GRIEVANCE 9 B 6
20 B 36
13 B 25

ARBITRATION NO. #27-28-29

In the Arbitration Between:

Inland Steel Company
(Indiana Harbor, Indiana)

and

United Steelworkers of America,
Local 1010, CIO

Before

Harold M. Gilden
Arbitrator

Hearing:
August 16, 1946.

REPORT AND DECISION OF ARBITRATOR

This arbitration concerns three issues which were submitted for award to Harold M. Gilden, selected by agreement of the Company and the Union to act as arbitrator. A hearing was held at Indiana Harbor, Indiana on August 16, 1946, at which all parties were represented and fully heard. The Union was represented by Joseph B. Jeneske, International Representative, Donald Lutes, Chairman Grievance Committee, George Sopko and Steve Zaragoza, Grievance Committeeman and Joseph Baltrukas, Steward. The Company was represented by William A. Blake, Industrial Relations Department, Fred M. Gillies, Works Manager, L.B. Luellen, Assistant to the General Superintendent and W. F. Mulflur, Assistant Superintendent, 76" Hot Strip Mill.

Issue 1

Whether or not Manuel Gonzales is entitled to reinstatement as a hooker in the machine shop, and if so, what restitution is to be made to him.

Facts

Manuel Gonzales was hired by the Company on June 12, 1936 and employed in the Plate Mill. In August, 1945, the Plate Mill reduced its operations from three turns to two turns and in accordance with his seniority standing in that department, Gonzales was demoted from the job of Stamper to the labor gang. The employee was unwilling to work in the labor gang, and, ascertaining that jobs were open in the Machine Shop, Gonzales, on August 6, 1945 began work as a hooker in the Machine Shop. The Union insists that inmaking the change Gonzales was regularly transferred from the Plate Mill to the Machine Shop, and it bases such assertion on the foreman's written reply to the instant grievance which states in part:

> "Number 3918, Manuel Gonzales was sent to the Machine Shop, August 6, 1945, when they went from 3 turns to 2 turns. **** W.C. Queer"

However, the Company contends that no formal transfer slip was issued, that Gonzales did not either request a transfer from the foreman or the department superintendent or apply to the personnel office for reassignment. Accordingly, the Company is of the opinion that Gonzales went A.W.O.L. when he refused to accept the assignment to the labor gang, and absented himself from the Plate Mill. The Company urges, therefore, that since it had no official record of his trip over to the

Machine Shop, Gonzales remained permanently assigned to the Plate Mill Department and, consequently, his tenure of employment at the Machine Shop must be considered as being on a temporary basis.

In June, 1946, the Machine Shop began a cut-back in operations, and after ascertaining that a job opening existed in Shear Labor at the Plate Mill, Gonzales was handed the following transfer card:

PERMANENT TRANSFER

Inland Steel Co. June 21, 1946.
Indiana Harbor, Ind.

To Superintendent of Industrial Relations:

I am willing for M. Gonzales, Number 3918 to be transferred, leaving with my full consent.

Approved B.S. Burrell Superintendent
Signed W.C. Queer Foreman

The above employee to be transferred to Plate Mill reporting June 24, 1946.

Management's or Employee's request? Recalled by Plate Mill

Gonzales objected to his proposed transfer to the Plate Mill contending that his seniority position in the Machine Shop was sufficiently high to permit him to continue working in that department, and that if a transfer was required, one of the employees with a lower seniority rating should have been selected. The Company refused to withdraw the transfer, and Gonzales did not report to work on June 25, 1946, and has continued to be absent from the plant up to the date of the instant arbitration hearing.

On July 10, 1946, the Union filed the following grievance:

Name Manuel Gonzales Check Number 3918
Department-Division - Mechanical Occupation - Hooker

Description of Grievance - The above aggrieved requests reinstatement as hooker in the machine shop with full pay for all time lost.

George Sopko, Rep.

During the time that the grievance was processed through the preliminary steps of the grievance procedure, the Company offered to compromise by suggesting that Gonzales be reinstated to his job in the Machine Shop and be paid for the time lost by him the difference between the rate which he received as a hooker, and the rate he would have received had he continued to work at the Shear Labor

job in the Plate Mill. The compromise offer was withdrawn when it failed to be accepted by the Union, the grievance remained unresolved, and was included in the instant arbitration submission.

Position of the Union

1. That Gonzales should be reinstated as a hooker in the Machine Shop, and he recompensed for all time lost by him as a result of the suggested transfer.

2. That Queer's reply to the grievance conclusively proves that Gonzales' initial transfer from the Plate Mill to the Machine Shop was not irregular but was pursuant to a specific request made by the Company.

3. That notwithstanding the contractual provision that employee's transferred by management shall carry with them all of their previous departmental seniority, the seniority rating accumulated by Gonzales during his period of employment in the Machine Shop is sufficient to permit him to remain in the machine shop in preference over other employees with less seniority.

4. That the applicable contractual provisions successfully refute the Company's claim that Gonzales was only a temporary employee of the Machine Shop.

5. That the permanent transfer care issued to Gonzales indicates the Company's recognition of Gonzales' status as a regular employee in the Machine Shop.

6. That the contractual seniority provisions safe-guard Gonzales' right to remain in the Machine Shop irrespective of the Company's need of additional men for the Plate Mill, and, therefore, the proposed transfer violates the existing contract.

Position of the Company

1. That despite the contractual provisions relating to employee's transfers, Gonzales obtained a job in the Machine Shop without a formal transfer, and, therefore, Gonzales must be deemed to have accepted work in the Machine Shop on a temporary basis.

2. That Gonzales' demotion at the Plate Mill was in accord with his seniority standing in the department at that time and that his action in arbitrarily leaving the department was without permission and contrary to the terms of the agreement.

