INLAND STEEL COMPANY
AND
UNITED STEEL WORKERS OF AMERICA,
LOCAL UNION NO. 1010

GRIEVANCE NO. 20-C-39

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DECISION OF ARBITRATOR

INTRODUCTION

The Management of the Indiana Harbor Works of the Inland Steel Company and Local Union No. 1010 of the United Steel Workers of America, CIO, having been unable to settle the above numbered grievance in accordance with Step Number 4 under Section II, Article 8, of the agreement between the Company and the Union, dated July 30, 1952, the matter was submitted to the undersigned, as arbitrator, on Monday, March 9, 1953.

The hearing was held in a conference room of the Annex Building, Inland Steel Co., Indiana Harbor Works, East Chicago, Indiana, with
Mr. H. C. Lieberum, Superintendent, Labor Relations
Mr. T. R. Tikalsky, Divisional Supervisor, Labor Relations
Mr. G. A. Jones, Supervisor (Services) Industrial Engineering Dept.
Mr. R. B. Myers, Superintendent, Mechanical Department
Mr. J. W. Pennington, Assistant Superintendent, Mechanical Department
Mr. A. N. Bitcon, General Foreman, Blacksmith Shop
representing the Company, and
Mr. Joseph B. Jeneske, International Representative
Mr. Fred A. Gardner, Vice Chairman, Grievance Committee
Mr. Mike Mamula, Secretary, Grievance Committee
Mr. Don Black, Grievance Committeeman
Mr. Andrew Gavura, Aggrieved,
representing the Union.

ISSUE

The question to be decided in the subject case was *whether or not* the Company was in violation of Article V, Section 7, of the Collective Bargaining Agreement dated May 7, 1947, when it denied the aggrieved the rate for the occupation of Heat Treater.

Article V of the Agreement deals with "Wages" and Section 7 thereof states that:

> No basis shall exist for an employee, whether paid on an incentive or non-incentive basis, to allege that a wage rate inequity exists, and no grievance on behalf of an employee alleging a wage rate

inequity shall be filed or processed during the life of this Agreement. This does not preclude an employee from filing a grievance alleging that he is performing and meeting the requirements of a given job but is not receiving the established rate for that job.

INTRODUCTION

The aggrieved, Andy Gavura, has been employed by the Company in the Blacksmith Shop since July 6, 1929, working in the mechanical and maintenance division of the Company during most of that time.

In 1947 when the Wage Rate Inequity Agreement was signed, the aggrieved was working at a job known in the mechanical and maintenance department by the shop term "Toolsmith". At the time the shop jobs were described and evaluated, no job of Toolsmith was evaluated, the aggrieved being slotted as a "B" Blacksmith, Job Class 14.

On October 5, 1950, the Union filed Grievance 20-C-39 stating that "Aggrieved (Andy Gavura) is performing the work of a Heat Treater (Job Class 17) and receiving the pay of a Blacksmith. The violation cited by the Union was Article V, Section 7, of the Collective Bargaining Agreement.

The Company answered this Grievance on November 3, 1950, by stating that "the aggrieved is performing the duties of the occupation of Blacksmith as outlined in the job description and the job classification developed by the Industrial Engineering Department. He fills the Heat Treater job and is paid the rate as such when a vacancy is created by absenteeism, vacations, etc. The Grievance is therefore denied."

Subsequently the Grievance went into the second, third, and fourth steps with answers by the Company reiterating substantially the contentions made in answer to the first step of the Grievance.

POSITION OF THE UNION

The position of the Union in the above matter may be summarized as follows:

In 1947 when the Wage Rate Inequity Agreement was signed the Aggrieved was working as a Toolsmith and his job was to heat treat and make tools. This job was limited and his duties were incorporated into the Heat Treater's job, Job Class 17. The Aggrieved continued to work as a Heat Treater and make tools, but was slotted as a "B" Blacksmith, Job Class 14.

The Grievance, filed on October 5, 1950, with contentions as listed above was filed on the basis that, as the agreement states, "...this does not preclude an employee from filing a grievance alleging that he is performing and meeting the requirements of a given job class but is not receiving the established rate for that job class."

The Aggrieved performs many of the same heat treating operations that the regular Heat Treater performs. That he is capable of fulfilling the requirements for this job is evidenced by the fact that the Company has from time to time placed him on the Heat Treater's job and paid him the Heat Treater's rate when the Heat Treater was on vacation, absent, etc., as admitted by the Company in the first step answer.

Work that was done by the Aggrieved prior to and after the Wage Rate Inequity Agreement and the accumulation of work that has been added has made him a Heat Treater and he is consequently improperly classified as a Blacksmith.

