In the Matter of Arbitration between Inland Steel Company, Indiana Harbor Works, East Chicago, Indiana and United Steelworkers of America, C.I.O., Local Union No. 1010, East Chicago, Indiana	)	Arbitration No. 76 Decision and Award in Grievance 17-D-58

Arbitrator: John J. Kehoe,
20 North Wacker Drive,
Chicago, 6, Illinois.

Appearances:

For the Union:

Wm. Chanall,	Aggrieved.
Peter Calacci,	Chairman Grievance Committee.
Joseph B. Jeneske,	International Representative.
Walter Szpiech,	Grievance Committee.

For the Company:

W. T. Hensey, Jr.,	Assistant Superintendent, Labor Relations Dept.
L. R. Barkley,	Divisional Supervisor, " " "
W. A. Dillon,	" " " " "
R. J. Royal,	" " " "
W. D. Salisbury,	Assistant Superintendent, Tin Plate Dept.
N. W. Keckich,	General Warehouse & Shipping Foreman, Tin Plate Dept.

A stipulation was entered into by the parties, and the following is quoted from the text thereof.

"The Management of the Indiana Harbor Works of the Inland Steel Company and Local Union 1010 of the United Steelworkers of America, C.I.O., have been unable to settle the above numbered grievance, and in accordance with step number 4, under Section 2, Article VIII, entitled "Adjustment of Grievances", of the Agreement between the Company and the Union, dated July 30, 1952, the matter is now to be submitted to an impartial umpire (John J. Kehoe) for final determination.

The question to be decided in the subject case is whether or not the Company was in violation of Article VII, Section 6 of the Collective Bargaining Agreement when it denied the request of the grievance. The Union contends that William A. Chanall, Check No. 16283, was unjustly disciplined on October 14, 1952, for his refusal to promote to the Electrolytic Tractor occupation and work as directed."

For the Company
By: Herbert Lieberum/S

For the Union
By: Joseph B. Jeneske/S

Signed at East Chicago, Indiana, April 13, 1953.

NATURE OF THE CASE

On October 14, 1952, William A. Chanall, Check No. 16283, a Shipping Tractor Operator in the Tin Plate Mill, reported for work as usual at 7:30 A.M. After working approximately one (1) hour at his regular occupation, Chanall was directed by his supervisor to take over the Electrolytic Tractor Operator's job, which is two (2) classifications above his regular classification on the Promotional Sequence Diagram. Upon Chanall's contention that he was being asked to take a work assignment out of his normal promotional sequence, and which assignment he thereupon refused to perform, he was disciplined by being sent from the plant without pay for the balance of the turn - approximately seven (7) hours.

SUMMARY OF THE EVIDENCE

I. The Union contended that:

(a) Under the recognized Promotional Sequence Diagram in the Tin Mill, an employee from the classification "Warehouse Expediter" should have been designated by the Company to fill the opening on the Electrolytic Tractor Operator job. The Union specifically contended that the Warehouse Expediter on the turn, one Warren Stanley, should have been assigned to fill the vacancy which the Company attempted to assign to the aggrieved in this case, and that in attempting to promote Chanall out of sequence the Company was in violation of Article VII, Section 6 of the agreement.

(b) There is no compulsion of a worker being forced to take a promotion, and in support of that contention quoted Article VII, Section 6 (b) of the agreement which reads, in part, as follows:

> "An employee may waive promotion by signifying such intention to his supervisor, or he shall be considered as waiving if he fails to step up to fill a vacancy - - - ".

(c) Even though there was no occasion for aggrieved to waive promotion under the circumstances, there was no point in him being denied the right to work on the job he had been scheduled to perform (Shipping Tractor Operator) and was performing at the time. The union noted that the aggrieved had formerly been a Union Grievance Committeeman, and was in fact on October 14, 1952 on the Union Grievance Committee, and that the disciplining of the aggrieved in this case was a "deliberate attempt on the part of the Company to intimidate and coerce a union representative into submission and serve as a warning to other employees that more of the same would happen to them if they dared defy the Company - - - ".

(d) The disciplinary action in this case was unjust, and asked that the aggrieved be awarded seven (7) hours pay at his pay period straight time earnings, and that the discipline statement of October 14, 1952 be stricken from his personnel record.

II. The Company contended that:

(a) The aggrieved's refusal to work as directed was a violation of Article III, Section 4 (a) of the agreement.

(b) The aggrieved's attempt to discuss, or negotiate, his refusal to work during the time his alleged violation of Article III, Section 4 (a) continued, was in itself a violation of Article III, Section 4 (b) of the agreement.

(c) The aggrieved's refusal to work as directed was a concerted action with a regular Electrolytic Tractor Operator who had previously refused to work as directed, and who had been similarly disciplined.

