INLAND STEEL COMPANY)
) Grievance No. 17-F-8
- and -) Docket No. IH-212-207-8/20/57
) Arbitration No. 251
UNITED STEELWORKERS OF AMERICA)
Local Union No. 1010) Opinion and Award

Appearances:

For the Union:

Cecil Clifton, International Representative
Fred Gardner, Grievance Committee Chairman
Gus Mavronicles, Grievance Committeeman

For the Company:

W. A. Dillon, Assistant Superintendent, Labor Relations Department
R. L. Smith, Superintendent, Wage and Salary Department
D. Gott, Job Analyst, Wage and Salary Department
G. Schreiner, General Foreman, Tin Mill Department

The grievance states that

> "The Assorters contend the Company has added the job of Analyzer to their duties."

The relief sought is

> "Request the Company develop a new description and higher classification which will reflect these additional duties."

The occupation of Assorter, 1st Class, in the Tin Mill Department was described on January 23, 1946, classified in November, 1946 and placed in Job Class 5. The occupation of Analyzer was described and classified in May, 1952 and placed in Job Class 6. Both of these occupations perform an inspection function with respect to sheets produced by the tin mill.

The immediate cause of the grievance, according to the Company's view, was the issuance by the Company in 1957 of a new ticket to be filled in by the Assorters. The back of that ticket contained a listing of types of defects, with code numbers and called for indications as to the frequency of such defects on the sheets being assorted and inspected. At the early stages of

the grievance procedure it appeared to the Company that the Assorters were protesting the recording of this data. The Company also gathered that it was the Union's claim that the duties of the Analyzer had been absorbed and assimilated by the Assorter. At the hearing the facts developed by the Union and its argument were directed to obtaining the comparatively limited relief of requiring the Company to amend the Assorter's job description by adding to it typical duties which are performed but not reflected in that description. The Company claimed surprise and asserted that it had prepared for arbitration on the broader and more far-reaching issue suggested by the language of the grievance notice.

It is the responsibility of both parties to make the fullest use of the grievance procedure so as to inform each other of their positions in advance of the arbitration step. This should be done by disclosure of their respective basic theories of the case and by questions which would elicit such information if it is not voluntarily offered by the other side. However, in a situation such as here presented where for one reason or another this has not been done, the Arbitrator has no alternative but to accept a narrower and more restricted issue than that suggested by a grievance notice where the moving party does not seek or desire to assert the full reach of the language in that notice. Settlements and resolution of disputes by the parties are to be encouraged at all steps, including that at the arbitration level. To refuse to accept the issue in a narrower frame and compass when so presented by either party would tend to discourage rather than encourage settlements.

The testimony offered by the Union indicates that shortly after the job had been described in 1946 one of the Assorters was requested by her forelady to note on the back of the "straigh cut tickets" what defects she noted in each pile of lifts. This she agreed to do, she said, as a favor. Apparently others, but not all of the Assorters at various times, also made such notations on the backs of such tickets. There was Company testimony indicating that this kind of work was performed by Assorters as early as 1941. When, in the Spring of 1957 the Company issued a new form with a itemization of the more common defects on its back and calling for a tally thereof, one of the Assorters (and perhaps others) refused to use the tickets, although the Union did not assert at the hearing that the Company was without authority to require the Assorters to record the information required.

The Assorter's job description does not call for the recording of these defects by Assorters. The Analyzer's job description, however, states explicitly that her primary function is to

> "Inspect, analyze, and record various defects."
> (Underscoring supplied.)

found in various kinds of sheets. It is stated among the work

procedures of the Analyzer that she

> "Analyzes and records type and number of defects such as; slivers, holes, roll marks, off-gauge, stickers, s olution stains, etc., and charges each defect to the operating units concerned." (Underscoring supplied.)

She also

> "Reports number and type of error made by the hand assorters to the Forelady or Foreman." (Underscoring supplied.)

The Assorter inspects, classifies and assorts, but there is no mention of reporting or recording, whatsoever, excepting

> "Marks identification information on top of each pile."

So far as the record reveals, this "identification" may be no more than an indication cf product.

Notwithstanding this absence of reference to the recording of defects, it is manifest that many or most of the Assorters have been performing this work for a considerable period of time. Unlike the Analyzers they did not make a sheet by sheet record of defects, but rather, a record of the incidence of noted defects by inches in a lift or pile. The Company Foreman indicated that this information was always obtained, in the past, when deemed necessary and desirable by Management. It may well be that the requirement to record has never been ordered with such formality as to eliminate the possibility of questioning whether Assorters included defect recording among their duties. However, the record satisfies me that this work was done by a number of Assorters, for a period of time and with a regularity sufficient to regard it as a part of their duties when requested or required by Management to ascertain "trends" in defects.

The Union also argued that although the job description of Analyzers requires that an Analyzer

> "charges each defect to the operating units involved"

and there is no comparable task in the job requirements for Assorter, the coding on the new ticket and its form call for identification of the process or unit responsible for the defect. The testimony supports this conclusion.

The Company takes the view that the Wage Inequity Program and the provisions of Article V, Section 6 of the Agreement dealing with Description and Classification of new or changed jobs do not contemplate the requirement that the Company amend

its Job Descriptions to include duties required but not mentioned therein, which if included will not change the job class. This argument, however, begs the question in this case. The Union is not requesting the Arbitrator for an award changing the classification and the coding of a job, but only for an accurate description of the typical duties. The duty under consideration may or may not justify a reclassification, a recoding and a change in job class. That can only be determined after the job is properly described to include typical duties that may have been omitted initially or added and not expressed in the description. The Union would then be in a position to request reclassification and recoding, if it deems it appropriate, and if the grievance is fully processed the Union will then still have to make a record before the Arbitrator demonstrating its right to the relief requested.

