INLAND STEEL COMPANY )
) Grievance No. 8-F-16
- and - ) Docket No. IH-206-201-8/1/57
) Arbitration No. 207
UNITED STEELWORKERS OF AMERICA)
Local Union No. 1010 ) Opinion and Award

Appearances:

For the Company:

L. E. Davidson, Assistant Superintendent, Labor Relations
R. H. Ayres, Divisional Supervisor, Labor Relations
R. J. Stanton, Divisional Supervisor, Labor Relations
William Dittrich, Superintendent, Plant #2 Mills

For the Union:

Cecil Clifton, International Staff Representative
Joseph Wolanin, Acting Chairman, Grievance Committee
Albert Garza, Vice Chairman, Grievance Committee
William Young, Grievance Committeeman

M. Szczepkowski was suspended and then discharged from employment on July 9, 1957. The grievance notice alleges that this action was "unwarranted in the light of all the circumstances" and that it constitutes discrimination because of the grievant's Union activities. The grievant asks "to be returned to his regular occupation and to receive full pay for time lost."

No evidence having been submitted in support of the charge that the action was prompted by a purpose to discriminate because of the grievant's union activities, this aspect of the grievance will be regarded as having no basis in fact.

On June 20, 1957, the grievant, a Millwright in Plant #2 Mills, reported for work on the 4-12 turn. He was assigned by his Turn Foreman to continue the job of removing scale and making repairs to the roller line in front of the No. 3 Reheat Furnace which had been started on a previous turn. This furnace which is in line with No. 1 Furnace and No. 2 Furnace passes billets out to the rolling table. When the furnaces are all in operation, billets are conveyed south to the 32" Roughing Mill and the 28" Roughing Mill. Marker and send-back billets are directed north, in the opposite direction toward a transfer car and returned to the area behind the furnaces for reheating.

On the day mentioned the No. 3 Furnace, the most northerly furnace, in front of which the grievant was assigned to work, was not in operation. All billets, whether of a prime, marker or send-back character were directed and rolled away from this work area in a southerly direction. In order to assure safety to anyone working in front of the idle No. 3 Furnace the following precautionary measures had been taken:

1) A 1 1/2" x 14" x 36" steel plate had been placed across the rollers and wedged between the side guards and the toe-plates to serve as a barricade.

2) The No. 3 Furnace had been emptied and cooled for approximately 16 hours.

3) The No. 3 Furnace table and pusher had been locked out.

4) There were six dead table rolls in front of the barricade.

5) The furnace crews operating the table rolls were told that repairs were being made in front of No. 3 Furnace and that all markers and send-back billets should be directed south, instead of north, deadheaded through the rougher, transferred to storage and then returned by overhead crane to the furnaces for recharging.

Three employees from the day turn, two of whom had previously been working on the job assigned to the grievant, were held over to assist the grievant and his helper. The grievant on being informed of his assignment approached the 28" Mechanical Foreman (Ross) and inquired as to the safety of the job. He was told that it was safe and that the gang had been working on it all day. The grievant said something about seeing his Safety Committeeman, and departed. A short time later, when he had finished his paper work, Ross went to the work site to observe it and found that the grievant was not there. It appears that the grievant, after leaving Ross, had gone to the office of the General Mechanical Foreman (Vana) and told him that he had been assigned to a hot and an unsafe job. Vana told him that the job was safe and had been previously worked without objection; but inasmuch as the grievant had previously been involved in a dispute concerning safety, invoking Article XI, Section 6, of the 1956 Agreement, and a grievance had been filed by him thereon, and, because Vana thought that a similar claim might be made in this case, he decided to call for the Safety Engineer.

The grievant, his Safety Committeeman, Ross, Vana, the Safety Engineer and a chemist associated with the Company's

Occupational Hygiene department gathered at the work site. The chemist took temperature readings which, according to the Company, did not indicate any excessive heat or oppressive conditions, and the grievant and the Union did not press the heat objection any further. Van Dyke, the Union Safety Committeeman, expressed no views as to whether or not the job was dangerous. The Safety Engineer testified at the hearing that the grievant seemed to be concerned that marker and send-back billets might be directed north through the barricade. He sought vainly to explain to the grievant that the barricade and the six dead rollers would prevent this. He asked the grievant what he would suggest to guarantee safety but grievant had no suggestions or recommendations to make. At the hearing the grievant indicated that his apprehensions were based on the fact that there existed a possibility that someone might reverse the direction of the rollers.

