

In The Case Of

INLAND STEEL COMPANY

and

UNITED STEEL WORKERS

LOCAL NO. 1010

East Chicago, Indiana

GRIEVANCE NO. 1032

ARBITRATION NO. 42

DECISION OF THE UMPIRE

SUBJECT - Discharge of Frank Prince

The agreement between the parties to this arbitration provides that in the event of a discharge of an employee, an appeal may be taken under the grievance provision to arbitration. The Company on October 14, 1942 discharged Frank Prince, an employee. Thereafter, Frank Prince took his discharge through the steps of the grievance procedure and, failing to receive satisfaction, the Union and the Company submitted the matter to arbitration. The parties, having failed to select an umpire, requested the Chicago Regional Director of the National War Labor Board to appoint an Umpire. Thereafter, the Regional Director, Robert K. Burns, appointed John A. Lapp of Chicago as the Umpire.

Hearings were held in East Chicago, January 27th, 1943, at which both parties were fully represented. A stenographic record of the testimony was taken and the parties agreed that the filing of any further statements or briefs was unnecessary.

On the basis of the evidence presented in the record, the Umpire finds the following facts and comes to the following decision.

Frank Prince was employed as a machinist by the Inland Steel Co. in 1935 and served continuously thereafter until his discharge in October, 1942.

The Charge against him, which was the cause of the discharge, was that Prince was impersonated by his brother in making out the papers and passing the physical examination at the employment office. The facts of the impersonation were admitted by Prince and were as follows:

Frank Prince interviewed the mechanical foreman and was referred by him to the employment office after the latter had satisfied himself that Prince had the required skill. On account of his physical handicap, Prince believed that he had a poor chance to pass the physical tests required by the Company and sent his brother to impersonate him at the employment office. The brother passed the physical examination under the name of Frank Prince and Frank Prince thereafter was accepted and appeared for work. He worked nearly eight years for the Company and was counted a satisfactory machinist. When at the request of the U.S. authorities, a check-up of employees in vital war plants was made by the Company in the summer of 1942, it was discovered that Frank Prince was not the one who had appeared at the employment office. Prince readily confessed the facts of the impersonation. The Company thereupon, on October 14th, dismissed him from employment. The Union brought the discharge up as a grievance and pursued the matter through the grievance steps to the present arbitration.

The Union contended that the Company knew of Prince's handicapped condition for it was plainly evident from his appearance and from his walk. The Union claimed that the discharge was due to Prince's union activities, he having been an aggressive member of a grievance committee who had fought vigorously in grievance cases.

The Union claimed that the fact that Prince had been hired on his own skill, that the impersonation was merely to avoid an unfair requirement upon a crippled person, and that the Company must have been aware of some subterfuge in his employment, should have been sufficient to overcome the fraud of impersonation.

The Company recognized Prince's ability as a machinist, denied any idea of discrimination on account of Union activities, but maintained it had

an obligation to protect its employment process from fraud because of the bad effect of such an example in these times of strict scrutiny of employees in vital defense plants. No allegation was made against Prince's character, ability or loyalty. He was, in fact, highly esteemed.

The Umpire is faced with a difficult decision. He must act upon the record as it was made. He cannot decide as the employer might have decided. The Umpire must follow the facts as the record discloses them.

He does not believe from the evidence that Prince was discriminated against because of Union activities. The fact that the employees belong pretty generally to the Union, that there is a maintenance of membership clause in the contract, and that hundreds of active union members are unmolested in their union activities, is proof that one active member would not be singled out for drastic punishment.

Prince was not discharged because of his handicapped condition; the Company thought too well of his work for that. The simple fact is that Prince was discharged for the act of impersonation by which he passed certain employment requirements. The Company had a right to discharge him for that although it might have extended clemency and retained him in employment if it had so chosen. The Company did not so choose and in discharging Prince was within its rights under Article XI of the Agreement.

The Umpire would be disposed to give all benefit of any doubts to the employee. But the fact of impersonation cannot be ever-looked. If it were merely a question of a physical handicap, the years of qualified work would be sufficient to decide that the employee should not be discharged merely because he had been handicapped for all of the years of employment. The fact that the Company actually knew of his handicap would be sufficient to waive its right to discharge after eight years of employment. If responsible

Company officials knew of the impersonation during all of those years, the Company would have been deemed to have waived its right to discharge. But there is no evidence that the Company knew anything about the impersonation until the check-up in 1942. The Company could have retained Prince after the check-up in 1942.

The Company could have retained Prince after the check-up but it also could have discharged him under the terms of the collective agreement. The Company could not employ Prince as a new employee and in view of his qualifications and his long and faithful service, the Umpire expresses the hope that the Company may choose to do so.

Signed,

John A. Lapp
Umpire

Chicago, Illinois

February 9, 1943.