INLAND STEEL COMPANY )
Indiana Harbor Works )
) Grievance No. 15-E-11
) Docket No. IH 20-20-5/9/56
and ) Arbitration No. 178
)
UNITED STEELWORKERS OF AMERICA ) Opinion and Award
Local Union 1010 )

Appearances:

For the Company:

H. C. Lieberum, Superintendent, Labor Relations Department
W. T. Hensey, Jr., Assistant Manager, Industrial Relations Department
W. L. Ryan, Assistant Superintendent, Labor Relations Department
L. E. Davidson, Assistant Superintendent, Labor Relations Department

For the Union:

Cecil Clifton, International Staff Representative
Fred A. Gardner, Chairman, Grievance Committee
Joseph Wolanin, Assistant to International Representative
Alberto Garza, Secretary, Grievance Committee

The following statement of facts is mainly derived from the pre-hearing brief filed by the Company and its presentation at the hearing. The Union filed a single two-paged hearing brief applicable to the grievances numbered 15-E-11, 15-E-12, 15-E-15, 15-E-18, 15-E-19, 15-E-22 and 15-E-29. The Union brief addressed itself briefly and exclusively to the central interpretation issue involved in all of these cases and contained no statement of fact.

Openings developed in the job of Hooker in the Shipping Sequence in the week of March 19, 1956. The Union grieves that Article VII Section 4 of the Agreement was violated when the Company promoted four named individuals into the job "on a permanent basis" in preference to M. Ilich. These four individuals were credited by the Company with having established sequential seniority in the Shipping Sequence by virtue of having worked thirty turns each in "extended operations".

Although the record is not clear on the point, it would appear that M. Ilich had established his sequential length of service in the Shipping Sequence in July, 1955 after having worked thirty turns in "extended operations". Having submitted a bid for a vacancy in the Pickling Sequence, and having been successful therein, he worked in that sequence during the period January 2, 1956-March 10, 1956. After completion of thirty turns on "extended operations" he was credited with Pickling Sequence seniority as of January 2, 1956. The Company takes the view that under Marginal Paragraph No. 99 of the 1954 Agreement (Article VII Section 4), when M. Ilich established his sequential standing in the Pickling Sequence he lost whatever sequential standing he may have had in the Ship-

ping Sequence.

During the week of March 19, 1956 when the four other individuals were working in the Shipping Sequence M. Ilich was working in the Labor Pool. The grievance was filed on March 26, 1956.

At the hearing the Union rested its case, not on the ground that Ilich had sequential standing in the Shipping Sequence paramount to that of the other four individuals, but that he had the greatest length of service in the department. The Company seems to have developed its case on another theory and was not prepared either to confirm or deny that Mr. Ilich was the employee with such departmental seniority entitled to fill the vacancy if the general position of the Union, in this case, were upheld. There is no specific evidence as to M. Ilich's departmental standing or rights to the job (as compared with the other four individuals); there is, however, a statement on the subject made by the Union and not controverted by the Company.

This case, as do the others listed in the Union's pre-hearing brief, involves mainly the interpretation of Article VII of the Agreement. The Company argues in each of the cases (as it did in Arbitration No. 167, the first matter presented on the question) that thirty turns worked on "extended operations" result in the acquisition of sequential standing; that vacancies on "extended operations" (excepting when specifically meeting the criteria of "temporary vacancies" within the meaning of Marginal Paragraph 102) are permanent in nature; and, accordingly, the procedures for the filling of permanent vacancies are required to be followed.

The Union argues that all turns worked on vacancies resulting from "extended operations" are in the nature of "fill-in" jobs and no sequential standing is acquired by working thirty such turns, although the Union has agreed that employees who acquired standing in this manner and are now on permanent jobs in the sequence will not have their standing or status disturbed.

This difference in the interpretation and application of the language of the Agreement was argued in connection with Grievance Number 16-E-30. I see no reason to depart from the conclusions expressed in the decision in Arbitration No. 167, despite the considerable discussion that followed its issuance and the lengthy consideration that has been devoted to its alleged consequences. It would serve no constructive purpose in this and in the opinions in the associated cases to elaborate upon or to detail the basis of that decision. A few general remarks, however, may help to clarify my views, even if they constitute a repitition of what has previously been expressed.