(d) In attempting to settle the dispute by refusing to do the job and then following the grievance procedure, the aggrieved, together with the Electrolytic Tractor Operator, were in violation of Article VIII, Section 2 of the agreement.

(e) The disciplinary action which became necessary in the case of the Electrolytic Tractor Operator (Durcho) and the aggrieved in this case (Chanall) on October 13 and 14, 1952 necessitated shutting down the Electrolytic Tin Lines, resulting in a loss of 236 man-hours to 93 other employees and a loss in production to the Company of 145 tons of tin plate.

FINDINGS OF FACT

1. The Company's charge that the aggrieved, in the present instance, was "participating in a concerted action with another employee" was not substantiated.

2. The Union's charge that the Company, in the present instance, was "engaging in a deliberate attempt to intimidate and coerce a Union Representative" (the aggrieved is or was a member of the Union Grievance Committee) was not substantiated.

3. The Company acknowledged as correct the specific claim in Chanall's grievance that the proper promotional sequence is from Shipping Tractor Operator to Warehouse Expediter to Electrolytic Tractor Operator; and the Company did not deny that, through oversight, and because the Expediter classification was a relatively new one, it had failed to ask an eligible employee therein to fill the Electrolytic Tractor vacancy. As proof of its sincerity in that respect, the Company offered evidence to show that Electrolytic Tractor vacancies were, in fact, filled by Shipping Tractor Operators as far back as March 7, 1952 and that such practice was not challenged by any employee or Union Representative prior to October 13 or 14, 1952. The record shows that the aggrieved himself by-passed the Expediter classification and performed the duties of Electrolytic Tractor Operator on September 30, 1952 and again on October 7, 1952.

QUESTION TO BE DECIDED

Was the Company in violation of Article VII, Section 6, of the collective bargaining agreement when it denied the request of the grievance, and was the aggrieved (Chanall) unjustly disciplined on October 14, 1952 for his refusal to promote to the Electrolytic Tractor occupation and work as directed?

DECISION

1. There is sharp conflict in the testimony in this case on one point. On the one hand, several company spokesmen definitely testified that "Chanall stated he would fill the vacancy but would not split lifts of tin plate and place material as directed by the foreman"; on the other hand, there is Chanall's vehement denial that he made such a statement and that he "wasn't even given a chance to give a reason"; that he "was told to do the job or go home".

2. The evidence was clear that on at least thirteen (13) occasions between March 7, 1952 and October 13, 1952 the Company had, in fact, filled vacancies on the Electrolytic Tractor occupation from the Shipping Tractor classification, and that such practice was at least tacitly agreed to by the Union. In fact, it was shown that the aggrieved himself had on two (2) occasions - September 30, 1952 and October 7, 1952 - performed the duties of Electrolytic Tractor Operator. The question thus posed in the arbitrator's mind was this: "What was so right about the aggrieved's designated and accepted work assignment on September 30th and October 7th, and so wrong about his designation and acceptance of that same work assignment on October 14, 1952?" And why did Chanall wait until October 28, 1952 to file his grievance for an occurence on October 14, 1952? The arbitrator's decision, therefore, is that the Company was not in violation of Article VII, Section 6, of the collective bargaining agreement in the matter of Grievance 17-D-58 on October 14, 1952.

3. The aggrieved was shown to have clearly violated the agreement as charged, and whether he was so acting independently or in concert with one or more other employees does not alter the gravity of his offense, and he rightfully incurred the disciplinary action imposed. Chanall should have performed the work assignment as directed, and then processed his complaint through the grievance procedure provided in the agreement. The aggrieved's request that he be paid seven (7) hours pay for the time he was disciplined with time off on October 14, 1952 is denied. The arbitrator leaves to the parties, for their mutual determination, the question of whether the disciplinary action in this instance should be stricken from Chanall's personnel record.

CONCLUSION

The arbitrator respectfully calls the attention of both parties to Article III, Sections 4 (a) and (b) of their collective bargaining agreement dated July 30, 1952. While it is true that both of those sections deal with the manner in which the union and its members and representatives are to conduct themselves in matters of work performance and/or discussions of differen es and disputes, there is nevertheless an implied obligation on the part of the company and its representatives to so conduct themselves so as not to create causative situations whereby violations of these sections will ensue. Sometimes the manner in which a work order is given -

- even the tone of voice in which it is given - could conceivably create situations unfavorable to both parties, and actually bring about violation of those sections where avoidance was intended.

No grievance, however great, ever justifies an interruption of production nor a circumvention of the regular grievance channels. On the other hand, where interruptions start out as minor ones - as was apparently the case in this instance - the company's long-term interests are not being properly served by supervisors provoking a situation as was charged by the Union in this case, even though such charges were not clearly substantiated in the testimony.

Signed John J. Kehoe.
John J. Kehoe

Dated at Chicago, Illinois, this 30th day of April, 1953.