

UNITED STATES POSTAL SERVICE

Ctt 01377

AND

NATIONAL ASSOCIATION OF LETTER
CARRIERS

RE: Case No. S1N-3U-C-787
Floyd Givens
Houston, Texas

APPEARANCES:

FOR THE UNION: Ms. Prissy Grace, Labor Relations
Representative

FOR THE POSTAL SERVICE: Roland McPhail, Labor Relations
Division Representative

ARBITRATOR: John F. Caraway, selected by mutual
agreement of the parties.

On September 17, 1981 the grievant, Mr. Givens, wrote a letter to Ms. Barbara Ward, Equal Employment Opportunity Counselor, requesting a copy of her report on a complaint he had filed on April 30, 1981. The request was made under the provisions of the Freedom of Information Act. In his appeal from the Step One denial to Step Two of the grievance procedure it is stated:

"Mr. Givens aggrieved because EEO counselor Barbara Ward refused to respond to a request under the terms of the Freedom of Information Act."

The corrective action requested was that Ms. Ward furnish Mr. Givens all the information requested in his letter to her dated September 17, 1981 immediately and then in the future she would comply with the Freedom of Information Act.

In his testimony Mr. Givens stated that he had filed numerous complaints involving the EEO. These were on behalf of other carriers as well as himself. He was the local union's representative handling these matters. In addition he has been a Shop Steward or Chief Job Steward for several years.

CONTRACT PROVISIONS INVOLVED

Article XV Section 4 (6):

"All decisions of an Arbitrator shall be limited to the terms and provisions of this Agreement, and in no event may the terms and provisions of this agreement be altered, amended, or modified by an Arbitrator."

ISSUE

Is the Postal Service obligated under the National Agreement to provide the grievant with documents under the authority of the Freedom of Information Act?

ARGUMENT

The Union maintains that the Arbitrator is authorized to apply applicable law to a grievance. A grievance is broadly defined so that it imports applicable law into the grievance procedure. For that reason the Arbitrator would have authority to compel the Postal Service to comply with the mandate of the Freedom of Information Act.

The Postal Service maintains the Arbitrator does not have authority under the National Agreement. The Arbitrator's authority stems only from the collective bargaining agreement. The Freedom of Information Act is not incorporated into the National Agreement. The proper course of action is for the grievant to file a formal complaint. Then there would be a requirement under the guide lines of the Equal Opportunity Commission for documentation to be provided the grievant. The grievant is not without a remedy if he invokes the proper procedure.

DECISION

Article XV places a limitation upon the Arbitrator as to his authority. It is limited to the terms and provisions of the agreement. There is nothing in the collective bargaining agreement

that incorporates national laws such as the Freedom of Information Act. While Article XIX does provide that handbooks, manuals and published regulations of the Postal Service are continued in effect and govern the employee, this cannot be broadened to include federal statutes such as the Freedom of Information Act. The reference in Article XIX is strictly to those documents pertaining to the operation of the Postal Service pertaining to wages, hours or working conditions. The conclusion must be that the Arbitrator has no jurisdiction to compel the Postal Service to provide the grievant with a document under the authority of the Freedom of Information Act.

There is no question but that the grievant was relying upon the authority of the Freedom of Information Act. This is clearly stated in his appeal to the denial of Step One. His remedy is that the Postal Service will in the future comply with all aspects of the Freedom of Information Act. What the grievant is seeking to do in this grievance is to incorporate the provisions of the Freedom of Information Act into the collective bargaining agreement so that the Postal Service would be obligated to meet all of the terms and conditions of that agreement in the grievance/arbitration procedure should a dispute arise. This is far beyond the scope of the collective bargaining agreement.

Analogous to this case is the decision of Arbitrator Cohen of April 11, 1980 being Case No. C8C-4B-C2302. The charge was the Postal Service violated the Fair Labor Standards Act. Arbitrator Cohen held that he had no authority to judge a violation of the Fair Labor Standards Act. The identical situation is present

in this case except the statute is different, specifically, the Freedom of Information Act.

AWARD

The Union grievance is denied. The Arbitrator is without jurisdiction to render a decision on this grievance .


John T. Faraway

IMPARTIAL ARBITRATOR

New Orleans, Louisiana

September 9, 1982.