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IN THE ARBITRATION MATTER

BETWEEN THE

INLAND STEEL COMPANY

AND

LOCAL 1010, UNITED STEELWORKERS OF AMERICA

BOTH OF INDIANA HARBOR, INDIANA

GRIEVANCES 18-E-1 AND 18-E-2
INVOLVING THE QUESTION OF THE ARBITRABILITY OF
CERTAIN WAGE RATE GRIEVANCES

HEARING HELD AUGUST 23, 1955

ARGUMENT CLOSED WITH RECEIPT OF UNION STATEMENT,
DATED OCTOBER 10, 1955

ARBITRATOR: JACOB J. BLAIR

APPEARANCES

FOR THE COMPANY:

Mr. T. G. Cure, Assistant Superintendent
Labor Relations Department

Mr. T. R. Tikalsky, Divisional
Superintendent, Labor Relations Dept.

Mr. O. J. Crepeau, Assistant
Superintendent, Mechanical Dept.

FOR THE UNION:

Mr. Cecil Clifton,
International Staff
Representative

Mr. Joseph Wolanin,
Assistant to International
Staff Representative

Mr. Clarence Block,
Locomotive Crane Operator

Mr. Fred Beyler, Grievance
Committeeman

GRIEVANCES 18-E-1 AND 18-E-2 INVOLVING THE QUESTION OF THE ARBITRABILITY OF CERTAIN WAGE RATE GRIEVANCES

In a letter dated July 15, 1955, from Herbert Lieberum, Superintendent, Labor Relations Department, and Cecil Clifton, International Representative of United Steelworkers of America, the undersigned was advised of his designation as arbitrator in certain matters then in dispute between these parties. This letter was then followed by a second dated July 18, 1955, in which were set forth under the signatures of Mr. Lieberum and Mr. Clifton certain particulars concerning the case. The receipt of these two letters was then confirmed by the undersigned in a communication addressed to these parties on July 23 and a hearing scheduled and subsequently held on August 23, 1955. At the close of the hearing the Company stated that it desired to file a post-hearing memorandum based on the transcript. Following the receipt of this post-hearing memorandum, the Union then filed their reply in a letter dated October 10, 1955. At this point the argument was closed.

At the hearing both parties agreed to submit the case under the written grievances. In this respect it was further agreed that argument would be based only upon Grievance 18-E-1 since the issue was the same in this as in Grievance 18-E-2. A copy of Grievance 18-E-1 appears below:

> "The aggrieved employees request a new classification and description for the occupation of Loco. Crane Operator Index No. 30-1102 because of the following changed conditions:
>
> 1. The Company has placed many cranes on night turns.
> 2. The Company is now using 80-ton cranes instead of 45-ton cranes.
> 3. Men must be more careful because of the additional people in and out of the plant.
> 4. Setting steel for iron workers.
> 5. Company has installed radios in cranes.
> 6. Loading pan cars and servicing #3 O. H.
> 7. Company using cranes to shift and spot cars instead of calling out engine and crew."

THE ISSUE

Under the grievance and the joint letter of July 18, the question to be decided in this case is:

> "...The issue presented by these two grievances, 18-E-1 and 18-E-2, is whether or not they should be accepted in view of the question raised by the Company based on the time limits of the contracts.
>
> "Mr. Cure: That's correct.
>
> "The Arbitrator: Yes, and that's your position too, is it not, Mr. Clifton?
>
> "Mr. Clifton: That's right." (Record page 16)

THE BACKGROUND

This case arises out of the filing of Grievance 18-E-1 on August 10, 1954, wherein certain aggrieved employees requested a new classification and description for the occupation of Locomotive Crane Operator. (Union exhibit 1). After this grievance was discussed orally with the foreman in the first step of the grievance procedure, it was rejected by the Company when entered in written form. This action was taken by the Company in a letter dated August 13, 1954, citing as the reason for their action Article 8, Section 3, of the Collective Bargaining Agreement, wherein is provided the alleged time limits acting as a bar to the acceptance of this grievance. According to the evidence offered by the Union, the alleged changes in job content occurred following the effective date of the installation of the job classification plan in 1947 and continuing over an indeterminate number of years subsequent to this date. There is no claim made by the Union, however, that any of the alleged changes in job content of the Locomotive Crane Operator occurred within the thirty-day period prior to the filing of the grievance (record pages 21 to 42). The instant grievance was then appealed to arbitration when the Company refused to accept it in the second step based upon the time limits shown in Article 8, Section 3, of the 1954 Agreement.

