In the Matter of Arbitration Between:

ARBITRATION AWARD NO. 475

INLAND STEEL COMPANY
- and -
UNITED STEELWORKERS OF AMERICA,
Local 1010

Grievance No. 23-G-82
Appeal No. 479

PETER M. KELLIHER
Impartial Arbitrator

APPEARANCES:

For the Company:

W. A. Dillon, Assistant Superintendent, Labor Relations Dept.
M. C. Lipton, Labor Foreman, No. 3 Cold Strip Department
J. Federoff, Divisional Supervisor, Labor Relations Department
R. J. Stanton, Assistant Superintendent, Labor Relations Dept.
W. Benson, Foreman, No. 4 Pickle Line, No. 3 Cold Strip Dept.
R. C. Allen, General Foreman, No. 3 Cold Strip Department
H. S. Onoda, Labor Relations Representative, Labor Relations Dept.

For the Union:

Cecil Clifton, International Representative
James Tharp, Grievance Committeeman
Al Garza, Secretary, Grievance Committee

STATEMENT

Pursuant to notice, a hearing was held in Miller, Indiana, on January 11, 1962.

THE ISSUE

The grievance reads:

"The aggrieved employees, T. Turaci, #25461 and P. Dombrowski, #9290, contend that the company went beyond the request in grievance number 23 G 77, when in the first step answer Items (1) and (2) mention a withdrawal of their respective waivers. This was not a part of the relief sought in the above mentioned grievance. The Collective Bargaining Agreement does not give Management the right to withdraw waivers without the employee's request.

Request the aggrieveds waivers remain in effect until withdrawn by the aggrieved employees."

DISCUSSION AND DECISION

The essential facts in this case are that two Labor Pool employees had expressed a desire to waive a temporary promotion to the job of Scrapman at the No. 4 Continuous Pickler Line in the No. 3 Cold Strip Department. These employees had performed work as Scrapmen during the week beginning September 4, 1960. When they made the request to waive this job on September 8, 1960, this waiver was granted by the Foreman who issued a waiver form dated September 9th. The employees were assigned to this work on September 17, 1960. When the employees refused to perform this work on the basis that they had a waiver, they were issued a reprimand for refusal to work as directed. The employees then filed Grievance No. 23-G-77. In granting the grievance request that the employees be paid four hours reporting pay and that the reprimand be voided the Company answer also stated that the waiver would be withdrawn. In the present grievance the Union contends that the Company went beyond the request in the prior Grievance No. 23-G-77 when it withdrew the waivers without the employees specific request.

The essential question before this Arbitrator is whether the waivers that were entered were valid. Does a Labor Pool employee have a right to waive temporary promotion? The waiver of promotion provision in this Contract is Article VII, Section 6(b), Paragraph 151. The Arbitrator is required to determine whether this paragraph in making reference to "an employee" refers to a Labor Pool employee. In construing the language of any provision it is a well understood maxim of Contract interpretation that the provision itself should be read as a whole and also in relation to all other provisions of the Agreement so as to give effect to the express intent of the Parties. The pertinent contractual provision contains the language "the future higher sequential standing" in providing a penalty for employees who waive promotion and then attempt to challenge the future higher sequential standing of junior employees who have moved ahead of them. Clearly Labor Pool employees do not have "sequential standing". If the Union's theory were to be upheld, then such a penalty could apply only to the generally more senior sequential employees and could have no force and effect with reference to Labor Pool employees. It is unreasonable to believe that the Parties could have intended such a disparite result.

A reading of the Letter of Understanding of January 4, 1960, together with the Luellen Letter of 1947 and the addendum thereto of 1956, shows that the Parties were concerned with sequential employees and that the provisions of the Contract and these documents were written with sequential employees in mind. Paragraph 2 of the November 19, 1947 Luellen Agreement refers to employees being reinstated to a promotional position "in his sequence". Paragraph 5 of the same

document also uses the term "sequence". Paragraphs 1 and 2 of the Addendum frequently uses the term "sequence". An examination of the document shows that the whole purpose and intent was to relate to sequence employees and not to employees in a Labor Pool.

The No. 3 Cold Strip Department did not come into existence until 1958 or approximately 2 years after the 1956 Addendum. Since no protected past practices prior to 1956 could have any applicability to jobs in this department, then the generally accepted "waive one, waive all" concept would have to prevail. This would mean that if a Labor Pool employee were permitted to waive, he would be waiving all temporary promotions. If a sequence employee waives, then absent a protected practice he waives all promotions by waiving the promotion to one job. Surely again in this case the Parties could not be intending to treat a Labor Pool employee differently than a Sequential employee. Should this practice of Labor Pool employees waiving temporary promotions become generally established, then the Company would be precluded from assigning a large number of Labor Pool employees to fill needed temporary vacancies due to extended operations or absenteeism.

The uncontroverted testimony is that on average 65 per cent of the assignments of Labor Pool employees are to temporary vacancies. Only approximately one-third of the work of employees in the Labor Pool would be on labor jobs as such. If one were to analyze the "job content" of Labor Pool employees, then clearly anticipated assignments to fill temporary vacancies on sequence jobs is definitely a part of the job description of Labor Pool employees. If these employees refuse to perform work on temporary vacancies in sequential jobs, they are refusing to perform work within their "job classification" of Labor Pool employees.

The well understood purpose of Labor Pool would be entirely defeated. The Labor Pool exists as an "insurance group" or utility group to meet recurrent temporary needs for additional workers in the sequence jobs. If the employees were permitted to frustrate the purpose of the existence of the Labor Pool, then the Labor Pool would not be able to achieve its essential function. The Parties could not have intended this result. This particular grievance involves a temporary vacancy. What the Grievants are seeking to do is to avoid work on a "hot job". They, however, have continued to accept promotions to other jobs which they evidently deem desirable. They do not want the application of a "refuse one, refuse all" concept to their future ability to get promotions to other jobs.

An understanding of the purpose of the Labor Pool shows that it must be a flexible group and employees are expected to accept temporary assignments to a wide range of jobs. Article VII, Section 6(b) is intended to protect sequence employees who have arrived at a particular

position on the basis of a permanent promotion and who then do not desire to go further.

While this Arbitrator does not find the language of Article VII, Section 6(b) to be ambiguous, nevertheless, it must be noted that the general past practice barring incidental minor errors is not to permit Labor Pool employees to enter waivers.

The waiver that was granted here is a nullity. It is of no force and effect. Just as Stewards may not waive essential provisions of this Contract on behalf of the Union, Foremen do not have the power and authority to waive long established contractual interpretations. Because this waiver was of no force and effect, the Company is not prevented from declaring it to be ineffective. The fact that the Company stated this position in a written grievance rather than in a separate letter is without significance.

AWARD

The grievance is denied.

Peter M. Kelliher

Dated At Chicago, Illinois

this 4th day of May 1962.