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IN THE MATTER OF THE ARBITRATION BETWEEN: *
*
INLAND STEEL COMPANY, EAST CHICAGO, INDIANA * ARBITRATION NO. #137
*
and * DECISION AND AWARD
*
UNITED STEELWORKERS OF AMERICA, LOCAL UNION * Cases: 20-D-32 and
NO. 1010, C.I.O., EAST CHICAGO, INDIANA * 20-D-33

* *

Hearing at office of Company, East Chicago, Indiana, October 7, 1955.

ARBITRATOR: Clarence M. Updegraff, appointed by mutual action of parties.

APPEARANCES:

FOR THE EMPLOYER:

Herbert Lieberum, Superintendent. Labor Relations
T. R. Tiklasky, Divisional Supervisor, Labor Relations
K. J. Schneider, Superintendent, Stores & Refractories Department
A. Ulbrich, General Refractories Foreman

FOR THE UNION:

Cecil Clifton, International Staff Representative
Joseph Wolanin, Assistant
Lee A. Blaker, Witness
Haywood Powell, Witness
John Negovetich, Grievance Committeeman

* *

All agreed steps preliminary to arbitration as contracted by the parties having been observed, waived, or modified by mutual agreement, a hearing was held at the office of the company, East Chicgo, Indiana, on October 7, 1955, at which written and oral evidence and arguments were received and heard. It was agreed by the parties at the hearing that post-hearing briefs would be submitted and the same were duly received.

THE ISSUE

On May 24, 1954, two grievances were filed numbered 20 D 32 and 20 D 33. These were signed by Lee Blaker and H. Powell, The grievances were expressed in identical terms and were considered together during the steps of the grievance procedure and presented as virtually a single issue at the arbitrational hearing.

The discussion which follows and the award applies to both of them.

The following is the text of the grievances:

> "On May 17, 1954 the company eliminated the occupation of Tonnage Labor Leader and now has the foreman performing the work that was originally performed by aggrieved."

The relief sought was stated to be:

> "Request the company put the aggrieved employee back on the occupation of Tonnage Labor Leader and paid for all time lost due to the company's action."

The reply signed by the foreman, Arnold Ulbrich, dated May 28, 1954 appeared in the following words:

> "The company did not eliminate the occupation of Tonnage Labor Leader as claimed in this grievance. The job description and classification as agreed to between the company and the union, is still in effect. However, with the cutback in force of the tonnage laborers, the need for Tonnage Labor Leaders was eliminated.
>
> Article VI, Section 11, provides that the determination of size and duties of crews and the scheduling of forces adequate for the performance of the work to be done are company prerogatives.
>
> Since it has been determined that there is no need for employees on the Tonnage Labor Leader occupation at this time, the request of the grievance and the alleged violation of Article VII, Section 14, and Article XIV, Section 6, is denied."

After the second step hearing the company statement adhered to the position expressed by the foreman above. Subsequently, on August 6, 1954 after a third-step grievance discussion, the Superintendent of Labor Relations, Mr. Herbert Lieberum, advised the parties that the company would adhere to the position expressed in the first and second steps.

Consistently with the text of the grievances and the responses thereto, the dispute appears to be that certain foremen and the two Tonnage Laborer Leaders here concerned were all involved in doing some extremely elementary direction of work and that due to certain changes it became evident that there was an excess

of persons to see that such work was executed. On or about May 17, 1954 management concluded it should reduce the number of employees whose duties it was to direct or "lead" such work and the two Tonnage Laborer Leaders were down-graded to ordinary labor status without "Leader" or directive duties. (See Company brief, p. 3) The company asserts this step was entirely within managerial discretion when it was confronted with the necessity of reduction of force at the time stated.

The union asserts that the jobs of the "Tonnage Laborer Leaders" were agreed by the parties to be within the bargaining unit. They, therefore, assert that any and all duties previously entrusted to such men under established job descriptions and job classifications should not be taken from them excepting by either terminating the entire job itself with union concurrence and possibly creating in place thereof a new job or by laying off the incumbents of the jobs in question consistently with seniority rights within the bargaining unit. In other words, the union contends that the company should not unilaterally take a part of a group of job duties from the bargaining unit and give them to a supervisor.

Contentions of the Company.

As above indicated, the company asserts there was a surplus of supervision affecting the work here in question and that within its discretion it down-graded the Tonnage Laborer Leaders to the grade of Laborer and had the supervisory or directing work which they previously did taken over by foremen, or full time supervisors. This the company contends it has every right to do by reason of its full discretion and authority over supervisory work and supervisors.

Contentions of the Union.

