INLAND STEEL COMPANY)
)
and)
)
UNITED STEELWORKERS OF AMERICA)
Local Union No. 1010)

Grievance No. 21-F-22
Docket No. IH 344-355-6/16/58
Arbitration No. 305

Opinion and Award

Appearances:

For the Union:

Cecil Clifton, International Representative
Joseph Wolanin, Secretary, Grievance Committee
G. Gernick, Grievance Committeeman

For the Company:

W. A. Dillon, Assistant Superintendent, Labor Relations
L. E. Davidson, Assistant Superintendent, Labor Relations
R. J. Stanton, Assistant Superintendent, Labor Relations
L. R. Mitchell, Divisional Supervisor, Labor Relations
T. V. Peters, Divisional Supervisor, Labor Relations
J. Federoff, Divisional Supervisor, Labor Relations

The grievants are employees in the Tin Mill Chemical Sequence, one of four sequences in the Chemical Division. They complain that when the Tin Mill for which they perform chemical analyses reduces its operations to 15 turns per week they are obliged to share the available work and are scheduled for less than five days a week. This is due to the fact that the Company maintains a complement of employees regularly scheduled in the occupations involved which is geared to continuous operations (20) turns per week rather than 15 turns. It is the Union's claim that the rights of this group of men for sequential seniority purpose should be related to the non-continuous character of the Tin Mill they service rather than the Chemical Department which is treated by the Company, in its entirety, as being engaged in continuous operations. Thus, for example, the Union argues that were the group in question treated as though it were engaged in non-continuous operations (as is the case of the Tin Mill it services), there would only be three, rather than four employees on the seniority list for Electro Plate Tester (one of the occupations involved); and when the Tin Mill operates but 15 turns a week it would not be necessary to share the work among the four employees necessary to man a 20 turn operation.

The dispute in this case can only be understood when considered against the background of the impact of "extended operations" on sequential seniority rights. This problem was dealt with initially in Arbitration No. 167 and then in a number of additional awards culminating in Arbitration Nos. 289-292 issued on December 9, 1958.

According to the record, in the course of its effort to accommodate to the principles declared and the decisions handed down in the extended operations cases, the Company was obliged to give thought to their application to a situation in which all of the occupations in a sequence located in a continuously operating department were not, themselves, scheduled for continuous operations. It proceeded to interpret the awards as requiring departments to be catalogued either as continuous or as non-continuous for the purpose of determining sequential rights as considered in the extended operations cases. This approach appears to have been suggested by the fact that Arbitration No. 201, involving the No. 3 Open Hearth Department (indisputably a continuously operating department) reached a conclusion different from that expressed in other awards involving non-continuous operations in other departments. In Arbitration No. 201 it was held that, in the case of such a continuously operating department, employees who filled in for 30 turns or more did establish their continuous length of service in their sequences.

The Company applied its understanding of the holding in these cases in two situations, one of which presents the instant problem. First, in continuously operating departments, (such as the No. 3 Open Hearth Department) it applied the rule both to operations that were and were not continuous in character. When asked by the Arbitrator for the Company's reasons for treating every continuously operating department as a unit for the seniority purposes under discussion, the Company's representative stated "it was because of the Arbitrator's Awards. He had awards to continuous and non-continuous departments. We do not go into the sequence aspect." (p.48) The Company asserts that it is aware of no grievance having been filed protesting such application of the Arbitrator's awards in continuously operating departments.

Second, in this case, which it regards as a corollary of the first, although the Chemical Department itself is not a producing department (such as the No. 3 Open Hearth Department) but a servicing department, it classified the department as a whole by considering the character (continuous or non-continuous) of the operations of the major producing units that the majority of the employees in the department served.

In the instant situation, the Chemical Department consists of 116 employees. The Tin Mill Sequence of the Department accounts for only 13 of that number of employees. Sixty-one per cent of all of the employees in the Chemical Department are said to "work on operations which regularly operate 21 turns per week."

The Department maintains 24 hour service in the Main Laboratory for making pig iron and steel analyses and it mans control laboratories on the Open Hearth floors. Thus, the Company regarded it as a logical extension of its interpretation of the awards as requiring a department, as a whole, to be identified as continuous or non-continuous to deem all of the employees in the Chemical Department as being engaged in continuous operations for sequence seniority purposes even though the Chemical Department employees in the Tin Mill Sequence perform services in relation to the Tin Mill which operates on a non-continuous basis.

