INLAND STEEL COMPANY)
)
and)
)
UNITED STEELWORKERS OF AMERICA)
Local Union 1010)

Grievance No. 16-E-38
Docket No. IH-1-1-9/6/55
Arbitration No. 165

Opinion and Award

Appearances:

For the Company:

William Ryan, Assistant Superintendent, Labor Relations Department
Willian Dillon, Divisional Supervisor, Labor Relations Department

For the Union:

Cecil Clifton, International Representative
Fred A. Gardner, Chairman, Grievance Committee
Joseph Wolanin, Assistant to International Representative
John Sargent, Grievance Committee

The grievance in this case charges that Edward Grcevich was improperly denied a promotion to fill a temporary vacancy as Operator on the 48" Hallden Shear during the week of May 16 - 20, 1955, in violation of Article VII.

Section 6 (a) of Article VII provides:

> "Promotions. Temporary vacancies of twenty-one (21) consecutive days or less and those where no definite information as to the duration of the vacancy has been furnished to the department management by the time schedules for the next work week are posted, shall be filled by the employee on the turn and within the immediate supervisory group in which such vacancy occurs in accordance with the provisions of this Article, except that, where such vacancy is on the lowest job in the sequence, it may be filled by the employee in the labor pool group (including available employees in single job sequences) most conveniently available in accordance with their seniority standing, and except that such vacancies due to vacations may be filled in accordance with sequential standing where the superintendent of the department and the grievance committeeman so agree within thirty (30) days from the date of this agreement. All such agreements shall be in writing and shall be applicable to all sequences in the department. Temporary vacancies which are known to extend twenty-two (22) consecutive days or more shall be filled by the employee within the sequence who is entitled to the vacancy under the provisions of this Article."

In the week of May 9 an employee named N. Mehan was assigned to a relief crew, with Mehan serving as Operator. Normally relief crews serve from turn to turn. This crew in the week of May 16 returned to its regular schedule as "A" crew, which called for the 8 - 4 turn, but Mehan was left on the 4 - 12 turn and permitted to fill a temporary vacation vacancy as Operator of the Shear or Slitting Machine. Grievant during the week of May 16, as part of the "B" crew, was scheduled for the 4 - 12 turn, and urges that by virtue of Section 6 (a), quoted above, he should have been given the temporary promotion to fill the vacation vacancy, and he requests that he be reimbursed for the earnings he lost by being denied this opportunity.

It is not disputed that the practice is to return employees to their regular crews and turns when the need for relief crews ends. Section 6 (a) seems entirely clear and in fact in its Third Step Answer Management wrote: "However, we now agree that the action taken violates the intent of the vacation upgrading provisions of Article VII, Section 6." Moreover, in the same week in a situation which appears to be identical in terms of Contract application, the case of May and Lessie, when the Union objected to having the Company continue a relief employee in a temporary vacancy rather than returning him to his normal crew and turn, the Company conceded the correctness of the Union position and made the indicated readjustment. In fact, in Grcevich's case Management originally agreed to do likewise but subsequently decided to have Mehan fill the Operator vacancy.

Management's position, in summary, is that its right to manage and direct the workforce (Article IV, Section 1) entitles it to transfer employees from crew to crew or turn to turn, and that in this instance when it proposed to have Grcevich act as Operator in place of Mehan, a Union Committeeman interceded on behalf of Mehan and this proposed action was rescinded.

The general Management clause does not govern this case. It is overridden by the specific provisions of Article VII, Section 6 (a), as was anticipated by the restrictive phrase at the very beginning of Article IV, Section 1: "Except as limited by the provisions of this agreement." Furthermore, it is agreed there was no particular operational need which called for Mehan to serve as Operator rather than Grcevich, for Management concedes Grevich is equally capable and was available and eager to perform the work.

The position of the Grievance Committeeman presents a more troublesome question. He was accompanied at the discussion by two Grievance Stewards, one of whom supported the Committeeman, with the other remaining silent and presumably indicating non-acquiescence by this silence. The Union and the Company as well can act only through designated representatives. In a debatable area settlements or interpretations agreed upon by such representatives must be taken to be binding on the party they represent. Here, however, the Contract provision seems perfectly clear on its face, and the Company's action in the contemporaneous May-Lessie situation and in agreeing at first to respect Grcvich's rights indicate there was no reasonable ground for misunderstanding. The question, then, is whether an unambiguous Contract provision may be waived or altered by a Grievance Committeeman. It is significant that the very section involved, Section 6 (a) of Article VII, provides that arrangements to fill vacation

vacancies in accordance with sequential standing rather than general seniority may be made. This, however, could be done only by an agreement made within 30 days from the date of the collective Agreement (July 1, 1954) and had to be applicable to all sequences in the department. No such agreement was made in this department. The point is that it would be a dangerous precedent to permit a representative of either the Union or Company to undertake to modify or waive any provision of the Agreement, and where the meaning of the provision is clear as application different from its plain meaning would amount either to a waiver or modification.

The temptation to indulge in discrimination or favoritism is sometimes strong, and it is equally bad when practiced by the Union or Company representatives.

In this case Management had demonstrated it knew what the Contract provides. One of the Union representatives declined to go along with the other two and promptly thereafter he was joined by the Union's International Representative in protesting the Company's action. In these circumstances I do not believe the Company should be relieved of its definite and unambiguous Contract obligation.

AWARD

This appeal is granted and the grievance is sustained.

Dated: March 29, 1957

David L. Cole
Permanent Arbitrator