

INLAND STEEL COMPANY

and

UNITED STEELWORKERS OF AMERICA)  
Local Union No. 1010

) Grievance No. 13-F-2  
) Docket No. IH-60-60-10/23/56  
) Arbitration No. 193  
) Opinion and Award

Appearances:

For the Company:

T. G. Cure, Assistant Superintendent,  
Industrial Relations Department

For the Union:

Cecil Clifton, International Staff Representative

William Polich, the grievant, is an employee in the Mechanical Division of the 76" Hot Strip Mill. On August 29, 1956 while on the 3-11 turn he was sent home for the day by his foreman at approximately 6 P.M. He asks to be compensated for the time lost.

The events, as described by the Union, on his behalf, were as follows:

The grievant had been working with a Third Class Millwright and two Millwright Helpers placing coils of steel on a conveyor from which they had become dislodged. The work in the tunnel was very hot and the mill foreman is supposed to have "instructed Polich to come out of the tunnel before he passed out." He sat down and removed his shoes which were overheated. While he was recovering from the heat and cooling off his bare feet and his shoes he was requested by the Mechanical Foreman to perform a work assignment involving the loading of castings on a truck -- a job concededly within the the range of his duties but of questionable urgency, according to the evidence presented. Polich responded with a familiar but not sociably acceptable phrase consisting of two monosyllabic words in the imperative mode. Apparently, he also made some reference to his hot feet but, for reasons best known to him and which he seemed unable to explain at the hearing, he did not tell this foreman that he had been ordered to cool off by the other foreman. He then made a remark to the effect that if he had to put on his shoes and stockings he was going home. The foreman then directed him to go home. He walked to the Union office and then, either personally or through his Union Committeeman, offered to continue to work but this offer was not accepted.

The Union while deprecating the use of the phrase employed by Polich, refers to it as "mill talk" or "common mill vernacular." It claims that there was a well established practice of cooling off after working on hot assignments and when the foreman instructed him to load the castings while he was cooling off his shoes and feet, this violated a well established mill custom and practice.

The Company neither denied nor admitted this alleged practice and, in effect, stood on the facts as recited. The Company claimed to know nothing about the orders of the Mill Foreman to Polich "to come out of the tunnel before he passed out" but the record contains no denial that such orders were given, in fact. The First Step Answer refers to "very abusive and profane" language employed by Polich. No such reference is made in the Third Step Answer in which the discipline was based solely upon refusal to perform an assigned duty. In the Prehearing Brief, likewise, the Company claimed in its "Company Contention" that "the grievant's refusal to perform a work assignment, as directed by the grievant's supervisor, constitutes insubordination."

The Company lists items from the grievant's personnel record which it states "shows that this employee has been reprimanded and disciplined on numerous occasions for poor workmanship, insubordination, plain carelessness, etc." and also notes that the record "reflects the actions of an irresponsible employee who has been repeatedly warned to mend his ways or suffer the consequences."

The Company also presented a list of 31 injuries which Polich had suffered on the job starting with November 11, 1941. The events resulting in the disciplinary action occurred on August 29, 1956. The last injury item bears the date June 6, 1957. The one immediately preceding bears the date October 24, 1954 and the one before that April 1, 1951. Apparently there were no reported injuries to Polich in 1952 or 1953 nor in the last nine months of 1951 nor the first 9 1/2 months of 1954 -- a period of more than 42 months.

This record of accident and injury was presented ostensibly to show irresponsibility. Aside from the fact that the last item post-dated the disciplinary action and even ignoring the 42 months period of no reported accident, I fail to see how it has any bearing on the issue before us.

Polich's personnel file shows four reprimands dated in 1948, four in 1949, one in 1950, a verbal warning in 1951, three written warnings in 1951, two in 1953, one in 1954, three in 1955, and one in 1956, not including the "discipline" involved in this case. The grievant remembered a few of the occasions (although he considered the reprimands and disciplinary notices to be undeserved and claims to have been upheld in

one situation by the Company Safety Engineer) but asserts no knowledge or information or memory as to any of the others. Although the items are couched in terms of reprimands to him, he states affirmatively that he never received most of the writings referred to in his personnel record.

The Company witness stated that it was customary, in giving a reprimand to place it in a sealed envelope bearing the employee's name and to post it on the bulletin board for removal by him. The record contains no proof of communication of any of the numerous items listed except for those few acknowledged by Polich to have been received.

The Union representative pointed out that these reprimand and discipline items were not referred to or exhibited to the Union in any of the steps of the grievance procedure as forming any part of the basis for the discipline meted out. He objected to their use in arbitration as justification for that discipline.

The Company would have me accept these warnings, discipline notices, etc., as facts. Polich, however, flatly states that he never heard of most of them and, indeed, that one alleged disciplinary layoff definitely did not occur. In the absence of proof of the communication of these reprimands and disciplinary statements to the grievant and their acceptance without contest, or, at the least, a showing of some method of transmitting them which would justify the assumption that they were received in the normal course of events, I cannot give much weight to this material as bearing on Polich's quality as an employee, his credibility as a witness, or his characteristics as a person.

In any event, the objection of the Union to their consideration, on procedural grounds, has merit. If Polich's long record be regarded as material, in the arbitration step, to a demonstration of cause for the Company's disciplinary action it was no less material in the grievance steps. The Union cannot be expected to screen out and select those cases which it decides to appeal to arbitration unless it knows all the facts serving as the basis for the Company's action. The personnel material here presented, if deemed important to a determination of the case by the Arbitrator, was equally important to the Union in its process of evaluating the merits of the case and when the Company proposes to rely on such material orderly and effective grievance handling dictates that this must be made clear in the earlier grievance steps and the material itself presented to the Union.

In view of the fact that no reliance was placed on Mr. Polich's record in the third step and no disclosure of the nature of his personnel record was made, I shall regard this case as though it has been presented without such material in the record of this proceeding.

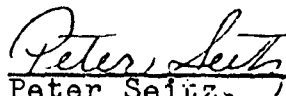
Certainly, supervisors should not be discouraged in their efforts to maintain discipline and employees should not be encouraged to believe that they are free to ignore or resist proper orders and assignments with impunity. But it is not enough, in a discipline case, that the Company's foremen be convinced in their own minds that the employee deserves to be disciplined. This is especially so when this conviction depends on the employee's prior record and that record has not previously been mentioned or shown in the grievance steps.

Viewing, then, the events of August 29, 1956, by themselves, I do not find sufficient justification for the discipline. Polich's language was bad, but it was uttered in an environment and in a manner which should have stripped this language of its customary offensiveness. As indicated, moreover, the Company was either unable, or chose not, to deny that Polich was cooling off in compliance with explicit instructions of his Mill Foreman. Certainly the Mechanical Foreman seeing an employee of Polich's type with his shoes and stockings off in the location where he was must have known the reason, and should not have ordered him peremptorily to undertake the task of loading castings on a truck. Indeed, there was evidence that this loading was not urgent and in any event could easily have been assigned to one of the available helpers.

Reasonable discipline is essential in an industrial enterprise, but industrial discipline must be reasonable and must be distinguished from discipline of a military character. When a foreman issues orders in contravention of orders already issued by another foreman he must expect his orders to be questioned unless there is some supervening emergency or urgency.

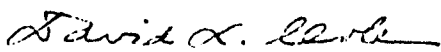
AWARD

This grievance is sustained.



Peter Seitz,  
Assistant Permanent Arbitrator

Approved:



David L. Cole,  
Permanent Arbitrator

Dated: September 16, 1957