3. That Gonzales took advantage of the dislocation and confusion following the ending of the war to secure work that was more to his liking and therefore, he cannot properly be considered as a permanent member of the Machine Shop Department.

4. That if the Arbitrator concludes that Gonzales is entitled to be reinstated to his job in the Machine Shop, the Company should not be charged with any loss of wages arising from Gonzales improper action in refusing to report for work and, consequently the back pay award should be limited to the difference between the rate for the hooker's job and the rate for the Shear Labor job in the Plate Mill.

Discussion

The existing labor agreement contains the following provisions:

ARTICLE VII

Seniority

Section 5. - All newly hired employees will be regarded as probationary employees for the first sixty (60) working days of their employment and will receive no continuous service credit during such period. During this period of probationary employment, employees may be laid off or discharged, as exclusively determined by Mangement, provided such exclusion shall not be used for the purpose of discrimination because of membership in the Union. After sixty (60) working days of probationary service the employee shall receive full continuous service credit from the date of original hiring.

Section 7. - An employee desiring to transfer to some department in the plant other than the one he is employed in shall, if transferred, retain his seniority in the department from which he transferred, for a period of thirty (30) days. At the end of this period of thirty days he shall commence to establish a departmental service record in the new department as of his first working day there.

Employees transferred by Management or employees desiring to transfer in order to fill a vacancy or a new occupation which cannot be filled from the department, in accordance with Article VII, Section 1, shall, if so transferred, carry with them all of their previous departmental seniority for the purpose of promotions and demotions with the new department. Written records of all such transfers shall be maintained within the new department.

The record indicates that Gonzales began working in the Machine Shop on August 6, 1945. It must be assumed that his entry into this new department occurred immediately after he was notified of his demotion as an employee in the Plate Mill. This assumption is inevitable when it is considered that the evidence not only fails to establish the precise date on which Gonzales' transfer from Stamper to the Labor gang was to have become effective, but Foreman Queer's statement that Gonzales was sent to the Machine Shop by the Plate Mill implies that the change in occupation was accomplished without a separation from the plant or a loss of working time. Accordingly, the Company's conclusion that Gonzales absented himself from the Plate Mill without leave can be supported only if his failure to request a transfer, and the fact that a transfer slip was not actually prepared, can be construed as the equivalent of an authorized absence from the plant.

Clearly, when Gonzales presented himself at the Machine Shop and applied for one of the open jobs in that department, the fact was known that he was affiliated with the Company as an employee in the Plate Mill, and the curtailment of the Plate Mill operations at that time was known and understood throughout the Plant. If the Machine shop had required a full compliance with all of the formalities normally associated with transfers before permitting Gonzales to begin work in that department, Gonzales could have been requested to obtain a transfer slip or in the alternative, the request for an appropriate transfer card could have been communicated directly to the Plate Mill Superintendent or to the Personnel Office. It must be recognized that at this time, shortly before V-J Day, reconversion problems had become significant necessitating a curtailment of operations in some departments and requiring expanding production in others. The Machine Shop needed more men and it accepted Gonzales, as well as other Plate Mill employees, with alacrity. Insofar as the Decision to accept Gonzales' services without adhering to the customary transfer procedure is chargeable to the Company, it follows that the Company, itself, waived compliance with the transfer formalities. Therefore, the Company cannot now resort to the alleged transfer irregularities to support its contentions either that Gonzales was technically absent from the Plate Mill department without leave during his period of service in the Machine Shop or that Gonzales was merely a temporary employee in the Machine Shop, and, as such, ineligible to accumulate seniority benefits.

It is unnecessary for the purpose of adjudicating this issue to determine whether Gonzales' seniority standing in the Machine Shop should relate back to the date on which he was originally hired by the Company or be limited to the date he began work in that department. That is so because if Gonzales is credited with August 6, 1945, as his seniority date in the Machine Shop, it is conceded that he would have a valid claim to remain in that department in preference to those other employees, with less seniority, whose transfer out of the Machine Shop had not been requested. It cannot be seriously argued that Gonzales was a probationary employee in the Machine Shop since it is plain that he fulfilled the contractual requirements of Article VII, Section 5, after he completed sicty working days subsequent to June 12, 1936, his original hiring date. Neither does the contract contain any provision suspending seniority while any employee is working in a department to which allegedly he is not officially accredited, nor does it use or define the term "temporary employee." It is the view of the undersigned, therefore, that for the purpose of determining this issue, it must be concluded that Gonzales was regularly employed in the Machine Shop from August 6, 1945, to June 24, 1946. This finding is made, of course, without passing upon or prejudicing any future contention by Gonzales, that he was transferred to the Machine Shop at the Company's request, and, therefore, carried with him all of his previous Plate Mill Department seniority.

The Union insists that as a consequence of the wrongful attempt to transfer Gonzales to the Plate Mill he should be reimbursed for all time lost by [redacted] him since he left the plant. In its brief, the Company proposes that, in the event the Arbitrator directs the reinstatement of Gonzales in the Machine Shop, the appropriate amount of retroactive pay should be the difference between the rate paid to him as a hooker, and the rate he would have received had he accepted the transfer to the Shear Labor Job in the Plate Mill. The Union urges, in support of its position, that employees are transferred by Management only in those instances where vacancies or new

jobs cannot be filled by employees in the department; that the job to which Gonzales had been assigned could have been filled by employees in the Plate Mill because it is only a labor job, and, therefore that Gonzales was within his rights both by refusing to accept an improper transfer, and by quitting his work pending the adjudication of his grievance.