The Wage Rate Inequity Agreement provided a time limit of thirty days after being notified of classification for an employee to file a grievance that he had been improperly slotted, but the expiration of this time limit was never mentioned in the grievance answers, and in addition was never strictly observed by either party during the time of ironing out the differences between the Company and the Union relative to the Wage Rate Inequity Agreement.

In a rebuttal to the Company's post-hearing statement the Union contended that the fact that the Aggrieved spends less than 50% of his time at the heat-treating furnaces has no bearing on the case because he does much of his heat treating at his regular blacksmith's workplace. Furthermore, the Union contends that it is conceivable that even a Heat Treater might spend less than 50% of his time at the heat treating furnaces.

Journeyman Blacksmith requirements as to skill and ability as shown on the Journeyman Rating Sheet are not applicable in this instance because the Aggrieved is not claiming craft status. The occupation of Heat Treater is not considered a craft or journeyman occupation under the agreement between the Company and the Union.

The Aggrieved is consulted along with the man who carries the Heat Treater title whenever it becomes necessary to review heat treating complaints or procedures or for consultation relative to the physical properties of steel to be bought.

THE COMPANY POSITION

The company contends that the job descriptions and classifications for Heat Treater and Blacksmith were developed under the Wage Rate Inequity Agreement and when this Wage Rate Inequity Agreement was signed on

May 7, 1947, the Union agreed to and approved of these descriptions and classifications.

The Union has never been advised that the job content for these two occupations has changed nor have the job descriptions or classifications changed.

Ordinarily all blacksmithing work which includes some heat treating is divided among some ten men classified as Blacksmiths. However, since the Aggrieved has a back ailment, and has asked to be excused from the heavier work occasionally performed by blacksmiths, this lighter work involved more heat treating than the normal run of blacksmith work u sually assigned to him.

Heat treating work which the Aggrieved performed is specifically required of all Blacksmiths and is listed in the job descriptions. This basic heat treating ability is one which a Blacksmith must demonstrate in order to obtain craft journeyman rating.

A Heat Treater is required to perform other more technical operations such as normalizing, carburizing, hardness testing, heat treating furnace operating, pyrometer adjusting, etc., which Aggrieved is not required to do in the performance of his work.

Heat treating which a Blacksmith does is incidental to his principal job of forging and making up while heat treating, which a Heat Treater does, is his principal job.

Occasionally at his own volition and for some tools only, Aggrieved uses the heat treating equipment when the Heat Treater is not using them. He is not required to use them. They are used by other Blacksmiths also.

Degree of accuracy attained by using instrument-controlled furnaces and equipment is not necessary in the greater part of the job the Aggrieved performs. In most instances the Aggrieved uses this instrument-controlled equipment because it is to his own advantage to do so.

Materials and tools which the Heat Treater processes are such that either because of size, nature of steel, or use to which put, must be specially heat treated because it is impractical or impossible to do so with regular blacksmith equipment.

The test of whether the Aggrieved is performing the Heat Treater occupation is not whether Aggrieved does heat treating. The determining factors are how was the heat treating done and what are the materials heat treated.

The Company admits that the Aggrieved could do the work of a Heat Treater and in the absence of the regular Heat Treater has performed this work and was paid at the Heat Treater's rate when assigned to it.

The Company further contends that the Mechanical and Maintenance Agreement provides special treatment for occupations such as Blacksmith when it states "an employee directed by the Company to take a job in an occupation paying a higher rate or rates than the rate or rates of the occupation for which he was scheduled or notified to report, shall be paid the rate or rates of the occupation assigned for the full term if such assignment exceeds half of the working hours of the term for which he is scheduled."

The Company further contends that Article V, Section 8, of the Collective Bargaining Agreement as modified by Section III-E of the Mechanical and Maintenance Agreement provides special treatment for mill and maintenance, mechanical occupations, such as Blacksmiths.

> The Company and the Union mutually recognize that there are conditions peculiar and unique to Mill Maintenance Mechanical work which justify modification of the first sentence of Section 8 of Article V of the Collective Bargaining Agreement dated May 7, 1947, as since revised. Accordingly, it is agreed that for such occupations the last five words of said sentence shall be replaced by the following: 'for the full term if such assignment exceeds half of the working hours of the turn for which he is scheduled.'

A Claim for the higher rated occupation is valid only when the higher rated occupation is performed more than half of the working hours of the term.

The Aggrieved has been performing the same duties since the Wage Rate Inequity Agreement was signed on June 30, 1947. Article VIII, Section 3, of the Collective Bargaining Agreement provides that any grievance relating to job classification must be filed in writing within 30 calendar days from the date the cause of the grievance occurs. But it was not until October 5, 1950, that the Aggrieved decided that he was performing the duties of a Heat Treater and filed a Grievance requesting that he be paid that rate.

The job of Toolsmith, if it ever existed as such, was abolished by the Wage Rate Inequity Agreement.