A re-reading of the awards on the subject of "extended operations" brings to light no case in which the issue, as presented to the Permanent Arbitrator, distinguished between departments, on the one hand, and sequences or groups of occupations on the other. The Permanent Arbitrator was not called upon, until this case, to determine whether the seniority rules with respect to occupations scheduled for continuous operations extend to other occupations in the department which are scheduled for non-continuous operations. The Arbitrator is unaware that any such issue has ever been submitted and does not regard the awards previously issued as authority for such application. Accordingly, this case cannot be decided as though it were a necessary and logical extension of the rule as applied by the Company to some non-continuous operations in continuously operating departments; it must be decided on its own merits and in the context of the awards on extended operations.

The grievance arises here because employees in the Tin Mill Sequence of the Chemical Department who serve the Tin Mill get only four days of work when the Tin Mill operates on 15 turns per week. They regard themselves as prejudiced in relation to other Chemical Department employees servicing major producing units which operate continuously and who enjoy a five day week. They also claim that there has been a past practice of affording them five days of work per week when the Tin Mill was operating on but 15 turns per week.

One way to approach the problem suggested by some of the observations made at the hearing is to balance the administrative convenience served by treating a department as a unit for sequence seniority purposes against the consideration that if this is not done in the instant case, regularly established employees in the sequence will get only four instead of five days work in their occupations. But one gets much closer to the heart of the matter which, it must not be forgotten, involves a question of contract interpretation, not balancing of administrative considerations, when one inquires as to the reasons why, in the first place, a distinction was drawn between continuous and non-continuous operations.

The grounds for excluding continuous operations from the general rule relating to "extended operations" and the effect on sequential seniority are set forth in Arbitration No. 201. Similarly, the reasons for doing so with employees in single job sequences and as to those operations conducted less than 15 turns per week are explained in Arbitration No. 232.

It will be seen, in a reading of Arbitration No. 201, that the exclusion in the case of continuous operations deals pointedly, not with continuous departments, as such, but the "character of the vacancy" involved in the case in relation to each "furnace unit (which) is known to, and must necessarily, operate continuously." (p.4) This language was used with respect to First, Second and Third Helpers whose work schedules are geared to continuous operations, a consideration which, as indicated above, removed them from the rationale of the previous decisions on extended operations in cases dealing with occupations geared to schedules in non-continuous operations. Similarly, in the single job sequence, the exclusion is solely of the single job sequence and not of the department, in this instance because the pertinent contract provisions (Marginal Paragraphs 144, 145, 154) speak of the sequence and not of the department.

To enlarge the ruling in Arbitration No. 201 to include departments when the award was based upon the continuous character of the operations with respect to which the vacancy arose, requires an interpolation not supported by the reasoning in the award.

Since the hearing the Company has forwarded to the Arbitrator four seniority lists for the Tin Mill Sequence dated May 10, 1956, October 1, 1956, October 15, 1957 and November 14, 1958. Each of these bear four names in the Electrolytic Tester occupation to which a Union witness referred. On the other hand the Union submitted two seniority lists one dated as far back as November 15, 148 and the other dated January 1, 1958, each of which show three employees in the occupation, or just enough to operate on a 15 turn level. From these inconsistent and irreconcilable facts it is difficult to draw any firm or important conclusion except that to some extent there were mixed practices on the part of the Company as to the number of employees it listed for the occupation referred to in the sequence.

Accordingly, when 15 turns a week are scheduled to be worked in the Tin Mill Sequence of the Chemical Department, employees with continuous length of service standing in the sequence are entitled to be scheduled for five days a week and should not be required to share the work with other employees who were added when the turns worked per week were in excess of 15. (See Article VII, Section 9 A (2); Paragraph 159).

A W A R D

The grievance is sustained.

/s/_____
Peter Seitz,
Assistant Permanent Arbitrator

Approved:

_____/s/
David L. Cole, Permanent Arbitrator

Dated: February 25, 1959

INLAND STEEL COMPANY	)	
	)	Supplement to
and	)	Arbitration No. 305
	)	
UNITED STEELWORKERS OF AMERICA Local Union 1010	)	Grievance No. 21-F-22

In Award 305 Grievance No. 21-F-22 was sustained. This was the most recent ruling in the long line of awards on the subject of extended operations and the effect of such operations on the establishment of sequential seniority. A thorough review of the history and the problems of my basic interpretation on this subject was set forth in the prefatory statement to Awards 289, 290, 291, and 292, and need not be repeated here.