The Arbitrator recognizes that Gonzales considered the labor job at the Plate Mill as being far less desirable than the job held by him at the Machine Shop, from the standpoint of differences in job content and hourly rates. Nevertheless, it is evident that the grievance procedure exists for the specific purpose of affording a peaceful method of obtaining redress where contractual rights have been violated. If Gonzales was correct in abstaining from work while his grievance was being processed then it would be similarly correct for other employees to leave their jobs whenever it was felt that orders issued by Management were contrary to the terms of the labor agreement. The existence of a contractual grievance procedure contemplates that plant operations shall not cease or be disrupted when Management prerogatives are challenged. It is not unreasonable to expect that Gonzales should have obeyed the instructions on the transfer card, and entered upon the duties of the labor job in the Plate Mill pending the outcome of his grievance. Or in the albernative, and notwitstanding the transfer directions, he could have remained at his job in the Machine Shop in which event the Company either would have discharged him or filed a grievance protesting his refusal to make the change. The Arbitrator cannot rationalize Gonzales' action in taking matters into his own hands by quitting work, and his present demand that he be compensated in full for the time lost by him while he was absent from the hooker's job. In the Douglas Aircraft Co., Inc. Case 2LDS7, Arbitrator Paul Prasow said:

> "However, Mr. Herndon also had the responsibility to himself and to the Company to accept Mr. Covert's offer for the time being, and, if he felt the transfer was unjust to him, to take the matter up as a regular grievance through the steps of the grievance procedure, including arbitration, if necessary,
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> "Instead, Mr. Herndon voluntarily elected to resign rather than accept the offer of a transfer at a lower rate. His choice in this matter was his own, and not the Company's. In view of this, the Company has no obligation to reimburse Mr. Herndon for time lost since his termination of November 12."

It is the view of the Arbitrator, that Gonzales cannot be awarded more than the Company now proposes to pay, namely, the difference between the rate formerly received by him as a hooker in the Machine Shop and the rate for Shear Labor in the Plate Mill.

Award-

That Manuel Gonzales is entitled to immediate reinstatement as a hooker in the Machine Shop, and that he should be remunerated, for all straight time hours of employment lost by him during the period from June 25, 1946 up to the date of his reinstatement, in an amount equal to the difference between his average hourly rate as a hooker in the Machine Shop, and the average hourly rate paid for the Shear Labor job in the Plate Mill.

Issue 2

Is Joe Baltrukas entitled to a reasonable trial period of not less than thirty days as a Roll Hand in the 76" Hot Strip Mill?

Facts

Joe Baltrukas first became employed by the Company in July, 1933, as an Inspector in the Bar Mill. In October, 1933, he was transferred to the 76" Hot Strip Mill as an End Shear Helper, and from that time, and until the date of the hearing, he has continued to be employed in the 76" Hot Strip. He is presently classified as a Runout Table Operator Helper.

On or about January 1, 1946, a vacancy occurred in the job of Roll Hand in the Rolling Division of the 76" Hot Strip. The job duties for this job include operating the screw down controls in making the settings on the mill for the different gauge and width changes; in keeping the bar of steel running true in the several passes through the mill; under the direction of the Roller or Finisher, to set the guide boxes for the different widths; to ascertain that the Stripper Guides are functioning properly; and to assume responsibility for the continuous application of water on the rolls. Baltrukas' request for a trial period on this job was denied and the following grievance was filed:

January 3, 1946

Name - Joe Baltrukas Check Number 9990
Department - Division - 76" Hot Strip-Rolling
Occupation - Runout Table
OPR. HLPR.

Description of Grievance - Aggrieved requests to be broken in on the Roll Hand Job. (30 Day Trial Period)

Donald Lutes, Rep.

The grievance was denied by the Company throughout all of the preliminary steps of the grievance procedure, thereby reaching the arbitration level.

Since the filing of this grievance, several employees have been assigned to this job as extra crew members. The departmental seniority standings and personnel ratings of these employees is compared to that of Joe Baltrukas in the following chart:

Name	Date of Departmental Seniority	Last Ratings On Personnel Cards
Joseph Baltrukas	October, 1933	1 (8/22/45)
Heppy V. Michna	November, 1945	3 (1941)
Louis Stan	November, 1933	3 (1940)
Mike Evon	March 1935	3 (1941)
Ray Sundland	August, 1935	4 (8/28/45)
Arthur E. Morris	September, 1936	4 (8/28/45)

Note: Ratings are classified as follows:

1 - Poor	4 - Good
2 - Subnormal	5 - Excellent
3 - Fair	

The Company testified that in 1941, when a new crop shear was installed in the 76" Hot Strip, Baltrukas was sent to the 44" Mill for a two week training period in the operation of the 44" crop shear; that the 76" crop shear began operating on May 7, 1941, and Baltrukas was assigned as the crop shear operator on the "A" crew; that during the period between May 7 and May 28, his work performances were so unsatisfactory that on several occasions, the Roller or the Finisher had to run to the operating pulpit and take over the controls in order to avoid a wreck; that during this period he had the entire crew jittery; that on May 28 he permitted two bars of steel to become lapped on the approach table, and permitted them to enter the mill in that manner; that only split second action on the part of the speed operator prevented a very serious and costly wreck in mill equipment; that he was immediately removed as the crop shear operator.

The Company also testified that early in 1943 Baltrukas applied for a trial period on the job of end shear operator; that the department superintendent's decision denying the request was overruled by Mr. Gillies, who directed that Baltrukas should be given a two week breaking in period for the job; that in a very short time Baltrukas indicated his inability to perform this job by failing to keep up with the mill, and causing many delays; that he was replaced and made no protest.

The Company introduced into evidence copies of grievances filed by Baltrukas, for the Looper Operator or Hot Bed Recorder jobs, (denied by the Department Superintendent on April 21, 1943 and by the Superintendent of Industrial Relations on May 6, 1943) and for the Rougher Operator or Mill Recorder jobs (denied by the same individuals on March 22, 1945 and April 6, 1945, respectively.)

