Case #111 -4897-D #5

In the Matter of	National War Labor Board
Inland Steel Company	Case No. 35
and	#5
United Steelworkers of America: District #31, Local 1010	December 21, 1942

The issues in this case arise over the interpretation of Article VII of the agreement of August 5, 1942 between the Inland Steel Company and the United Steelworkers of America, Local 1010. The Article in question deals with seniority. It covers questions of promotion, demotion and transfer. The procedures outlines in the article are more elaborate than those in most labor contracts. The dispute arises over the application of the "Lenght of continuous service" rule (Article VII, Section 1 (a). The union contends that the application of this rule must be on a departmental basis. The management insists that job seniority rather than departmental seniority is the proper application of the rule.

Being unable to settle the controversies arising out of this portion of the contract through the ordinary grievance procedure, and further being unable to agree mutually on the choice of an arbiter, the parties applied to the National War Labor Board on September 19, 1942 for an arbiter and the undersigned Special Mediation Representative was appointed October 28, 1942. The arbitrator fully appreciates the fact that this request is for an interpretation of a general clause in the contract and is not an issue involving disputed questions of fact. He is aware of the legal limitations upon the powers of arbitrators in dealing with such matters. But in view of the mutual request for his services he submits the following opinion after a review of the record and after due deliberation. The pertinent parts of Article VII are as follows:

ARTICLE VII

Sections I to Section 14 inclusive

These sections recognize three phases of seniority:

(a) Plant seniority, about which there seems to be no dispute:

(b) Departmental seniority, which the union representatives feel should be the basis for promotions and demotions: and

(c) Job seniority, which the management insists should be applied in established sequences within each department.

The term "job seniority" appears nowhere in the contract except as a sub-title preceding Section 10. However, Section 12 anticipates the establishment of "promotional sequence diagrams" by the management, the same to be followed in all matters of promotion and demotion. It is further recognized in Section 12 that it will require considerable time to work out such diagrams for all departments, and the record shows that with the exception of one or two departments such promotional sequence diagrams have not been established.

Throughout the contract the recognition of the department as an operational unit within which promotions and demotions are to take place is apparent. Section 2 states plainly that ~~that~~ "The application of seniority in promotions, increases or decreases of force, shall be strictly on a departmental basis. Plant seniority shall apply only on the subjects which pertains to all employees alike, namely, vacations, reserve labor status, ect." No phase of the seniority question is more clearly expressed. No mention of job seniority is found here. And the objective reader cannot fail to get the impression that in the impression that in the absence of an established promotional sequence diagram contemplated in Section 12, each employee who is on a job in a particular department may expect to be advanced to the next higher paying job on the

basis of the length his coninuous service in at department, unless the management finds him physically, mentally or emotionally incapable of doing the work. As to the factor of ability, the latter part of Section 1 provides a 30 day trial period for the senior candidate if there is a dispute between the union and the management on the question of "ability to perform the work." It further imposes upon the superintendents of the several departments the duty of keeping records for the purpose of establishing their reasons for opposing, because of alleged inability, the promotion of particular employees who have had the longest continuous service in the department. If this is not what the two parties agreed to then there has been no meeting of the minds and the entire subject remains a matter for further negotiation. But on this point the language appears to the arbitrator to be clear and explicit.

As to demotions, Section 10 provides that "employees shall drop back in status of occupation in the same order that their promotions took place." And "employees demoted because of lack of business or reduction of forces or other causes will be demoted in the reverse order of promotional sequence provided their term of service in this promotional line exceeds that of the subordinate employee whom he is to displace." The arbitrator finds that a difference of opinion has arisen between the management and the union over the application of this rule in the face of circumstances calling for a reduction of force in certain departments. The issue here involves the first sentence. The Management interprets "occupation" as meaning, in this connection, the same as "job". On this sentence alone seems to rests its case for job seniority instead of departmental seniority in the matter of demotions. Apart from the subtitle to Section 10, the language of its two sentences do not dispell the impression gained by reading the whole of Article VII that the kind of seniority to be

expected by the employee is departmental seniority. Apart from Section 2, which seems to make the matter plain, the department is referred to repeatedly throughout this Article. The term "job seniority" is not clearly expressed in any section of the article--not even in Section 10. If it was the intent of continuous service in a particular job it has failed to make that matter clear to the disinterested reader.

The arbitrator holds no convictions favorable to any system of strict seniority. He has made every effort to consider this demotional problem from the Company's point of view. His only conviction is that the workers would be more contented if some consistent rule which they can foretell and depend upon were followed. In this case they think that departmental seniority is the answer. The contract stresses departmental seniority. The arbitrator is of the opinion that the worker has every reason to expect that once a man has been promoted on the basis of his continuous service in a department, and the record shows that he has the ability and physical fitness to do the work, he shall not be displaced by one who has entered the service of that department at a later date than his entrance.

In the matter of transfers, Section 7 makes it clear that when an employee requests a transfer from one department to another and remains in the second department for more than thirty days he automatically surrenders whatever seniority he had attained in the first department and his new status beings as of the date of transfer. Regardless of how long he may have been a company employee he gains no status for any subordinate position in the second department over those employees who were there when he transferred. However, Section 7 further provides that if an employee is transferred from one department to another at the request of the Management he "shall carry with him whatever service record he had accrued in the department from

which he was transferred." Here again it should be noted that departmental seniority is stressed throughout. Only one thing is not entirely clear. If a worker is transferred from one department to another at the instance of the Management, is his seniority status superimposed upon the new department to which he has transferred so that in a demotional situation he might move down the line to displace someone in the second department who had been there in a subordinate position longer? Apparently not. Section 10 states that "Employees demoted because of lack of business or reduction of forces or other causes will be demoted in the reverse order of promotional sequence provided their term of service in this promotional line exceeds that of the subordinate employee whom he is to displace." It would seem then that the transferree might step down to fill a subordinate position in the department to which he had been transferred only when not displacing one who has been in the department longer. Section 7, however, has provided that seems to the arbiter to be a reasonable solution to the transferred employee's situation, if his transfer were made at the suggestion of the Management. He may first be demoted in his latest department to some position held by an employee with less seniority in that department. If there is no proper demotion for him in this line without displacing one of longer departmental service, then Section 7, in the opinion of the arbitrator, clearly infers that the transferred employee is entitled to fall back upon whatever seniority he may have built up in the department from which he originally came.

Such an arrangement fails to provide for a totally new man hired from the street and put into one of the top jobs. He has no position on ashrinking force except where there are men in subordinate positions with less seniority than he has. Such a situation might well result in the Company's having to let out valuable men. A situation

of this nature is obviously not to the best interest of the Company. Nor can it be to the best interest of skilled men introduced into high ranking jobs. But to the arbitrator Section 10, as it now stands, does not provide for such men on a shrinking force. Only where there are men below them with less time spent in the same department are such men secured by the terms of this agreement.

Respectfully submitted,

(Signed) John Day Larkin
John Day Larkin
Special Mediation Representative
National War Labor Board

Hearing 10/31/44
Date of Award
1/27/45