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Off-Track Betting Corp.

-and-

I-109-74

DC 37, AFSCME, AFL-CIO
Local 2021

March 19, 1974

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Impasse case I-109-74 results from a contract settlement between DC 37, Local 2021 (hereinafter called "the Union") and the New York City Off-Track Betting Corporation (hereinafter referred to as "the OTB") for a period of three years from July 1, 1973 to June 30, 1976. Article XIII- OPEN ITEMS of that agreement provides as follows:

"The parties agree that the question of the change of title from Cashier to Pari Mutual Clerk shall be referred to impasse."

The parties jointly requested that the Office of Collective Bargaining dispute settlement staff serve as the impasse panel and George Bennett was assigned to this case by the Board of Collective Bargaining.

A hearing was held on February 27, 1974 at 250 Broadway, New York City and Alan R. Viani, Director of Research for DC 37, served as the Union spokesman and Lester G. Knopping, OTB Associate General Counsel, served as spokesman for the corporation. The transcribed hearing included opening oral statements, production of witnesses by the Union, introduction by both parties of a number of exhibits, arguments and then closing statements.

ISSUE

The basic determination to be made by the impasse panel relates to the question whether or not the title of Cashier (OTB) should be changed to Pari Mutual Clerk. That issue limits the scope of argument and testimony in this case to a comparison of job duties and related criteria of OTB cashiers and Pari Mutual Clerks (PMC).

ARGUMENT

OTB cashiers work either at neighborhood wagering and cashing offices or at a central telephone exchange in the City of New York whereas PMCs work at tracks where horse races are being run.

The Union initially described the duties of cashiers (OTB) to include the selling and cashing of single and multiple bets including "exotic" wagers such as exactas and triples at one and the same time. The 1500 OTB cashiers include approximately 50 taking play through a system of telephone wagering, also including single and multiple wagering.

The Union introduced I-99-73, a prior Office of Collective Bargaining impasse case, making particular reference to impasse panelist Benjamin Wolf's statement as follows (at page 3):

"It (OTB) reached an agreement with the Union on the terms under which these employees would be permitted to work for OTB. Essentially, they were restricted to 20 hours as cashiers at OTB windows and 15 hours at some other job. They were paid the cashier's rate and, since this was less than they had been receiving at the track, they were paid the difference from a job security trust fund. They worked for the OTB until the end of the racing season and left."

The Union also made reference to NY Unconsolidated Laws, Section 8061-8076, Off-Track Pari-Mutual Betting, that provides for the inclusion after July 1, 1973 in off-track betting plans of job security provisions covering workers in track employment organizations where there is off-track wagering. The Union introduced the statute seeking to prove that this law, in effect, makes the tracks' pari mutual clerks similar to OTB's cashiers and that the title of Cashier (OTB) should be changed to Pari Mutual Clerk. The Union stated that even though its intent at this time is to secure a change in title, its future goal is to bargain for and obtain a higher rate for OTB cashiers.

The Union also pointed to the job description of Cashier (Transit Authority) to prove that the corporation or city can design unique titles in those cases where there is special work required, arguing that OTB should have a unique cashier type title of Pari Mutual Clerk.

In its argument the OTB stated that the Cashiers (OTB) have a job description similar to that of city wide cashiers, noting further that the pay scales for OTB cashiers are similar to those of city wide cashier titles. The OTB also stated that some of its cashiers work in telephone wagering and that such work is in no way comparable to PMC functions at the track.

OTB stressed that its cashiers work all year round and receive vacation and other fringe benefits. OTB argued that the NY Unconsolidated Law referred to by the Union has application only when employees of tracks lose their jobs because of OTB inroads into the track's handle.

Discussion

Although rate of pay comparisons were not specifically under-taken in this hearing, testimony was inevitably offered by the Union as to the method and amount of pay received by PMCs working at race tracks. Even though OTB objected to the introduction of testimony relating to a 5% bonus paid to PMCs at the end of a race meeting, a description was introduced of that bonus with a contention by the Union, uncontroverted by OTB, that this percentage amount was paid in lieu of fringes.

The impasse panel has considered the issue whether or not the OTB cashiers' job is substantially equivalent to the PMC's functions and it has become apparent to the panel, based on the argument as it proceeded, that there are more differences than similarities between OTB cashiers and the PMCs working at race tracks. After reviewing the evidence and testimony, the panel is persuaded that the job duties are considerably different in nature, scope and variety of transactions performed by the respective groups.

OTB cashiers take written orders (with the exception of telephone transactions that have a special double checking procedure) while the track PMCs function on the basis of verbal wagering. Not only does the telephone business of OTB have no counterpart at the tracks, the method of paying wages varies markedly.

between OTB and the tracks. The term of employment and employment security are not at all similar and the benefits that are available to each group are significantly different. Although they have one thing in common, selling tickets and paying off the lucky punters, the panel finds that similarity ends there. Even the scope of individual transactions handled by OCB cashiers are much more complicated than those at the race tracks and the panel finds there is no logical way to equate the Cashiers (OTB) with the PMCs.

The Union, presenting its argument thoroughly and skillfully, sought to show that the definition of Pari Mutual Clerk in the Department of Labor's Dictionary of Occupational Titles covers the kind of work performed by OTB cashiers. The panel notes that the OTB offices take wagers from early morning into the evening while the track transactions are carried out almost totally between the individual races, with heavy action occurring in the limited amount of time prior to the running of each race.

It needs to be emphasized that the panel is not addressing the question of the comparative degrees of difficulty or skill required in these off-track and on-Track jobs and nothing should be concluded or inferred on that score. Perhaps some day it will be necessary for some prognosticator to deal with that question but it is not present in this case.

The panel notes that impasse cases involving wage and salary determinations require the panel to consider standards and criteria set forth in the New York City Collective Bargaining Law. These statutory requirements, however, are not applicable in the instant dispute.

RECOMMENDATION

The key consideration in this case is that there is such a variation in the amount, type and method of payment of wages and related benefits and in the nature and scope of the work of the two titles that they cannot be brought together in this case to change the title of Cashier to Pari Mutual Clerk.

RECOMMENDATION

The title of Cashier shall not
be changed to Pari Mutual Clerk.

STATE OF NY
COUNTY OF NY

On this 19th day of March, 1974

George Bennett appeared before
me and executed the foregoing

George Bennett
Impasse Panel 3/19/74