At the hearing, Baltrukas denied any negligence with respect to the manner in which he operated the crop shear, and he attributed the near wreck which caused his demotion to the fact that the Rougher did not hold back the third bar of steel but pushed it through while he had two bars on his table; and made it necessary for him to send one of the bars through the shearer. Baltrukas also stated that he has not received a promotion since 1933; that he did not get a fair trial in his attempt to qualify for the End Shear operator's job; that he had performed the Roll Hand job for about six months between November, 1933 and May 1934, that he is familiar with the job and he believes that he could qualify as a competent operator if he was given a reasonable trial; that the grievances with respect to the Looper Operator, Hot Bend Recorder, Rougher Operator and Mill Recorder jobs were not processed through Arbitration because Baltrukas held the position of Grievance Committeeman for the 76" and 46" Blooming Mills at that time and he was reluctant to carry his own cases through.

Baltrukas' personnel card, introduced as an exhibit at the hearing, discloses that he is a graduate of Crane Tech. High School and completed two years of Mechanical Engineering at Armour Tech; and that his service record is the following:

Date	Disposition	Position	Dept.	Reason for Change
7/33	Hired	Inspector	Bar Mill	Noise - Business slow
10/33	Transferred	End Shr. Hlpr.	76" H.S.	)Transferred from
11/33	"	Roll Hand	"	(job to job in
5/34	"	Hot Bed Recorder	"	)effort to find
9/38	"	R.O.T. Opr. Hlpr.		(employment for)which he was (best suited.

Furthermore, the cards indicate that on March 3, 1936, he was disciplined two turns for careless handling of wire for coils, and he has been rated as follows:

9/21/36 - General Rating - Fair although poor in several items: Ability to handle volume of work quickly and ability to recognize and solve a problem; leadership also poor. Handicap - speech. Hobby - Reading.

12/38 -- 2
6/40 -- 1
8/22/45 -1

The Company admitted, that it has found no fault with Baltrukas' moral qualities; that he is a conscientious and willing employee, and that their attitude in denying this grievance was motivated entirely by their considered judgment of his qualifications for a job which requires a man of better-than-ordinary skill, one who has the capacity to make split-second decisions, and the ability to exercise, at all times, common sense and good judgment.

Position of the Union

1. That, in accordance with the contractual seniority provisions, Baltrukas should be allowed a reasonable trial period, since his seniority standing is higher than those of the employees who were subsequently assigned to the job.

2. That Baltrukas was not called in by the department superintendent or his assistant, or otherwise notified that his personnel ratings were unsatisfactory, and, therefore, the Company has not complied with the provisions of the contract which deal with the keeping and maintenance of personal records.

3. That the Company's failure to strictly comply with the Personnel Record sections of the contract estop it from challenging Baltrukas' ability to perform the work.

4. That the contract prohibits the use of practices infringing on regulations or instances of improper workmanship from influencing an employee's record after one year elapses from the date the alleged violations occur.

5. That the Company has violated the contract in refusing to grant Baltrukas a reasonable trial period on the job of Roll Hand, and he should be remunerated the difference in pay between his present job and the Roll Hand Job, retroactive to the date of the filing of the grievance.

Position of the Company

1. That Baltrukas has demostrated by his record in the department, over a period of years, that he does not have the necessary qualification for and he cannot be entrusted with the responsibilities of the Roll Hand job.

2. That the contract does not provide that Baltrukas is automatically entitled to a thirty day trial period on any job to which he may aspire merely because his departmental service record is of greater length than that of other employees.

3. That in cases of promotion, the contract specifically reserves to the Company the evaluation of the "ability to perform the work" factor, and a trial period is specified only in those instances where personnel records have not established a differential in relative abilities.

4. That the personnel records establish a clear differential in relative abilities between Baltrukas and other employees and, therefore, the Company is relieved of the necessity of granting a trial period to Baltrukas.

5. That the record in this case amply demonstrates that Baltrukas has very definite limitations which have been recognized both by his co-workers and the Company, and to permit him to work on a job of any higher rank than that which he now holds would be a costly and dangerous experiment.

6. That Baltrukas has been frequently spoken to be supervisors relative to the unsatisfactory nature of his work performance; that he has been similarly informed of the Company's dissatisfaction with the quality of his work by the Company's position in denying the several grievances filed by him for better jobs; that he cannot justifiably complain that he was uninformed of his unsatisfactory ratings.

7. That the contractual provision excluding violations of more than one year's duration from influencing an employee's record is intended to apply to matters requiring disciplinary treatment and therefore it is not pertinent or aplicable to this issue.

8. That the Company made a sincere effort to advance this employee on two specified occasions, and that his failure to qualify in those instances is indicative of his limited capabilities.

9. That the Company is chargeable with the duty to see that an employee is not placed in a position which will be detrimental to the efficient operation of the plant, or which will jeopardize the safety and well-being of his fellow workers or himself.

10. That the instant issue is identical to the Greenberg, et al cases previously submitted to this arbitrator; that the award dated June 7, 1945, confirms the Company's interpretation of the seniority provisions, and is consistent with the action taken by it in the instant case.

Discussion

The existing labor agreement contains the following provisions:

ARTICLE VII

Seniority

The Company and the Union recognize that promotional opportunities and job seniority, when decrease of forces takes place, and reinstatements after lay-offs should merit consideration in proportion to lenght of continuous service. It is also recognized that efficient operation of the plant greatly depends on the ability of the individual on his particular job.

It will be the intent of the administration of the following section to give full due consideration to the employee's length of continuous service in the department within which he is active.

Promotions

Section 1 - It is understood and agreed that in all cases of promotion or increase of forces the following factors shall be considered:

(a) Length of continuous departmental service
(b) Ability to perform the work
(c) Physical fitness.

