In the Matter of Arbitration Between:

INLAND STEEL COMPANY
- and the -
UNITED STEELWORKERS OF AMERICA
AFL-CIO, Local Union No. 1010

ARBITRATION AWARD NO. 504

Grievance Nos. 21-G-20, 21-G-28, and 21-G-31.
Appeal Nos. 546, 550, and 553.

PETER M. KELLIHER
Impartial Arbitrator

APPEARANCES:

For the Company:

Mr. W. A. Dillon, Assistant Superintendent, Labor Relations
Mr. R. H. Ayres, Assistant Superintendent, Labor Relations
Mr. L. R. Mitchell, Divisional Supervisor, Labor Relations
Mr. C. Pruitt, Assistant Superintendent, Metallurgical Dept.
Mr. R. Edmonson, Assistant Superintendent, Metallurgical Dept.
Mr. A. Smith, Supervisor, Metallurgical Department

For the Union:

Mr. Cecil Clifton, International Representative
Mr. John Wiesman, Griever
Mr. George Bishop, Witness
Mr. George Germek, Witness
Mr. Al Garza, Chairman, Grievance Committee
Mr. Glen Ross, Assistant Griever

STATEMENT

Pursuant to proper notice, a hearing was held in Miller, Indiana, on September 6, 1962.

THE ISSUE

Grievance No. 21-G-20 is typical of the grievances filed on behalf of all seven (7) Grievants and reads as follows:

> "The aggrieved employees: R. Dedinsky, #24496; A. Molnar, #24474; G. Bishop, #22800; H. Kahl, #24449; contend that they have more department seniority than R. Zochalski, #24203, I. Zaragosa, #24222; D. Barkowski, #24309; and J. Watking, #24319.

"The aggrieved employees R. Dedinsky, A. Molnar, G. Bishop, and H. Kahl be recalled to their department and be put on 32 hours a week. Aggrieved employees be paid all moneys lost."

DISCUSSION AND DECISION

The Parties are in agreement that all of the cited grievances involve the same basic issue and may be governed by one Award. The Grievants have greater departmental seniority than the four (4) junior employees who were incumbents on the Inspector Learner jobs. The employees who filed the grievance in this case were established either in a sequence in the Mill Metallurgical Division or in the Labor Pool of the Metallurgical Department. Two regularly worked in the Mill Metallurgical Division and three of these employees worked in the Open Hearth and Blooming Mill Division. The junior employees worked in the Inspection Division of the Metallurgical Department. The Company did state that there was no dispute that the Inspector Learner job is a job in the Metallurgical Department's Labor Pool and that the Labor Pool jobs are governed by departmental length of service. Article VII, Section 5, reads in part as follows:

> "Jobs in the labor pool and in single job promotional sequences (considered together as a unit) shall, in each department, be governed by the departmental length of service..."

A reading of the above-quoted provision together with Section 9, Article VII, indicates that the Parties understood that the more senior employees occupying sequential jobs would be placed in the Labor Pool in the event of a decrease in force.

The Grievants, some of whom were in a sequence and others who were already in the Department Labor Pool, were to "be entitled to jobs in the Department Labor Pool in accordance with their departmental continuous length of service" as this language appears in Article VII, Section 5. It is noted that this section and the particular language quoted refers to "departmental length of service" and not to "seniority". Where the Parties intended to refer to seniority, reference is made to the three factors listed in Article VII, Section 1, and not merely to "departmental length of service". In this particular case employees were to be "laid off" and under Section 9 of Article VII, it is provided with reference to the Labor Pool that "employees in the Labor Pool shall be laid off in accordance with their departmental seniority". Employees, however, who are in the Labor Pool "are entitled to jobs in the Labor Pool in accordance with their departmental continuous length of service." Because there is some possible ambiguity as to which provision would govern under the present factual situation, the Arbitrator makes no definite finding at this time.

If it should be assumed, arguendo, that the Parties intended all three factors constituting "departmental seniority", rather than the sole factor of "departmental continuous length of service", to govern in this situation, it must then be observed that based upon the Inspector Learner job description and the evidence in this case that the senior Grievants had equal ability to perform the Inspector Learner job. The primary function is to learn the duties of the Inspector occupations. The Inspector Learner works "with various Inspectors". He receives instructions. He works with and relieves Inspectors for only "short periods" and then only "after becoming familiar with operations". If he is "unable to cope with a specific inspection problem", he obtains "disposition" from the regular Inspector. All of the Grievants occupied higher rated jobs and they had demonstrated their ability to learn these occupations. The Company statements indicate that it usually takes four to six weeks to become an Inspector.