In a post-hearing statement filed by the Company on March 31, 1953, the Company presented further evidence purporting to show that the Aggrieved spent during a six-months period from August, 1951, to September, 1952, an average of only 5.43% of his time at the heat treating furnaces.

At the request of the Arbitrator, the company furnished further evidence on May 18, 1953, purporting to show that the Aggrieved was temporarily classified as a Heat Treater and paid as such an average of about 65 hours per year over the last 7 years.

Furthermore, in the additional data submitted May 18, 1953, the Company contends that the aggrieved spent no more than 20% of his time on tempering or heat treating regardless of whether it was done at the heat treating furnaces or at the regular Blacksmith's workplace.

DISCUSSION

In the first place, a long time elapsed between the time that the aggrieved was slotted as a Blacksmith and the time that he decided he had been incorrectly slotted. The Company contends and the Union acknowledges that the job descriptions of Blacksmith and Heat Treater were agreed upon and approved by both the Company and the Union. The Union contends that the aggrieved, Andy Gavura, has been incorrectly slotted since 1947, admitting at the same time that there has been no change in the job content nor in the job description of either the Blacksmith or the Heat Treater. It was thus three years between 1947, when the aggrieved was slotted, and 1950, when the grievance was filed.

In the light of the fact that there was no change in the job content nor in the job description, this would seem like an unreasonably long time for the aggrieved to decide he had been incorrectly slotted.

Be that as it may, the decision in this case hinges upon an issue more vital than the lapse of time between the slotting and the time the grievance was filed.

The question, as the grievance states, is "Is the aggrieved performing the work of a Heat Treater (Job Class #17) and receiving the pay of a Blacksmith?"

The question is <u>not</u> "<u>Can</u> the aggrieved do heat treating?" The aggrieved can undoubtedly do the Heat Treater's job, on the Heat Treater's parts, using the Heat Treater's equipment, as evidenced by the fact that he has from time to time been assigned to that job.

The question is <u>not</u> "Does the aggrieved do heat treating?" The aggrieved <u>does</u> heat treating. It is a part of a Blacksmith's job as described in the primary functions on the job description: "Forges, hammer welds, <u>heat treats</u> and bends heavy, intricate metal parts and special shapes." Heat treating may be required of all Blacksmiths.

The question is <u>not</u> "Does the aggrieved do heat treating on the Heat Treater's equipment?" The Company admits that on occasion and at his own volition the aggrieved uses the Heat Treater's furnaces and control instruments and through their use does a better job of heat treating.

The question is <u>not</u> "Does the aggrieved on occasion work on the same material and parts on which the regular Heat Treater works?" This, too, may occur from time to time.

The question is "Is the aggrieved required to heat treat the same parts and materials as the regular Heat Treater, on the regular Heat Treater's equipment, a sufficiently high percentage of the time to warrant his being classified as a Heat Treater?"

In order to qualify as a Heat Treater, the aggrieved must thus

(a) be required by foreman direction or quality requirements (not by his own volition or for his own convenience) to work on the regular Heat Treater's equipment

(b) be required to work on the same parts and materials as the regular Heat Treater

(c) be required to work a substantial percentage of the time at the same parts or materials, on the same equipment.

Stated another way, it is a matter of comparing for the aggrieved and for the Heat Treater:

What are they required to do?
Where are they required to do it?
How are they required to do it?
How much of the time are their jobs identical or even similar?

As to What they are required to do, it is granted that some of the work the aggrieved is required to do, because of materials, or part, or purpose, is similar or even identical to that required of the Heat Treater.

As to Where they are required to do it, little evidence was presented to show that the aggrieved is required to work at the regular Heat Treater's work place.

The aggrieved is to be commended for his desire to improve methods and for his conscientious efforts in trying to do his work easier, better, and cheaper, but this does not warrant his contending that the Company requires him to follow the new method.

As to How they are required to do it, again no evidence was presented to show that the Company requires the aggrieved to use the Heat Treater's equipment.

Even if the What, Where and How of the two individuals were sufficiently similar, the last point on "How much of the time" would be sufficient to point out the dissimilarity between work performed by the aggrieved and work performed by the Heat Treater. The evidence presented indicated that the aggrieved spends a relatively small percentage of time on the regular Heat Treater's operations.

To summarize, from the evidence presented, I do not see sufficient similarity between the work assigned to the aggrieved, Andy Gavura, and the regular Heat Treater's job to warrant substantiating the contention in the grievance that the aggrieved is performing the job of Heat Treater, Job Class 17.

AWARD

I, therefore, hold that the Company was not in violation of Article V, Section 7, of the Collective Bargaining Agreement when it denied the aggrieved the rate for the occupation of Heat Treater.

S. J. FECHT, ARBITRATOR

July 16, 1953