It is further understood and agreed that where factors (b) and (c) are relatively equal, length of continuous departmental service shall be given. In the evaluation of (b) and (c) Management shall be the judge: provided that this will not be used for purposes of discrimination against any member of the Union. If objection is raised to Management's valuation, and where personnel records have not established a differential in relative abilities of two employees a reasonable trial period of not less than thirty (30) days shall be allowed the employee with the longest continuous departmental service record.
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Section 3 - Seniority consideration of promotions and demotions will be governed by the seniority status of an employee within the department in which he works.
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Section 8 - Individual records of each employee shall be maintained in the department which the employee is active. These records will maintain an overall listing of the individual's service in that department.

Each employee shall at all times have access to his personnel record and in case of those employees whose records indicate unsatisfactory workmanship, the superintendent of the department or his assistant will call the employee in and acquaint him with the reasons for unsatisfactory rating.

> The Superintendent of departments will, when necessary, continue the program of acquainting the employee with written notices of discipline or warnings to stop practices infringing on regulations or improper workmanship. Those letters are recorded on the personnel cards. In all cases where one year elapses after a violation requiring written notice, such violation will not influence the employee's record.
>
> These records of the employee's individual performance have much influence on the "ability to perform the work" clause, Section 1 and Section 2 of Article VII of this agreement, but in no case will the Company contend inability to perform the work when the procedure as herein outlined has not been strictly complied with. Should any dispute arise over the accuracy of the personnel record it shall be disposed of through the normal grievance procedure.

The instant issue is differentiated from the facts which were present in the issue submitted to arbitration in the Greenberg, et al cases, in that the Union is presently contending that the Company is estopped from relying on its personnel cards to prove a differential in relative abilities between Baltrukas and the other employees. To support this contention the Union stresses the fact that neither the department superintendent nor his assistant called Baltrukas in to acquaint him with the reasons for his unsatisfactory rating, that such failing is not a strict compliance with the indicated procedures, and, therefore, by the precise wording of Article VII, Section 8, the Company may not assert that Baltrukas does not possess the ability to perform the work.

The second paragraph of Section 8 in providing that each employee shall have access to his personnel record, preserves to the employee his right to read his personnel record, and inform himself by way of the notations and remarks appearing on the card, of the Company's appraisal of his worth. If he disputes the accuracy of the record or of any of its component parts, the grievance procedure is available to him for the purpose of resolving the complaint.

The same paragraph places a responsibility on the part of Management to advise employees whose workmanship is unsatisfactory, of the reasons for their shortcomings. It is reasonable to expect that this provision will make certain that employees do not remain "in the dark" in those cases where the Company is not satisfied with the quality of their work, and also will provide them with an opportunity to preserve their seniority preference in instances of promotions, and to decrease the probability of discharge or demotion for continued ineptness.

Can it be seriously waged that Baltrukas remained uninformed of his standing in the department simply because he was not formally called to the office of the department superintendent or his assistant? At the times of his demotions as Crop Shear Operator in 1941, and End Shear Operator in 1943, he was told of the Company's opinion of his capabilities to continue to operate those jobs. If he believed that he was improperly removed from these positions, he could have filed grievances. Similarly, the same lack of qualifications was expressed by the Department Superintendent, and the Superintendent of Industrial Relations in denying the grievances filed by Baltrukas in 1943 for the Looper Operator or Hot Bed Recorder Jobs, and in 1945 for the Rougher Operator of Mill

Recorder Jobs. During the discussions of these grievances, in the several steps of the grievance procedure, it is obvious that mention was made of the numerical ratings appearing on his personal card. Accordingly, it follows that Baltrukas had notice, even as recently as 1945, of his record of poor workmanship, and the reasons for his low rating. In the face of these facts, it would appear to be a useless gesture for the Superintendent to call Baltrukas to his office, and reiterate a message that Baltrukas had already heard. Since the Company had already made known to Baltrukas its evaluation of his work performance, the intent and purpose of the second paragraph of Section 8 was fulfilled, and to insist that, in addition, he should have been called to the Superintendent's office is superfluous and unreasonable.

The Union has placed a great deal of emphasis on the third paragraph of Section 8 to support its view that the incidents and personnel card ratings which antedate the date of the grievance by more than one year cannot be used to influence his work record. This paragraph speaks of "Written notices of discipline or warnings to stop practices infringing on regulations or improper workmanship." This provision refers to infractions of rules, misconduct, or specific instances of negligence or inefficiency in the performance of job duties, and is intended to preclude an isolated mis-step from forever afterwards hanging over an employee's head and from being considered cumulatively in any future instance of improper conduct. For that reason, it would be unjust to make a determination of an employee's ability on the basis of some "boner" pulled by him in the distant past, and to steadfastly cling to the same opinion throughout the remainder of the employee's services with the Company. Obviously, the employee may have improved himself since then through added experience, training or schooling. If that was so, the improvement should be reflected in the employee's ratings. In this case, however, Baltrukas' rating declined from 2 in 1938 to 1 in 1940 and it has remained at 1 in the last rating 1945. This fact evidences a lack of improvement, and a tendency to stay at the lowest rating level.

The violations referred to in the third paragraph of Section 8, and which are specifically outlawed after the lapsing of one year, do not include the employees ratings appearing on the personnel cards. That is so because the contract fails to specify at what intervals the company shall rate the employees, and because "ratings" cannot be properly included within the meaning of the work "violations." Even if the arbitrator accepted the Union's viewpoint that this particular paragraph in Section 8 barred the use of ratings which were more than one year old, it is clear that the Company nevertheless would be entitled to make use of the "1" with which it rated Baltrukas on August 8, 1945, since the date of that rating is within one year of January 3, 1946, the date on which the instant grievance was filed.

The arbitrator concludes, therefore, that the Company's use of Baltrukas' personnel record to prove a differential in relative abilities between him and those junior employees who were preferred for the job of Roll Hand was not improper, and since these personnel records do establish a differential in relative abilities between these employees, the Company did not violate Article VII, Section 1, in denying a trial period to Baltrukas, the senior employee.