In Award 201 I held that the primary ruling, first expounded in Award 167, does not apply to continuous operations. The Company interpreted this to mean that it does not apply to continuous departments, and this led to Grievance No. 21-F-22 in the Tin Mill Sequence of the Chemical Department, and Award 305 was the outcome.

The Union urges that although the Company made the necessary corrections in the sequential seniority roster following this award, it did not fully comply because it failed to give retroactive pay to certain employees who from time to time worked only four days per week instead of on a full 15 turn operation. This was done in a share-the-work program carried on by the Company during such periods. The Union contends that in simply sustaining the grievance the Arbitrator must have intended to grant this retroactive relief, and that the Company was fully aware that this was one of the issues raised by that grievance.

It happens, however, that the balance of unresolved grievances over the extended operations issue had by means of conferences, mediation efforts, and arbitration been reduced to 24, and all these 24, including Grievance No. 21-F-22, were scheduled for hearing in the week of October 20, 1958. The hearings on 20 of these grievances were concluded, leaving four for completion at the next hearing, and these were heard in the week of December 1, 1958. Grievance No. 21-F-22 was one of these four. The awards on the 20 cases were issued December 9, 1958 and, as I say, a complete review of the problems and difficulties that had been experienced was set forth. In the narrative there included reference was made to the remaining four grievances which for lack of time could not be heard in the week of October 20, 1958. In the Opinion in Arbitration 305 it was stated:

> "The dispute in this case can only be understood when considered against the background of the impact of "extended operations" on sequential seniority rights. This problem was dealt with initially in Arbitration No. 167 and then in a number of additional awards culminating in Arbitration Nos. 289-292 issued on December 9, 1958."

My ruling in the instant case is predicated on the considerations set forth in Awards 289-292, where I stated as emphatically as I could that it was imperative that we conclude the difficult transition to the new

order under my construction of the extended operations sequential seniority rules, and that this be done without penalty to the Company for the manner in which such matters had been administered in the past. In fact, I complimented the parties for their moderation in taking the time to do so on an intelligent basis, and I offered my explanation as to why, in line with Article VIII, Section 4, (Paragraph 204) the equities of these extended operations cases required me to rule that the settlements or adjustments should not be done on a retroactive basis. The following quotation (pages 7 - 8 of the preface to Awards 289 - 292) plainly shows what I meant to do:

> "... it is the Arbitrator's view that the relatively few remaining grievances arising out of his interpretation concerning extended operations turns should be disposed of on the theory that the intention in Arbitration 167 and related awards was to work out a rule that would henceforth be consistently applied throughout the plant. A confused situation was being straightened out, but it was being done prospectively and not retroactively. The area involved was hazy at best, and to hold a party responsible to the point of penalyzing it under such circumstances impresses the Arbitrator as inequitable, to say the least."
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> .....
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> "He therefore gives considerable weight to the need of completing the transition with as little disruption as possible, with a view to the future uniform application of the new rule rather than to place fault for the manner in which extended operations turns have been treated in the past ... " (underlining added)

In the last paragraph of page 8 I also stated that to the extent indicated I was modifying or qualifying the ruling made in Arbitration 167, but I put the parties on notice that as to situations that arise hereafter the basic interpretation would be applied.

Considering, then, the long line of cases on extended operations in which I had uniformly held no retroactive adjustment was indicated, and particularly the considerations set forth at great length in Arbitrations 289 - 292 which were discussed and determined almost simultaneously with Grievance No. 21-F-22, and the cross-references in each to the other, I had the right to assume the parties would understand that the sequential seniority adjustments in the Chemical Department were to be made propsectively and not retroactively. If it were otherwise, I should certainly have mentioned the reason why in Award 305, unlike all other awards on this subject, I deemed the equities to call for retroactivity. But there is not a word to this effect in Award 305.

For all the foregoing reasons, it is my ruling that, in the context and against the obvious background of the extended operations cases, Award 305 was clearly intended not to carry retroactive obligations.

Dated: January 10, 1961

/s/ David L. Cole

David L. Cole
Permanent Arbitrator