During the discussion at the work site, according to Company witnesses, the grievant was in an excited and emotional state. Ross testified that Szczepkowski accused him of being prejudiced against grievant and that grievant had been waiting for a long time to "get" him on the outside. According to Ross and Vana, Ross, in the grievant's presence, immediately reported the grievant's threat to Vana. Vana testified that he said "There is no need to resort to physical violence. We will settle these things peacefully."

At the hearing the grievant categorically denied having made the remarks to Ross referred to above or that he heard Ross report them to Vana. The denial, however, in the light of all the evidence, seemed hollow; Ross' and Vana's version of the incident appeared much more credible and convincing.

The Safety Engineer testified that he noticed three laborers working under the roller line, that he asked the grievant if they had refused to work, and that the grievant responded, directing his remarks to the three employees, that they had not but "They had better until this job is made safer." Such a remark could come very close to being a direct violation of the last clause in Marginal Paragraph 243 (Article XI, Section 6). Nevertheless, the other men continued to work. The grievant flatly denied having made this remark, but, again, this denial lacked conviction and credibility.

Vana suggested the placing of a heavy half empty dolomite box on the dead rollers in front of the barricade, and asked the grievant if this would render the job safe. Vana testified that the box would have little or no value as a safety precaution under the circumstances, but he wanted to get the job done. The grievant, after discussing the matter with his Safety Committeeman, then consented to work. There is no testimony as to what the grievant said at this point but he testified at the hearing that the dolomite box "made a safer place for me to work in."

Because of this occurrence, the grievant's record was reviewed by Company officials, and on June 24, 1957 he was suspended. It was stated that the action was taken

> "as a result of insubordination and threats made by you to your foreman on June 20, 1957. In addition your unsatisfactory work record and uncooperative work attitude were contributory factors."

A hearing was held on June 28, 1957 under the provisions of Article IX. Thereafter, and before final action by the Company, the grievant's Grievance Committeeman, W. Young, interceded on the grievant's behalf with the Superintendent of the Plant No. 2 Mills Department (Dittrich). After consulting with his assistants, Dittrich told Young that in view of the grievant's long Company service, military service and large family responsibilities, the grievant would be reinstated but only if he would "indicate that he would be willing to mend his ways and become a cooperative employee and try to make a sincere effort to do a better job." It was agreed by Young that such assurances would be given. A meeting accordingly was arranged which, unfortunately, Young could not attend. In addition to Dittrich and the grievant, Ross, Greene (Assistant Superintendent of Plant No. 2 Mills Department) and Lundquist (a substitue for Vana) were present. Dittrich testified that this meeting was held for the purpose of reestablishing the grievant in his job and he had no expectation of having to go through with the discharge. Apparently he had reason to believe that the conditions applicable to the grievant's reinstatement that he had communicated to Young would be fulfilled by the grievant. The grievant testified he approached the meeting "with the best of my heart" expecting to be put back to work. Regrettably, however, the meeting deteriorated into a debate as to the quality of the grievant's past performance as an employee and terminated with Dittrich not being satisfied that the grievant had satisfied the conditions of reinstatement that had been agreed upon with Young, and with the grievant feeling that he had been embarrassed at the meeting and put on the spot in the presence of others.

The grievant's testimony with respect to the meeting with Dittrich was that he was being "dressed down" and that he inquired "whether it would be all right for me at any time if I thought I was in danger, or the fellow workers alongside of me, to bring the point out that the job was unsafe to work on at the time * * *". According to the grievant, Dittrich responded "Under any circumstances I don't want you to open up any more. Do what you can, because you have not been worth a darn for seventeen or eighteen years."