Award

That Joe Baltrukas is not entitled to a reasonable trial period of not less than thirty days as a Roll Hand in the 76" Hot Strip Mill.

Issue 3.

Shall the 18½¢ general wage increase of February 16, 1946, be applied to the bonus hours as well as to the hours worked, and if so, shall it be made retroactive to the date of the increase, with respect to the employees in the Mechanical Department and the Roll Shop who work under the Halsey Bonus System?

Facts

On February 16, 1946, the parties entered into a Supplemental agreement providing for a general wage increase of 18½¢ per hour. In putting this wage increase into effect, the Company added to employee's earnings, irrespective of whether those earnings resulted from hourly, tonnage, incentive or piecework rates, the amount of 18½¢ for each straight time hour worked. The Union protested against this interpretation of the terms of the Supplemental Agreement, and contended that, with respect to all employees working under the Halsey Bonus System, the 18½¢ per hour also should be applied to the value of the bonus hours earned. Subsequently, the following grievances were filed:

Date - March 27, 1946.

B.S. Burrell, Supt.
Name - Group
Department - Mechanical
Description of Grievance - All employees in the Mechanical Department who work on the Halsey Bonus System
Request the .185 raise be applied to their bonus hours also. Retroactive to the date of the raise.

George Sopko, Rep.

Date - April 5, 1946.

Name - Roll Shop

Description of Grievance - The men in Roll Shop wish the raise of 18½¢ per hour applied to their Halsey Bonus. They received the raise only on the basic rate and according to the Halsey Incentive System, they should receive one hour's pay to the earnings per day for each hour's bonus made. Their basic rate is $1.36 per hour and they only receive $1.12½ bonus per hour.

George Horan, Rep.

In the Halsey Incentive System, also referred to as the [redacted] Halsey 50-50 Bonus System, an allowed time is established for each job or task, and the men are credited with a bonus equal to half the difference in hours between the allowed

time and the actual time taken for the job. The bonus is computed by multiplying the net bonus hours saved by the established bonus hourly rate. For example, if an employee is assigned to a job and he is given an allowed time of ten hours within which to complete his work, but he actually finishes in six hours, his bonus is equal to one-half the time saved, or two hours, multiplied by his established bonus hourly rate.

Prior to April 1, 1941, the employees' regular hourly rates and the bonus hourly rates were identical. Effective as of that date, an industry wide 10¢ per hour general wage increase was granted, and in applying that wage increase this Company added the 10¢ per hour not only to the straight time hourly rates, but also to the bonus hourly rates of employees working under the Halsey Incentive Plan. On June 7, 1941 the Company advised its Department Heads that the addition of the 10¢ per hour increase to the bonus hours under the Halsey plan was an error on the part of the payroll clerks, and directed them to immediately discontinue that practice. The Union filed a grievance protesting the discontinuance of this practice; the dispute was ultimately submitted to arbitration; and the following decision was rendered:

> Arbitration Proceedings
> Local Union 1010 Steelworkers Organizing Committee
> vs.
> Inland Steel Company of East Chicago, Indiana
> Hearing held before Chas. H. Wilson, Deputy Commissioner
> of Labor, July 17, 1941.
>
> The question comes to arbitration as a result of a difference of opinion between the management and representatives of the Steelworkers Organizing Committee:
>
> The question involves whether the Company shall pay the roll turners, roll grinders, mechanical shop men and or machinist working on the Halsey System on all time saved, the old rate of 96¢ per hour or on the current rate of $1.06 per hour.
>
> It is the belief of this arbitrator that the current rate of $1.06 per hour should be paid because it has been done in the past by the Company, and that by the 10¢ per hour increase establishes the value of the hour to $1.06 and to maintain the incentive system so that both management and the worker will benefit from this system; the worker must be encouraged by paying him on all time saved on his current rate of $1.06.
>
> (Signed) Thomas R. Hutson
> Commissioner of Labor
>
> (Signed) Chas. H. Wilson
> Deputy Commissioner
>
> Dated this 12th, Day of September, 1941.

In July, 1942, the National War Labor Board in the Little Steel Case, ordered a Wage increase of 5½¢ per hour, the Directive Order stating, in part:

> "(c) The effect of the two adjustments mentioned above is to provide the steelworkers affected by the Board's order with a total wage increase of $.055 per hour or $.44 per eight-hour day."

The Company did not apply the 5½¢ hour increase to the bonus hourly rates of those employees working under the Halsey System, and consequently from and after February 10, 1942, the retroactive date mentioned in the Little Steel Case, a disparity of 5½¢ per hour prevailed between straight time hourly rates and bonus hourly rates under the Halsey System. The Company's interpretation of the terms of the Supplemental Agreement of February 16, 1946, and its application of the wage increase therein mentioned, has widened this difference so that, at the present time, the established bonus hourly rate of employees working under the Halsey system is 24¢ per hour less than their regular straight time hourly rates.

The two grievances were not resolved through resort to the preliminary steps of the grievance procedure, and were included within the instant arbitration submission.

Position of Union

1. That the manner in which the Company is presently applying the 18½¢ hourly increase to employees working under the Halsey Bonus System has converted the 50-50 Halsey into a 60-40 Halsey, in violation of the provisions in the Supplemental Agreement specifying that existing incentive plans shall remain unchanged.

2. That the Halsey Bonus System is based upon and primarily concerns "hours" as distinguished from monetary rates, and it follows that the value of hours worked should be identical with the value of hours saved.

3. That, by Arbitrator Wilson's decision the Company was defeated in its attempt to withhold the 10¢ general increase from the bonus hours earned under the Halsey System.

4. That the principles and precedent established by the Wilson decision should be followed in this case.

5. That the failure to increase the value of the bonus hours by the amount of the wage increase results in a situation where the Company is receiving a greater share of the bonus hours than is received by the employees.