CONTENTIONS OF THE PARTIES

The Union contends that even though the alleged changes took place in the job content of the Locomotive Crane

Operator prior to the thirty-day time limit for the filing of grievances in Article 8, Section 3, the grievance must be accepted by the Company under Article 5, Section 6F, and Article 14, Section 7, under which it is claimed the wage rate *inequity agreements of June 30, 1947, and August 4,* 1949, are made a part of the 1954 basic labor agreement (record page 32). Following this, the Union then states that a wage rate grievance is a continuing grievance beginning with each new day that the improper job rate is paid. The only limitation applicable is found in the retroactive provisions whereby the recovery is limited to a period of thirty-days prior to the filing of the grievance.

The Company maintains that since the facts on which the grievance is based occurred long before the thirty-day time limit shown in Article 8, Section 3, the grievance is automatically barred under the grievance procedure. In making this contention, however, the Company states that it may elect to process grievances in certain cases where the facts did occur more than thirty days prior to the filing of the written grievance. This, however, is an action reserved to Management. The Company also maintains that under Article 14, Section 4, grievances based upon facts occurring prior to the signing of the July 1, 1954, agreement are barred from any further processing. This bar continues until the expiration of the July 1, 1954, agreement. It is also contended that the language of Article 5, Section 6, continues under the 1954 Agreement, descriptions and classification of jobs not protested under the grievance procedure of the 1952 Agreement.

FINDINGS

The issue in this case is limited to the question of whether or not grievances alleging changes in a job classification, based upon incidents which have occurred either under prior Agreements or more than thirty days before the filing of the written grievance, are subject to appeal under the grievance procedure set forth in Article 8, and particularly Section 3 of this Article. Careful consideration of Article 5, Section 6 and particularly Part F, when considered 9/2 in the light of the Wage Inequity Agreements and other parts of the Agreement show conclusively that the grievances involved in this case are of the nature of continuing violations or trespasses of the wage provision set forth in Article 5 of the Agreement. The Union grievances must therefore, be sustained.

The position of the Company that alleged changes in

classification which are not appealed within the time limits set forth in Article 8, Section 3, are then by the provisions of Article 5, Section 6, and Article 14, Section 4, thereafter barred from appeal under the provisions of ghe grievance procedure set forth in Article 8. The Company also claims that if grievances such as presented in this case were appealable under Article 8, then the entire wage rate structure would be placed in jeopardy, because either the Union or the Company would have the right to reopen job classifications on the basis of changes in job content occurring at any time since the effective date of the job classification program in 1947. These contentions have been given a most careful consideration and are found not to have merit under the language of the specific provisions as well as under the general contention based upon the maintenance of the wage rate structure.

Article 14, Section 4, fails as a basis for excluding these grievances on the fact that the complaints are filed under the 1954 Agreement. This provision of the 1954 Agreement has by its very language the effect of excluding grievances filed since July 1, 1954, alleging violations of the 1952 Agreement. This is not the case in grievances 18*E-1 and -2 since they allege that the Company has failed to comply with Article 5, Section 6, Paragraph 44. Accordingly the affect of the instant grievances is to invoke the rights of the Union under Article 5, Section 6 F, Paragraph 50, which is within the provisions of the 1954 Agreement.

No merit is found in the further Company contention based upon Article 5, Section 6. Here the Company argument fails on the grounds that the instant grievances allege, "..change the classification of such job under the standard base rate wage scale .." The effect of Article 5, Section 6, is clearly to maintain the job description and classification for each job as agreed upon under the provisions of the Wage Rate Inequity Program of June 30, 1947 and its supplement dated August 4, 1949, until some incident occurs whereby the content of a job is changed in such a manner as to effect the classification of such job. Upon the occurrence of such a change then the whole procedure set forth in paragraphs 45 through 50 become applicable. This is exactly what the Union alleges in the instant grievances and on this basis have invoked their rights under Article 5, Section 6 F of the Agreement.

The basic weakness in the whole position of the Company is found in its general contention, that if the Union grievances were sustained then the entire wage rate structure would be thrown into jeopardy because either the Union or the Company could file actions under Article 5, Section 6, alleging changes in classification. If this argument was sustained in favor of the Company it would result in inequity being established within the wage rate structure. It is obvious that under this general contention inequities favorable to either the Union or the Company would be frozen into the wage rate structure. It would not seem reasonable that such would be a desirable result from the point of view of either of the two high contracting parties, or from the point of view of just good industrial relations. This argument must then fail on the basis of it being inconsistent with the very broad program of administering a wage rate structure under conditions which are in a high state of change.

