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

Grievance No. 14-F-161
Appeal No. 176
Arbitration No. 420

Opinion and Award

Appearances:

For the Company:

W. A. Dillon, Assistant Superintendent, Labor Relations
J. M. Kiser, General Foreman 44" - 76" Slab Yard
H. S. Onoda, Labor Relations Representative, Labor Relations
T. F. Tikalsky, Divisional Supervisor, Labor Relations

For the Union:

Cecil Clifton, International Staff Representative
Al Garza, Secretary, Grievance Committee
John Sopko, Grievance Committeeman
Manuel Rosales, Aggrieved

This grievance questions whether the seniority rights of T. Rosales, the grievant, were not violated on April 9, 1959 when the Company failed to upgrade him from his job as Janitor to fill a temporary vacancy as Scarfing Inspector, but instead upgraded J. Lewis, an employee with less departmental service, who was then in the labor pool. The Union refers to Sections 5 and 6 of Article VII.

Grievant had bid for the Janitor job, and on the day in question was working in that capacity.

The cited sections of the Agreement have been the subject of many arbitrations, and their provisions are now most familiar. The governing part is that in Section 6 (a), Paragraph 146, which in speaking of the manner of filling temporary vacancies, states:

> "...except that, where such vacancy is on the lowest job in the sequence, it may be filled by the employee in the labor pool group (including available employees in single job sequences) most conveniently available in accordance with their seniority standing..."

The controlling phrases are: "may be filled" and "most conveniently available." In a number of cases I and other arbitrators have clearly pointed out that the permissive, "may be filled," must be distinguished from the mandatory, "shall be filled," which is used in this paragraph both before and after the quoted provision. See Arbitration Numbers 298, 332, and 358.

"Most conveniently available," coupled with the permissive "may," indicates that the parties intended to leave some area of discretion with Management in filling temporary vacancies. If it were intended that the senior employee merely physically present on the turn would automatically be given the temporary vacancy if he is in the labor pool or in a single job sequence, then no purpose would have been served by saying "most conveniently available." It is to be noted, in this connection, that permanent vacancies, or temporary vacancies which are known to extend 22 consecutive days or more, are not restricted by this most conveniently available test.

If grievant had been given this temporary vacancy as Scarfing Inspector, he would have had to be removed from a job for which he had bid, although it was in a single-job sequence, and someone else would have had to be moved into his job on this temporary basis, with a certain amount of inconvenience to supervision. Under the contract language, this would not have made grievant most conveniently available, and in so deciding, Management cannot be said to have exceeded the rights given it by Paragraph 146.

AWARD

This grievance is denied.

Dated: September 27, 1961

/s/ David L. Cole

David L. Cole
Permanent Arbitrator