6. That the hours saved under the Halsey system are worth as much to the Company as the hours worked.

7. That until the Company's application of the 5½¢ hourly increase directed by the War Labor Board, the bonus hours accruing under the Halsey System, were always computed at the employee's regular hourly rate.

8. That there is nothing peculiar to the Halsey System which would require that the value of the bonus hours be less than the employee's regular hourly rate; that it is merely an incentive plan designed to secure added production.

9. That if the employees did not exert extra effort to earn bonus hours all of their earnings would reflect the 18½¢ increase.

10. That the wage increases which have been awarded as a result of collective bargaining and administrative orders should be incorporated into the value of the bonus hours under the Halsey System.

11. That the Company has violated the existing labor agreement by not applying the 18½¢ hourly increase to the 50-50 Halsey Bonus System, and that the employees who are involved in this issue, should be awarded the increase retroactive to the dat e the increase was granted.

Position of the Company

1. That its present application of the 18½¢ hourly increase is in complete conformity with the language of the Supplemental Agreement.

2. That it is improper to add this increase to the value of the bonus hours under the Halsey System because such action would effect a raise of more than 18½¢ for each hour worked with respect to employees working under that System.

3. That the language of the Supplemental Agreement is crystal-clear, specifying that the raise of 18½¢ per hour was a flat increase per hour for every hour worked and expressly precludes any change in current rates.

4. That its application of the 18½¢ increase to employees under the Halsey System is identical with its application to the same group of employees of the previous 5½¢ general increase awarded by the NWLB; that the language of the Board's order and the Supplemental Agreement is similar insofar as both instruments provide that specified cents per hour be added to the total earnings of employees irrespective of their particular system of pay.

5. That the language of the Supplemental Agreement was adopted in identical form by other Companies in the Industry and by other locals of the United Steelworkers of America, and that all of the Companies have applied the increase in the same manner.

6. That if the 18½¢ increase was incorporated into the Halsey Bonus System there would be a duplication of the increase on actual hours worked with the result that the employees working under the Halsey Plan would receive preferential treatment, a condition not contemplated by the terms of the Supplemental Agreement.

7. That the granting of this grievance would nullify the incontrovertible terms of the collective bargaining agreement.

Discussion

The Supplemental Agreement dated February 16, 1946, contains the following provisions:

WAGES

The present Article III shall be amended as follows:

Section I - the basic common labor rate is $0.96½ per hour.

Effective January 1, 1946, and ending February 15, 1946, each employee shall receive, in addition to the earnings received from existing hourly, tonnage, incentive and piecework rates, an amount of 9½¢ for each hour worked.

Effective February 16, 1946, each employee shall receive, in addition to the earnings received from existing hourly, tonnage, incentive and piecework rates an amount of 18½¢ for each hour worked.

Rates now in effect plus the 18½¢ per hour increase above provided shall remain in effect for the duration of this agreement, except as provided under Article IV of the Agreement, dated April 30, 1945.

With the above exceptions all other provisions of Article III will remain in effect.

The Union illustrated the alleged injustice of the prevailing application of the 18½¢ hourly wage increase to the group of employees working under the Halsey Bonus System by the following example:

"An employee working on the Halsey System who was paid $1.00 per hour prior to the 18½¢ an hour increase was given a job to do in two hours. He was fortunate enough to complete the job in one hour and was paid thus - $1.00 plus one hour saved; the hour saved being shared equally with the Company gave him half of the hour saved, or an additional 50¢, making a total of $1.50 earned on the job, and the Company being credited with 50¢ on the job.

An employee working under the present method of paying, doing the same job in the same time is paid thus - $1.18½¢ plus one hour saved; the hour saved being paid for at the rate of $1.00 per hour shared with the Company gives him an additional 50¢, making a total of $1.68½ earned on the job. The Company, however, is credited with 50¢ plus 18½¢ which gives them 68½¢ for its share of the hour saved, which is more than the equal share the employee is supposed to get."

In the foregoing example the difference between the value of the bonus hour and the value of the hourly rate is considered to be 18½¢, although the current differential at this plant is actually 24¢. This amount represents the sum of the 5½¢ increase granted in 1942, and the 18½¢ increase granted in 1946. Nevertheless, the example portrays one of the principal objections of the Union to the present manner of dealing with this increase, namely, "If the employee had taken his full time to do a job which was allotted two hours, the Company would pay him twice his hourly rate, or $2.37 (using the same rates as were included in the sample submitted by the Union), but if he succeeded in performing this job in one-half the time he would receive $1.68½ and therefore the Company is saving 68½ cents." In other words, the Union urges that as the worth of the hour worked increases in value the worth of the hour saved similarly increased in value, and unless the saving is shared equally between the Company and the Employee the increased hourly value is largely for the benefit of Management.

In 1941, the employees of this Company were advised of the 10¢ per hour wage increase by the following notice:

"Effective at once and retroactive to April 1st, 1941, the wages of all hourly, day rate, and tonnage paid employees will be increased 10¢ per hour. Salary rates will be adjusted.

Signed - J. W. Walsh
Works Manager "

April 14, 1941.

The Wilson decision is proof of the fact that the Arbitrator considered the language of the Notice to be sufficient to warrant a like increase in the value of the bonus hour under the Halsey System. On the basis of the facts which then prevailed, there is no reason to believe that the award was unsound. The Company abided by the decision and, accordingly, the value of the hour worked and the value of the hour saved each were increased by 10¢.

The Board's Directive Order in the Little Steel Case specified "$.055 per hour or $.44 per eight-hour day." In computing its payroll for employees working under the Halsey System after the effective date of that increase, the Company separated hours worked from hours saved, and then increased the rate for all hours worked by 5½¢ per hour. The Union did not file a grievance challenging the propriety of the 5½¢ differential which was now created between the value of the hour worked and the value of the hour saved.