The Union contention is based upon the argument that a violation or trespass of the conditions complained of in the two instant grievances constitute, under the provisions of Article 5, Section 6 F, a continuing grievance. In other words, each day on which an employee is not paid the proper wage rate for the work performed constitutes a new violation or trespass of the standard hourly base rate wage scale as set forth in Article 5, Section 1, of the 1954 Agreement. As a consequence time then begins to run with the last of such alleged violation or trespass instead of the first. Under this general contention the Union then maintains that the two grievances are timely under Article 5, Section 6 F, subject only to the limitation placed upon the recovery of back wages. Careful study of the provisions of Article 5, Section 6, and 6 F, as well as the Wage Rate Inequity Agreement and other provisions of the 1954 Agreement shows that this contention must be sustained.

The two instant grievances raise the question of whether or not the content of the job of the locomotive crane operator in grievance 18-E-1 and the caterpillar crane operator in grievance 18-E-2 have been <u>properly classified</u>. This question comes directly under Article 5, Section 1, and Section 6, of the 1954 Agreement. As a classification question it is then not barred by Article 14, Section 4, which as has been explained previously, applies to grievances filed since July 1, 1954, alleging violations of the 1952 Agreement. Neither can it be said to be barred by Paragraph 43 of Article 5, Section 6, since

the grievances allege that the Company has changed, "..the job content . . so as to change the classification . .", of the jobs of the locomotive and caterpillar crane operators. The case then rests upon an allegation of a change in classification and not upon the changes in job content, per se. Such a claim then initiates action under Article 5, Section 6 A, in the case of the Company or Article 5, Section 6 F, in the case of the Union. The Company has seen fit to refuse to invoke its rights under Paragraph A on the grounds that the classification of the two jobs has not been changed by changes in job content. This is clearly within the right of the Company under this portion of the Agreement. On the other hand, the Union has seen fit to challenge the refusal of the Company to put into effect the provisions of Paragraph A by claiming that the classification of the two instant jobs has been changed. This is a right which the Union has under Article 5, Section 6 F. It is also a continuing right limited only by the condition that the alleged change in classification occur within the thirty day time limit set forth in Article 8, Section 3.

In summary, the question presented in the two instant grievances is solely that of whether the work performed on the two occupations is being paid within the proper classification. Such a question must be considered as a continuing grievance under Article 5, Section 1, and Article 5, Section 6, with each of these provisions serving to integrate the purpose expressed in Section 1, of the Wage Rate Inequity Agreement providing .."to eliminate intra-plant wage rate inequities existing as of January 25, 1944, and subsequent thereto .". As a continuing grievance involving a matter of proper classification of jobs, the two grievances must therefore be regarded as timely due to the provisions of Article 5, Section 6 F.

One other question remains, that of intergrading Section 6 F with Article 8, Section 3. Since time begins to run from the date of the last alleged violation of Article 5, Section 1, and Section 6, it is apparent that the last alleged violation must take place within the thirty day time limit set forth in Article 8, Section 3. Under this condition the time limit would then be applicable in the event that the classification complained of was for work performed more than thirty days prior to the filing of the written Agreement. Under the facts available to the arbitrator, this finding is not applicable to grievances 18-E-1 and -2.

These findings based strictly upon the language of the Agreement appears to be consistent with not only those parts of the labor contract previously cited, but also Article 5, Section 7, and the purposes of the Wage Rate Inequity Agreement and the manner in which similar grievances (Union exhibit 6 to 10 inclusive) have been handled in the past.

It is significant that Article 5, Section 7, in excepting a grievance, "alleging that he is performing and meeting the requirements of a given job" as an inequity, is set forth without respect to time limits. It is equally significant that in the grievances presented under Union exhibits 6 to 10 inclusive in which similar facts are alleged, that the Company at no time pled the time limits of Article 8, Section 3, as barring these grievances. Finally, these findings are completely consistent with the purposes of the Wage Rate Inequity Agreement as set forth in Section 1, which is to eliminate intra-plant Wage Rate Inequity existing as of January 25, 1944, and "subsequent thereto .." Finally, it is entirely consistent with the realities following from the effect of changing technology upon job content. Here the provisions of Article 5, Section 6, sets forth an orderly procedure for the adjustment of job classifications to changes in job content, with either party having the right to initiate action under either Paragraph A or S of Section 6. Accordingly, it must be held that grievances 18-E-1 and -2 are complaints involving classification are arbitrable under Article 8 of the Agreement.

AWARD

In view of all the facts and arguments offered by the parties, both orally and in writing, it is held that grievances 18-E-1 and 18-E-2 must be accepted for consideration under the grievance procedure of Article 8, on the grounds that an alleged change in classification resulting from a change in job content, is a continuing grievance subject to the provisions of Article 5, Section 6F, of the 1954 Agreement.

Jacob J. Blair.

Jacob J. Blair
Arbitrator

Pittsburgh, Pennsylvania
January 10, 1956