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

Grievance No. 9-F-7
Docket No. IH-105-105-1/4/57
Arbitration No. 221

Opinion and Award

Appearances:

For the Company:

William F. Price, Attorney
L. E. Davidson, Assistant Superintendent, Labor Relations
T. G. Cure, Assistant Superintendent, Labor Relations
John I. Herlihy, Superintendent, Industrial Engineering Department
Morris G. Jacobson, Supervisor, Industrial Engineering Department
Martin Peronto, General Mechanical Foreman, 10" and 14" Mill

For the Union:

Cecil Clifton, International Representative
F. Gardner, Wage Rate and Incentive Review Committee
J. Wolanin, Acting Chairman, Grievance Committee
L. Zugbaum, Grievance Committeeman

The issue in this case has become confused. The grievance alleges that the incentive plan of the Mill Mechanical and Electrical Employees in the 10" and 14" Mills has become inappropriate and requests the Company to develop a new incentive plan "which will return aggrieved the same total earnings enjoyed by other maintenance occupations in the Plant," citing Article V, Section 5 as the contract provisions violated. In its answers in both Step 1 and Step 2 the Company stated that "This grievance alleges a wage rate inequity and, therefore, is improper. All copies are herewith returned unanswered." In its Third Step answer the Company took the same position, saying "The Company, therefore, does not accept this grievance into the grievance procedure." In all three answers the Company quoted Article V, Section 7, which reads in part:

> "No basis shall exist for an employee, whether paid on an incentive or non-incentive basis, to allege that a wage rate inequity exists, and no grievance on behalf of an employee alleging a wage rate inequity shall be filed or processed during the life of this Agreement."

In the pre-hearing briefs and at the arbitration hearing, however, the Company undertook to meet the grievance on its merits with respect to the 10" Mill Mechanical employees, as well as maintaining the position it took in its three grievance answers, while the Union confined itself to the procedural aspects, urging that the grievance be remanded for processing in accordance with Article VIII, Section 2.

It is obvious that the parties have not in the grievance steps had the type of discussion of the merits which, under Article VIII, Section 2, must precede the submission to arbitration. No ruling on the merits is proper under these circumstances.

The only question then is whether the Company was within its contractual rights in physically returning the grievance and declining to accept it into the grievance procedure. The Company did so because it viewed this grievance as an allegation of a wage rate inequity which Article V, Section 7, declares shall not be filed or processed during the life of the Agreement.

The grievance itself refers to Article V, Section 5, asserting that the incentive plan of the grievants has become inappropriate, and requests the development of a new incentive plan. It therefore conforms with the minimum requirements of a written grievance as stipulated in Article VIII, Section 5 (Marginal paragraph 209). If it did not, then the Company could have returned the grievance, for this section recites:

> "A grievance which does not satisfy these requirements shall be returned to the grievance committeeman who shall be entitled to refile the grievance within seven (7) days from the date the grievance is returned, upon bringing it into conformity with this Section."

The absence of a similar provision in Article V, Section 7 for returning the grievance is significant. There is a similar absence in Article VIII, Section 3 (Marginal paragraph 201) which sets forth the time limits within which a grievance must be filed.

The effect of such differences in contract language is that if there is a failure to file within time or if, despite its allegations, a grievance is in fact grounded on a wage rate inequity, such facts will serve as good defenses or answers to the grievance, but do not support the practice of simply returning the grievance without the opportunity for discussion. Every grievance which goes to arbitration is disputed, with the Company relying on some contract provision or on some facts to support its position. It does not, when it believes the Union is misinterpreting or overlooking some contract provision, simply return the grievance without discussing it in keeping with the grievance procedures spelled out in Section 2 of Article VIII. Nor should it desire to do so. It would seem to be far more desirable to point out to the grievants and their representatives the weaknesses of the grievance and the reasons why it can not be sustained under the contract. In any event, while it may simply return the grievance for failure to comply with Article VIII, Section 3, it is not given the right to do so when the grievance rests on a wage rate inequity claim, and certainly not when the grievance alleges an inappropriate incentive plan but the Company is of the opinion that it nevertheless is actually a wage rate inequity grievance.

The Company need have no fear that a wage rate inequity grievance clothed in some other form will be allowed. Article V, Section 7 is too clear for that to be permitted, and the contract provisions are as

meaningful and controlling in arbitration as they are in the grievance steps. The likelihood, on the contrary, is that a full discussion of the failings of the grievance will avoid the necessity of submission to arbitration.

In view of the above, it is not necessary or proper at this stage to consider the evidence offered by the Company as to the appropriateness of the incentive plan. The parties must first discuss that question and the pertinent evidence relating to it in the grievance steps.

AWARD

This grievance is remanded to the parties for processing in accordance with Article VIII, particularly Section 2 thereof.

David L. Cole
Permanent Arbitrator

Dated: December 20, 1957