Management's Step 3 decision, at best, serves only to

establish that the parties met and discussed the matter at Step 3. Other than that, it has no value whatsoever. The result is that Management went into arbitration unable to establish that it had met the contractual requirement set forth in Article 15 that it fully disclose its position at the prior steps of the grievance procedure. The penalty for such a failure is the forfeiture of the right to raise arguments and introduce evidence that were not disclosed at any of the prior steps of the grievance procedure. As Arbitrator Benjamin Aaron noted when he formulated that rule, the spirit of it should not be diminished by "excessively technical construction." Neither should a party be penalized for failing to disclose an argument at Step 2 if a reasonably experienced labor relations professional could, based on the materials that were put forward by the other party, reasonably expect the argument to be raised at a later stage of the grievance procedure. That means, for example, that in an arbitration growing out of Management's claim that it dismissed an employee for stealing money the Union should not be surprised that the Service would seek to introduce the sections of the Employee and Labor Relations Manual which prohibit employees from engaging in crimes and demanding that they be honest and trustworthy.

In this case, the Service offered nothing to establish what arguments it put forward at Step 2. Normally its position would be memorialized in its Step 2 answer, but there was none. The Employer might have been able to overcome the problem caused by the lack of a Step 2 answer by bringing in the Step 2 official who could have testified to the arguments he put forward when he met with the Union. That will invariably lead to a "he said she said situation" with the Union's witnesses adamantly denying that they ever heard Management's official raise those arguments. At that point it becomes a matter for the arbitrator to determine how much credibility he is to give to each witness's testimony. In this case, the Service did not even follow that course. There is simply nothing in the record whatsoever to establish that the Service disclosed any of the arguments at Step 2 which it put forward at arbitration. The most important of those is that prior to entering into the Step 3 settlement Management's representative checked with the Manager of Human Resources who told him that the Service could not agree to the settlement unless the Union understood that the eight grievants covered by the original grievance could only be brought back to work when there were vacancies available for them and that there were no vacancies at that time and there would not be any for the foreseeable future. The rest of the argument is that

those conditions were passed on to the business agent who was negotiating the agreement on behalf of the Union. Although the argument is the keystone of Management's defense of this matter it is too specific and too technical to assume that an experienced labor relations professional, or anyone else for that matter, could expect that the Employer would raise it at arbitration if it had not been disclosed at one of the earlier steps of the grievance procedure. This is especially so where there is a disagreement of sorts between the individual who negotiated the pre-arbitration settlement on behalf of the Postal Service and the Manager of Human Resources over the definition of the term "vacancy".

What the Union should have expected was that because the pre-arbitration settlement did not specifically say when the Service had to reinstate the grievants it would argue that as long as it did so within a reasonable period of time it would be in compliance with that agreement. At arbitration the individual who negotiated the agreement on behalf of the Union testified that he would not have entered into the agreement if it was not understood that the grievants would be immediately reinstated which means being brought back to work as soon as the agreement was signed. That is not what the document says, though. It is, instead, completely silent as to when the grievants are to be reinstated. As noted earlier in this discussion the Service argued that both parties understood that the eight employees would not be reinstated until there were vacancies for them to fill. That understanding does not appear anywhere on the face of the agreement. As the party who drafted it, the settlement must be construed most strongly against the Employer. In the absence of a specific time frame within which the grievants had to be brought back to work it must be presumed that the parties had in mind that they would be returned within a reasonable amount of time. The Union admitted in the course of its presentation that the agreement was open to that interpretation when it argued that the nine month period between when the agreement was signed and when the grievants were finally brought back to work was unreasonable. It implicitly made the same argument by waiting until November 8, 1996 to file this grievance. There is some truth, as Management noted, in the proposition that if the Union really believed that the grievants should have been immediately reinstated under the terms of the pre-arbitration settlement then it should have initiated this grievance almost as soon as the document was signed because it would have known that the eight employees were not coming back to work

any time soon.