The Supplemental Agreement of February 16, 1946, provided that "each employee shall receive, in addition to the earnings received from existing hourly, tonnage, incentive, and piecework rates an amount of 18½¢ for each hour worked. The Company applied this increase to the employees working under the Halsey System in the same manner as it had applied the previous 5½¢ increase, with the result that the differential between the value of the hour worked and the value of the hour saved was increased to 24¢.

It is readily apparent that the language used in the Supplemental Agreement does not single out the Halsey System or any other incentive plan for special treatment. There is nothing in the wording of this provision from which an agreement to modify, amend or alter existing hourly, tonnage, incentive or piecework rates can be inferred. In fact, the contrary conclusion is achieved by the words "rates now in effect plus the 18½¢ per hour increase above provided shall remain in effect for the duration of this agreement." The only manner in which this provision could be applied is to multiply 18½¢ by the total of the hours worked.

To prove that the other steel Companies had applied the 18½¢ increase in the same manner as it was applied at Inland Steel the Company introduced letters addressed to it by Republic Steel Corporation, Carnegie-Illinois Steel Corporation and Youngstown Sheet and Tube Company which stated in part the following:

"The 18½ cents is paid as a straight hourly rate for each hour worked, and is not used in [redacted] calculating any bonus incentive or piecework rates anywhere in the plant. The only additional compensation on which the 18½ cents is included is for overtime payment.

Republic Steel Corporation
By J. W. Murchie
District Industrial Engineer"

"**** That Company policy does not incorporate such an increase into the rate for calculation of incentive earnings. The $.185 per hour increase of February 16, 1946, has been treated as a flat increase.

Carnegie-Illinois Steel Corporation
By G. H. Dowding
Director of Industrial Relations."

"This has been interpreted and applied as a separate payroll calculation after all tonnage, incentive and piece rates have been computed. In no instance have we increased an existing base rate or increased the amounts of tonnage, incentive or piece rates, as the results of the 18½¢ increase.

The Youngstown Sheet and Tube Company
By A. G. Wynkoop

What would be the practical effect of sustaining the Union's position on this issue? If an employee working under the Halsey System, who prior to the increase of February 16, 1946, was receiving $1.25 for each hour worked and $1.19½ for each hour saved, and subsequent to February 16, 1946, he earned during an eight-hour day a bonus of three hours, half of the bonus being shared with the Company, his pay for the day would be computed as follows:

8 hours worked @ $1.25 plus 18½¢ or $1.43½ equals		$11.48
1½ hours net saved @ $1.19½ plus 18½¢ or $1.38 "		2.07
	Total	$13.55

If, on the other hand, the employee was paid "in addition to the earnings received from existing hourly, tonnage, incentive, and piece work rates, an amount of 18½¢ for each hour worked" his pay for the day would be computed as follows:

8 hours worked @ 1.25 equals	10.00	
1½ hours (net) saved @ $1.19½ equals	1.79	
	$11.79	
Plus 8 hours worked @ 18½¢ equals	1.48	
Total		$13.27

The difference between $13.55 and $13.27 is 28 cents, which, in this illustration, represents the excess over and above the 18½¢ for each hour worked in addition to his existing rates which this employee would have received merely because he happened to be working under the Halsey System. To the extent that this employee's earnings exceeded the earnings of other employees of this Company who did not receive more than the 18½¢ for each hour worked in addition to their existing rates, he would be preferentially benefited by the wage agreement of February 16, 1946.

This result would be unsound, impractical and discriminatory, and would be contrary to the principles under which the Union bargained for and obtained wage increases for all of the employees represented by it. Unless there can be found a specific provision reciting that the wage increase shall be applied differently to employees working under the Halsey System than to other classes of employees, it becomes a contradiction in terms to attempt to construe the identical provision in one way for a comparatively small group of employees, and in another way for the great mass of the employees.

The foregoing reasoning is not to be accepted as an adjudication either of the merit or equity in the Union's assertion that under the Halsey System "the hour saved is worth as much to the Company as the hour earned." The point which the Arbitrator is attempting to make is that if the Union desired to accomplish its objective of equalizing the value of the hourly rate and the bonus hour, it should have negotiated this issue with the Company, and if any changes were to be effected, the understanding agreed to by the parties should have been incorporated into the Supplemental Agreement.

The manner in which the Company is currently applying the 18½¢ increase to the employees working under the Halsey System does not violate that portion of the Supplemental Agreement which says:

> "Rates now in effect plus the 18½¢ per hour increase above provided shall remain in effect for the duration of this agreement.****"

That is so because the value of the bonus hour after the 18½¢ increase went into effect remains unchanged. The Company paid its employees in addition to their existing hourly, tonnage, incentive and piecework rates an amount of 18½¢ for each hour worked. To the employee working under the Halsey System, this simply means that he is now being paid, for each hour worked, a sum of money 18½¢ greater than he formerly received. He still receives the same compensation for his bonus hours as he received prior to the effective date of the 18½¢ increase, only now the differential between the value of the bonus hour and the value of his regular hourly rate is 24¢ where, prior to the increase, the differential was 5½¢.

Moreover, the Company is still fulfilling the essential ingredient of the Halsey System by sharing equally with the employee the total hours saved from the time allocated for particular jobs. In other words, if the employee saves four hours, the division of the bonus hours remains exactly what it was before the effective date of the increase, that is, two hours to the employee and two hours to the Company.

Award

The 18½¢ general wage increase of February 16, 1946, shall not be applied to the bonus hours as well as to the hours worked with respect to the employees in the Mechanical Department and the Roll Shop who work under the Halsey Bonus System.

Respectfully submitted,

(Signed) _____
Harold M. Gilden
Arbitrator

September 20, 1946.