The grievant's recollection of the meeting is that of a disappointed employee whose expectations of reinstatement were frustrated. His version is not in accord with the recollection of Dittrich who testified that Article XI, Section 6

"was not referred to in this meeting, not alluded to in any way" and that the Company's action was not based upon the grievant's insistence upon his interpretation of that provision (which was the subject of a then pending grievance) but, rather, on the threat to Ross "coupled with this unsatisfactory attitude" evidenced by the personnel record. On the basis of all the testimony and, particularly, my observation of Dittrich and the grievant as witnesses I am persuaded that Dittrich's version of what occurred at the meeting is entitled to greater credibility and weight. I find it difficult to persuade myself on the basis of my observation of Dittrich as a witness that as a condition of reinstatement and, notwithstanding his committment to Young, that he would require the grievant to forego rights specifically reserved to him by the Agreement. I find that Dittrich sought to afford the grievant a fair opportunity to meet the conditions that he had stated in his discussions with Young, and with which Young, acting on the grievant's behalf, had agreed. The grievant, however, strongly convinced as he was, that he was being "picked on" and discriminated against, particularly with respect to the events which led to the filing of the other grievance, was unable to restrain his compulsion to justify his record as an employee and to demonstrate the unfairness of those who complained of his behavior and attitude.

A letter of discharge was finally sent to the grievant on July 9, 1957.

As stated above, the reasons ascribed by the Company in its June 24, 1957 letter to the grievant for the suspension which led to his discharge were a) insubordination, b) unsatisfactory work record, and c) uncooperative attitude.

On the record of the case I find that the grievant was insubordinate when on June 20, 1957 he threatened his foreman. The personnel record contains other instances of what might properly be regarded as "insubordination" in various degrees. While these other instances undoubtedly contributed some weight to the Company's final decision, it is noteworthy that none of them were considered, at the time of occurrence, as being of sufficient consequence to call for any discipline more severe than a written reprimand. It is a fair conclusion that the threat to the foreman was an act furnishing "cause" for discipline, but I am not convinced that taken by itself or in conjunction with such other insubordinate acts (such as the uttering of an obscene remark to a foreman in December,1956) it furnishes a basis for the extreme penalty of discharge.

I am fortified in this view by the fact that the Company, although it took a serious view of the grievant's insubordinate behavior, was entirely willing to rehabilitate him as an employee if he indicated to its satisfaction that he would endeavor to show a more cooperative attitude. The Company should neither be criticized nor prejudiced in this proceeding because it demonstrated its good faith and willingness

to give every reasonable opportunity to an employee whom it found to be unreasonable and disputatious; but its willingness to reinstate the grievant on the condition expressed shows that it was not so much the specific act of insubordination on June 20, 1957 (or the record on insubordination, such as it is) that stood in the way of reinstatement as its dissatisfaction with his attitude. If anything is clear, it is that had the grievant shown a different attitude at the meeting with Dittrich, he most certainly would have been reinstated. If this is so it must be asked whether a bad employee attitude is "cause" for discharge? The question answers itself.

The Company also relies on poor workmanship as furnishing cause for discharge. In support of this charge it first refers to six reports of the following injuries:

July 1948: A spark from a torch lodged in the grievant's eye because his goggles did not fit well.

Dec.,1949: The grievant slipped and cut his leg.

May, 1952: A steel angle shifted and scratched the grievant's hand above his glove.

March,1943: A wrench slipped and the grievant hurt his thumb.

July,1955: The grievant's finger was pinched.

Jan.,1956: The grievant bruised his thigh.

In addition, the Company presents, as exhibits, ten reprimands or discipline statements as follows:

a) In April, 1958, September, 1949, July, 1953, October, 1956, reprimands were given for absence from important Sunday or other repair turns without satisfactory excuse on 28 occasions. For one Sunday absence the grievant was disciplined with one day off. There were six other unexplained absences.

b) In May, 1953, he was docked one half hour because he was washed up and dressed one half hour before the end of his shift.

c) In October, 1956, he was reprimanded for unsatisfactory work performance "in recent months" and not cooperating with his Mechanical Turn Foreman. It was noted that the grievant was dissatisfied with his shift.

d) In December, 1956, he was reprimanded for uttering an obscene remark to his foreman.

e) In April, 1957, he was sent home after refusing to work on an unsafe job. This incident is the subject of a grievance appealed to the arbitration step.