It is manifest that the language of the Agreement on this subject matter is far from clear. It is possible, by pointing to specific words or provisions, to the exclusion of others, to obtain considerable comfort for any position one desires to take. The art of drafting agreements has not reached such perfection, in its practice, that on so difficult a problem as departmental versus sequential standing, an uncomplicated and clear formula can be, or in this instance, has been, developed. In consequence, the interpretation and application of these provisions of the collective bargaining agreement, frequently necessitates an examination of the full context

of the provision and an inquirty into the practices of the parties. The purpose is simply to clarify the meaning of the words used, in terms of the parties indicated.

On page 3 of Arbitration No. 167 reference is made to the mixed past practices of the Company in various departments as to whether thirty turns on "extended operations" entitle an employee to sequential standing. On page 4, for the reasons set forth, it is stated that

> "The manner of filling such temporary vacancies are spelled out in the Agreement, and the more persuasive past practice of Management has been not to treat turns on such vacanies as those qualifying under Section 4 for establishing continuous length of service within a sequence." (Underscoring supplied.)

No doubt those considerations which weighed heavily with some of the representatives of the Company, in some departments, when they denied sequential standing for thirty turns worked on extended operations, were similar to those which led to the conclusion in Arbitration No. 167. This is not to say that another interpretation, such as that now contended for by the Company can be said to be groundless, but rather that the interpretation urged by the Union and the conclusion reached in Arbitration No. 167 seems better supported by the contract language in the light of the Company's uncertainty as reflected in its mixed practice.

Marginal Paragraph 102 deals with promotions into temporary vacancies. The first portion of that paragraph deals with two varieties of temporary vacancies; i.e., vacancies (a) of twenty-one consecutive days or less; and, (b) "where no definite information as to the duration of the vacancy has been furnished" by the time schedules for the next work week were to have been posted. When operations are stepped up and "extended operations" result no definite information is possessed as to the duration of time the extended operations will be required. This will depend on business activity and other factors. One who occupied such a vacancy fills a "temporary vacancy". The thirty-turn provision confers no sequential standing upon an employee who fills a vacancy created by such "extended operations". It would be otherwise if a vacancy should develop under any of the circumstances specified in Marginal Paragraph 103 or 104 and an employee should fill such a permanent vacancy.

It is not represented here that this is the ideal result from an industrial relations point of view; it is not even suggested that these are satisfactory answers to the argument that this may result in differential treatment of employees. The basis for this construction of the Agreement is the Agreement itself (which describes what is a permanent or a temporary vacancy). The Arbitrator has no power "to add to, detract from or alter in any way" (Marginal Paragraph 155). Again, it seems pertinent to observe that this interpretation, with its weaknesses, finds substantial support in the widely-spread prior practices of the Company itself.

It would seem to follow from what has been said above, that vacancies due to "extended operations" (not known to extend twenty-two days or more and not "permanent vacancies" as described in Marginal Paragraphs 103 and 104) are to be filled in accordance with the procedure set forth in

Marginal Paragraph 102 for temporary vacancies "where no definite information as to the duration of the vacancy" is known at the time of posting schedules for the next work week.

Applying these considerations to the instant case, the four employees elevated to the Hooker job in the Shipping Sequence did not have sequential standing as claimed by the Company. M. Ilich, by the same token, had no sequential standing in the Pickling Sequence that would interfere with whatever sequential standing he may have had in the Shipping Sequence since it appears his standing in the Pickling Sequence was based only on thirty turns on "extended operations".

Lacking exact evidence as to the relative departmental lengths of service, the case is remanded to the parties for application of the provisions of the Agreement as interpreted herein. The parties are requested to inform the undersigned and the Permanent Arbitrator before August 16,1957 whether they have been successful in resolving this grievance. In the intervening period, jurisdiction is retained.

AWARD

The four individuals promoted to the Hooker job in preference to M. Ilich did not have sequential standing by virtue of their thirty turns worked on "extended operations". The parties are to meet and attempt to resolve this grievance by applying this award to the facts. They are to report the results prior to August 16, 1957. In the meantime, jurisdiction is retained.

Peter Seitz,
Assistant Permanent Arbitrator

Dated: July 19, 1957