It is the union's contention that the duties of directing work of other laborers in an extremely modest way had been coupled with duties to do physical labor and associated with them so as to constitute definitely established and

expressly bargained jobs within the bargaining unit. The union asserts that after this took place such jobs must be regarded as continuing in effect and existence until done away with by a new contract or by recognized procedure under the old contract. Hence, it concludes that the company had no right to down-grade the men in question and turn over a part of their duties to full time supervisors at the time and in the way such action was taken.

DISCUSSION AND CONCLUSIONS

Innumerable situations exist in industry where non-supervisory employees who are in bargaining units are deemed to be responsible in a way for the work of others and are expected to give such other men instructions and directions. Examples are:--the journeyman Carpenter, Machinist, Plumber, Pipe-fitter, Boiler-maker, Stillman, Electrician and numerous others giving directions to helpers, Apprentices, Firemen and others. Many industries employ persons designated variously as "Working Foremen," "Leader," "Lead Man," "Straw Boss," "Gang Boss," "Group Leader," or otherwise with similar meaning. These men are outside of management and in the bargaining unit. They are, however, clearly on the "border line area" between the two. Hence, if the authority to give directions as to such work has been regularly retained in the hands of management, it would be beyond the rights of the bargaining unit to claim the person exercising such directive authority should join the unit. However, if the parties in defining the occupations in the bargaining unit include such a border-line title and define the duties to include such directive work, the bilateral agreement so made would seem to be properly binding upon both until bilaterally amended or set aside. The union would have no right to declare unilaterally that a man in such classification having some duties to direct others was a supervisor and should do no physical production or maintenance work under Article VII, Section 14 of the

Agreement. On the other hand, the company would have no right unilaterally to terminate substantial job duties or responsibilities without compliance with Article V, Section 6 of the Agreement between it and the union.

It will be noted that the employer several times stated in relation to this grievance that the occupation of Tonnage Laborer Leader had not been eliminated. It indicated at the hearing that the duties to give directions to others which were those of the Tonnage Laborer Leaders were taken over by certain persons in Supervisory classifications because of a development of an excessive number of supervisory employees including the Tonnage Laborer Leaders. However, as above indicated, the company had expressly agreed that these duties were in the jurisdiction of the bargaining unit. Hence they were, as between these parties, of "the type customarily performed by employees within the bargaining unit" and should have been done by people in the unit until the procedure set out in Article V, Section 6 was followed. This was not done.

It has been strongly contended by the company that in putting the full time foremen on the work of directing others, or "supervisory" work involved here, it did not take away from the members of the unit any work of a "type customarily performed by employees within the bargaining unit." The arbitrator feels required to conclude that the contract must be read to mean that supervisory employees should perform no work ordinarily and usually performed by employees or any of them under the terms of the contract and job descriptions and classifications existing thereunder. Under these agreements of the parties the authority to give minor direction or supervision exercised by the Tonnage Laborer Leaders was work of the type customarily performed by such employees under this agreement. Hence while such classification remains in existence and work directing others in relation to it continues to exist, the incumbents of such classification can not be properly, unilaterally down-graded to make way for assignment of their duties

to other persons classified as full-time supervisory personnel, or foremen.

It follows that the employees here concerned were improperly down-graded to work which did not include the duties of directing others which had been, by the company and union, recognized to be work within their duties and in the jurisdiction of the bargaining unit. It is not intended to suggest by the foregoing that the job of Tonnage Laborer Leader cannot be eliminated under the provisions of Article V, Section 6. The arbitrator's conclusion is, however, that until such job is negotiated from within the bargaining unit by the agreed procedure, employees so classified should not be demoted, transferred or otherwise excluded from the same so that duties ordinarily discharged by them may be done by employees in the status of the foremen or other full-time supervisors.

Management offered in support of its positions and with its brief an award dated September 2, 1955 for the Colorado Fuel and Iron Corporation. That award does not disclose whether the agreement between the parties provided procedural steps to change job descriptions and classifications as does Article V, Section 6 of the contract between the parties here concerned or whether such established procedure, if it existed, was followed. In this case it does exist and it was not followed.

The company relied also upon Article IV of the agreement which provides that, "Except as limited by the provisions of this agreement, the management of the plants and the direction of the working forces ..... are vested exclusively" in management. (Underlines supplied) In applying this clause, Article V, Section 6 and Article VII, Section 14 are "provisions of" the "agreement" which limit the authority of management in the kind of change concerned here. As previously stated, the company should have complied with these when it decided to eliminate the direction of work of others contents of the job of the Tonnage Laborer Leader.

THE AWARD

It is awarded that the aggrieved employees, Lee Blaker and H. Powell, shall be restored to the status and duties of Tonnage Laborer Leaders.

It is further awarded that said grievance claimants shall be paid for all earnings lost due to their having been down-graded on May 17, 1954.

_____/S/

Clarence M. Updegraff
Arbitrator

Iowa City, Iowa