They would have, the Union reasons, but for the Service putting certain restrictions on their reinstatement, restrictions which were never discussed with the Union. This, for Management, brings the argument back full circle to its claim that it could not reinstate the grievants because there were no vacancies available at the Harrisburg GMF. Again, it is an argument which appears to have sprung on the Union after Step 3 and, therefore, cannot be considered. In addition, the evidence which the Union introduced establishes that while the Service neither hired nor transferred any PTF mail processors into the Harrisburg GMF it hired casuals, reappointed casuals, posted vacancies for mail processors for which there were no successful bidders and reassigned mail processors to other areas. The evidence, in other words, establishes that there were changes in the PTF compliment as well as the full compliment at the Harrisburg GMF. This, according to the Human Resources Manager, would have triggered vacancies. Yet, the Service did not reinstate any of the eight employees. Instead, it kept them off work even though there were unencumbered positions available as evidenced by the materials the Union submitted at arbitration. Of equal significance, Management never explained how it was that by March 27, 1997 eight positions suddenly became available all at the same time thereby triggering the letters to the eight employees advising that them they could seek reinstatement if they so desired. Five tried to take advantage of the opportunity, but one failed the drug screen. The remaining four were reinstated while the other three employees did not seek re-employment with the Postal Service, apparently having found jobs elsewhere. As much as anything else Management's decision to reinstate all eight employees at the very same time without offering any explanation for why the reinstatement occurred at that exact moment for all eight employees casts doubt on the Service's argument that there were no vacancies available for the proceeding nine months that would have allowed it to reinstate even one of the named grievants. It is especially so as the records which the Union introduced establish that Management was constantly changing the compliment at the Harrisburg GMF and that there were some mail processing positions which were put up for bid for which there were no successful bidders. Under the circumstance, the undersigned must agree with the Union that Management violated the Contract when it did not reinstate the eight grievants within nine months of the signing of the pre-arbitration settlement.

The question is what is the appropriate remedy for the Contract violation. The general rule of thumb to be applied where there is a contract violation is that the grievants are to be put back into the position they would have been in had the violation not occurred. For the four employees who were reinstated that is a relatively simple matter, the optimum word being relative, considering the problems concerning the other four individuals who were not reinstated and the Union's demand that it be made whole by ordering the Postal Service to pay for the dues it lost over the nine month period. With regard to the four employees who were reinstated the Union admitted during the course of its presentation that it did not expect them to be reinstated any earlier than the first pay period following the signing of the pre-arbitration settlement which was July 23, 1996. More importantly, it did not initiate this grievance until September 3, 1996 which indicates that it felt the one month delay after the signing of the agreement was not unreasonable. Therefore, that is the date from which the Service's liability should run. Had Management acted at that point then at least some of the grievants would have returned to work with the others following soon afterwards. The only reason that three of them ultimately did not return is that they had found other employment by the time Management got around to contacting them. The eighth employee failed the drug screen. That discovery can play no part in this decision, however, because there is no evidence that the individual would have failed a drug screen eight months earlier.

Management maintained that the employees are not entitled to back pay because they agreed to waive back pay as part of the July 1996 pre-arbitration settlement. The argument is without merit because the settlement only covered the period up to the point when the employees were to be reinstated. When the Service failed to do so within a reasonable period of time it violated that agreement. At that point it became responsible for the damages flowing from the breach. It cannot escape that responsibility by hiding behind the no back pay clause because no one expected that the agreement would not be implemented within a reasonable time.

If the employees are to be made whole the Union maintains that it too should be because it could not collect dues from them the nine months there were off work. The undersigned does not agree. To require the Service to pay the Union the sums it would have collected from the employees had they been reinstated earlier is to add a dimension which the parties did not

contemplate at any time. At least there is no evidence that they did.

V. DECISION

For the foregoing reasons the grievance is sustained in part and denied in part. The Service is directed to pay the eight grievants the difference between what they would have earned between September 3, 1996, the date this grievance was filed, and April 12, 1997 less any sums that they earned from other sources. The Union is not entitled to be paid the dues it was unable to collect from these employees.

DATE: 2/24/01



Lawrence R. Loeb, Arbitrator