The particular issue here considered, however, is not whether the Grievants were qualified to be Inspectors, but whether they were qualified to fill the job of Inspector Learner. It is possible that some confusion existed in this case because although the Inspector Learner is concededly a job in the Labor Pool on the diagram for the Inspector Division, it shows as a named position above the Labor Pool. In every sense, however, it contractually is a Labor Pool job. The testimony is that during the Grievance Procedure the Union did argue that the Grievants by learning one process of inspection proved their ability to learn this inspection work. The Awards cited by the Company do not involve the lay-off of employees, while junior employees are being retained on Labor Pool jobs. No claim was made by the Company that these employees lacked ability to learn and the principal function of the Inspector Learner job is "to learn". No claim is made by the Union for periods of time when the junior incumbents were temporarily occupying Inspector jobs. The Union also concedes that if the Inspector Learner job was really part of the sequence, then the Grievants would have no claim upon these jobs during this layoff. While the evidence indicates that it takes from four to six weeks for an employee to become qualified to fill temporary vacancies as an Inspector, the record does not show that it would take this long to learn to relieve an Inspector for a "short period" after becoming familiar with the operations and under circumstances where the Learner would have an opportunity to obtain disposition from regular Inspectors if he encountered a problem that he was unable to handle. The Arbitrator simply cannot find that the Grievants would have required any training to fulfill the functions of the Inspector Learner job.

As a matter of principle, if the Company's position were sustained, it could mean that a sequential employee or a Labor Pool employee with many years of service would be laid off while a junior Labor Pool employee would be retained simply on the basis that he had actually performed

Labor Pool work for a brief period of time. In Arbitration Award No. 352 this Arbitrator stated:

> "In Award No. 46, the Arbitrator there stated that he did not 'give the same weight as does the Company to the matter of the number of turns worked by each man' on the job. This Arbitrator must agree that the number of turns worked or experience on the particular job is not necessarily controlling.
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> This Arbitrator must concur in the statement made by Arbitrator Cornsweet that 'the Agreement indicates that the approach to this type of grievance must be on an individual rather than on a general or blanket basis'. The evidence in each particular case must be considered. In the case before Arbitrator Cornsweet, the permanent vacancy was in the highest job in the sequence. The skill required there in the Assistant Roller job is shown by the fact that the previous occupant of the job had been promoted to the non-bargaining unit job of Assistant Superintendent. Arbitrator Cornsweet found that the evidence shows a 'real differential in abilities'. He summarized his Award as follows:
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> > 'In concluding this opinion the umpire wishes to repeat that length of continuous service is a factor and must be taken into consideration in any promotion <u>even</u> when factors (b) and (c) are relatively equal. It is not the governing factor in such cases and can be outweighed by a substantial difference in the other factors, but is is, under this contract, a factor that cannot be ignored.'
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> This Arbitrator must conclude that the Company has failed to show in the matter here considered a 'substantial difference' in the factor of 'ability to perform the work'. The earlier Award clearly shows that as a matter of past practice, the Company admittedly has not applied the factor of 'ability' in making promotions in a large percentage of the cases, 'since in labor and low rated jobs <u>the factor of relative ability is of no great consequence</u>.' (Emphasis added.) The evidence here is that this job is in a job class below the average of the job classes in this plant. An understanding of the job duties, both from a view of the operation and the

job description, shows that it principally requires speed, co-ordination, and physical ability. The work is largely of an 'assisting' nature. There is no evidence in this record that would indicate that the Grievant, who had attained the second to the highest job in the Hot Bed Sequence, lacked ability to do this work, where the job was being frequently filled by the junior employee when he was in the labor pool. There has been no contractual change made since Award No. 46."

It would appear from the record that the Company here was concerned with having Inspector Learners available should it be necessary to have them fill vacancies on the Inspector job. The only consideration, however, that is proper in this case is the ability of the Grievants to perform the work of the Inspector Learner position. There can be no question that much of the work of the Inspector Learner was of a "largely assisting nature". In Arbitration Award No. 445 this Arbitrator stated:

"The Company, in the instant case, has not demonstrated that the extensive electrical background of Mr. Kaniuk is 'reasonably related to the necessary qualifications of the job of Motor Inspector Helper'. Arbitrator Cole (Arbitration No. 372) further states:

'Where Management's evaluation is questioned, it must be with regard to any differential in the abilities of two competing employees. Thus, while 'ability to perform the work' is all that is called for in Paragraph 131, when there are two applicants for the open job the relative abilities of the two must be compared.

This does not mean that an employee with greater length of service may be denied his seniority rights because a rival applicant could better perform some higher job in the sequence at some future time when such a job opportunity is presented. The abilities to be compared must be those to perform the work of the job now open. It is also true, as Arbitrator Cornsweet pointed out in Award 46, that the factor of relative ability is of less consequence in the lower-rated jobs. Nevertheless, in this Motor Inspector Helper job certain qualifications are called for by the job description and Article VII, Section 1, requires that any employee who bids for such a job must reasonably be said to have these qualifications.

In analyzing all of the evidence in this record, the present Arbitrator concludes that Management actually gave consideration to the fact that Mr. Kaniuk had greater ability to perform higher jobs in the sequence at some future time. Considering the very simple type of electrical knowledge required by the job description for Motor Inspector Helper, the routine minor types of repair work required, and the largely assisting function contemplated, the Arbitrator must conclude that as of the date when the permanent vacancy occurred, Mr. Whitworth had more actual job experience and relatively equal ability for this specific job.'"

AWARD

The grievances are sustained on the basis that the four (4) employees with the greatest departmental length of service shall be made whole for earnings lost when the Junior Inspector Learners were assigned to perform Learner work on days when the Grievants were not working.

Peter M. Kelliher

Dated at Chicago, Illinois

this 4 day of October 1962.