It may well be, as claimed by the Company, that the Assorter always performed the recording work referred to and that even if it had been or were to be reflected in the job description no change in coding or job class is indicated. The Arbitrator expresses no view as to this. Such a decision can only be made in a case when it is within the issues framed and there is a record on the issue. However, it is clear that recording duties were regarded as sufficiently significant to include in the Analyzer's description. This being so, inasmuch as somewhat comparable duties are actually performed by Assorters, they have standing to require that their job description be consistent with their assigned work.

AWARD

The grievance is granted to the extent of requiring the Company to develop an amended job description for Assorters which takes due account of their defect recording duties. Such a re-description shall be presented to the Union for acceptance, as provided in, and subject to, Article V, Section 6.

Peter Seitz,
Assistant Permanent Arbitrator

Approved:

David L. Cole,
Permanent Arbitrator

Dated: March 25, 1958

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

Supplement to
Arbitration No. 251

Grievance No. 17-F-8

Whether the Company has complied with Award 251 is the issue in dispute. The award in its entirety is:

> "The grievance is granted to the extent of requiring the Company to develop an amended job description for Assorters which takes due account of their defect recording duties. Such a re-description shall be presented to the Union for acceptance, as provided in, and subject to, Article V, Section 6."

In his Opinion the Assistant Permanent Arbitrator pointed out that the Union was not requesting him to reclassify the job of Assorter, 1st Class, but merely to have the job description include an accurate description of the typical duties, leaving the question of possible re-coding or re-classification for future consideration. He also stated that the recording duties were considered sufficiently significant to be included in the job description of the somewhat similar job of Analyzer.

The Company's first proposed amendment having been rejected by the Union as not in conformance with Award 251, the Company made a revised proposal, which was to amend the seventh sentence of the job description to read:

> "Marks identification information on top of each pile, and measure height of lifts and records primes and defects on production ticket."

On its face, this seems adequate to take "due account of their defect recording duties," which was all that was required by the award.

What is suggested, as I conceive it, by the Union is that perhaps the Assistant Permanent Arbitrator failed to provide for the duty of analyzing types of defects, which it asserts the Assorters, 1st Class, are required to perform. Such a failure may not be overcome, however, by charging the Company with non-compliance with the award as made. If there are other duties typically performed by these employees which are still not covered by the amended job description, in accordance with the rules and practices pertaining to job descriptions, it may be necessary to present this problem through a grievance specifically directed to this point. But this would not justify me in holding that the Company's proposal, as quoted above, does not comply with the instructions contained in Award 251.

Dated: January 10, 1961

/s/ David L. Cole
David L. Cole
Permanent Arbitrator

"On the whole record I find that the Company's decision that it is not practicable to install an incentive plan for these grievants is not arbitrary and unreasonable, but has a rational foundation. This is not to say that there is no possible basis on which such a plan might be devised -- but such a basis, if one exists, is not disclosed by the presentation of the parties on the record."

The language of Article V, Section 5, does not set forth a test as to whether it is "possible" to devise an incentive plan; rather the consideration is whether such a plan would be "practicable". Based on all of the evidence here presented, this Arbitrator cannot find that the Company's determination was "arbitrary and unreasonable and lacked a rational foundation". To the extent that this grievance may contain an inference of violation in that employees in the Fabricating Shop are performing somewhat similar work on a non-incentive basis, while employees in the Boiler and Weld Shops are performing work on an incentive basis, this clearly in itself does not constitute a contractual violation. Article V, Section 7 provides:

"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."

AWARD

The grievance is denied.

Peter M. Kelliher

Dated at Chicago, Illinois

this 26 day of November 1963.

The testimony, then, comes to this: Supporting the Union's position is a) the fact that the grievant worked on the job some 11 months after the accident without incident or criticism; b)the fact that Dr. Gardiner's evaluation originally favored the grievant's position that he was physically fit to work; and c) the fact that it is difficult to understand why or how Dr. Gardiner revised his opinion unless the hypothesis of punishing the grievant for his workmens' compensation claim position is accepted.

Supporting the Company's view are the considerations a) that Dr. Gardiner frankly and candidly concedes a change in evaluation and insists that he had reasonable grounds to be persuaded that the other physicians were correct; and b) that whereas there is no medical testimony presented that the grievant is physically fit to perform the job, the record contains the testimony of Dr.Gardiner that it is his current view that he is not so physically fit. This view is buttressed by the two medical reports, with the limitations attached to them, mentioned above.

The decision in this case, so viewed, must be for the Company on the ground that the weight of the evidence is in its favor. The Union position would have the Arbitrator disregard completely,not only the findings of the two doctors, but the testimony of the only physician who testified at the hearing, on the ground that that testimony is unworthy of credence. On all the evidence I do not feel justified in doing so. Much stronger and weightier evidence than has been presented here would be needed to support a finding that the decision which resulted in the medical restriction being issued was motivated by base motives and was without weight as credible evidence.

On the basis of all the evidence I find and hold that the Company had just cause to demote the grievant when it did, and that the Company did not violate Article IV of the Agreement. Under the circumstances the grievant will not be ordered to be reinstated in his job. This disposes of the specific issue in arbitration.

The decision does not purport to determine whether the grievant in the future will be entitled to such reinstatement after satisfying the Company that he is physically fit to perform the job duties or after demonstrating in the grievance procedure that the Company is acting unreasonably or wrongfully in failing to be persuaded by such additional evidence.

AWARD

The grievance is denied.

Approved:

Peter Seitz,
Assistant Permanent Arbitrator

David L. Cole,
Permanent Arbitrator

Dated: May 16, 1959