The Company also attached as exhibits to its pre-hearing brief foremen's reports of interviews with the grievant for the last six months of 1956 which, although unilaterally prepared and not given to the grievant or the Union at the time of execution or filing, are accepted as evidence of these facts only: that the grievant was unhappy with his schedule of work; that he regarded himself as being "singled out to be pushed around"; that foremen regarded him as a "problem child" and that Company efforts were made on numerous occasions to effect a transfer of the grievant to some other operation, but without success.

Examination of all of these materials, presented to support the Company's cause or justification for its action leads to the following conclusions of fact:

1. The injury reports in this case have no bearing on "poor workmanship". The types of injuries sustained and the causes thereof have no evidentiary value that I can perceive on the question presented.

2. The reprimands, discipline letters and foremen's reports demonstrate that the grievant was disgruntled and considered himself to have been persecuted and discriminated against by supervisory personnel. They disclose an absentee record that is understandably provoking to the Company; but although such a record may support the view that the grievant's attitude as an employee was bad, its weight is not sufficient to establish insubordination or poor workmanship. There was no absenteeism noted in 1957. The one day of disciplinary lay-off for absenteeism occurred in July, 1953.

It is evident that the threat on June 20, 1957 was the culmination point of a long history of dissatisfaction with the grievant's attitude and behavior. The absenteeism, however, was, in truth, a matter unrelated to the grievant's misconduct of June 20, 1957, nor was it regarded as sufficiently important to warrant anything more than reprimands and a one day disciplinary layoff.

Another element in the case was the grievant's vigorous assertion that Article IX, Section 6, required the Company to relieve him from an assignment if he "believed" it to be unsafe, regardless of his grounds for such belief. The grievant was in the forefront of a controversy as to the appropriate interpretation of that provision only recently added to the collective agreement. It is understandable that he should have asserted himself with more than normal vigor on June 20, 1957 when he claimed that he was being assigned to an allegedly unsafe job, a claim that he also asserted in March when assigned to work on the drop-saw. It is also understandable that the Company should have experienced an exceptional degree of resentment inasmuch as it considered itself subjected to unreasonable harrassment by the grievant on the subject of unsafe practices. There is special reason for this Company resentment: Management takes justifiable pride in Inland's safety program and record.

All of these considerations lead me to the conclusion that the grievant was undoubtedly guilty of misconduct warranting discipline -- but that those same considerations which prompted the Company to offer him reinstatement on condition that he would try to be more cooperative in his relations with his supervisors are no less persuasive in arbitration than they were prior to the grievant's meeting with Dittrich. That meeting did not accomplish its purpose because of misunderstandings, the pendency of the grievance previously filed by the grievant, and a defiant defense of his record which the grievant, unfortunately, felt obliged to undertake during the meeting.

Under all of these circumstances, I believe that discharge of the grievant is too extreme a punishment and that the discipline should be reduced to suspension until the date of reinstatement without any back pay. This amounts to a disciplinary suspension of almost four months, which, while severe, is justified under the circumstances, but is still less severe than discharge.

This reinstatement should not take place, however, unless and until the grievant states in a letter to Dittrich that he is prepared to fulfill those conditions relating to his future attitude and conduct on the basis of which Dittrich and Young had previously agreed he would be reinstated. The terms of this letter should be approved by both Dittrich and Young as complying with their previous understanding. The effect of this is to reestablish the dispute to its status and posture immediately before the meeting in Dittrich's office.

AWARD

The grievant shall address a letter to Dittrich fulfilling the terms of the understanding previously reached by Dittrich and Young on the basis of which it had been agreed that he would be reinstated. Dittrich and Young are to agree on the language of this letter. Upon its receipt by Dittrich, the grievant is to be promptly reinstated but without pay for the period since he was suspended from work. Jurisdiction of this case will be retained until notification and report by the parties as to the steps taken to comply herewith.

Peter Seitz,
Assistant Permanent Arbitrator

Approved:

David L. Cole,
Permanent Arbitrator

Dated: October 2, 1957