

In the Matter of Arbitration Between:

INLAND STEEL COMPANY

- and -

UNITED STEELWORKERS OF AMERICA,  
AFL-CIO, Local No. 1010

ARBITRATION AWARD NO. 521

Grievance No. 11-G-40  
Appeal No. 661

PETER M. KELLIHER  
Impartial Arbitrator

APPEARANCES:

For the Company:

Mr. J. P. Higgins, Assistant Superintendent, Plate Mill  
Mr. W. A. Dillon, Assistant Superintendent, Labor Relations Dept.  
Mr. S. E. Verosik, Roller, Plate Mill  
Mr. J. L. Federoff, Divisional Supervisor, Labor Relations Dept.  
Mr. R. J. Stanton, Assistant Superintendent, Labor Relations  
Department

For the Union:

Mr. Cecil Clifton, International Representative  
Mr. Placido Hernandez, Aggrieved  
Mr. Joe Sowa, Grievance Committeeman  
Mr. Robert Butterfield, Witness  
Mr. William E. Bennett, Secretary, Grievance Committee

STATEMENT

Pursuant to proper notice, a hearing was held in MILLER, INDIANA, on December 11, 1962.

THE ISSUE

The grievance reads:

"Employee Placido Hernandez, #4350, contends beginning the week of December 4, 1960, he was employed as Second Hooker on the Rolling Mill. After a period of 17 working turns and meeting all requirements of Article VII, Section 1, the Company has removed him from the occupation of permanent Second Hooker, Rolling Mill Sequence, without a justifiable reason. The employee also contends a specific violation of Article VII, Section 1, Paragraph 135.

The Relief Sought reads:

"The Company reinstate employee, Placido Hernandez, #4350, in the occupation of permanent Second Hooker, Rolling Mill Sequence, also pay all money due for the difference between his present occupation and that of Second Hooker, Rolling Mill Sequence."

#### DISCUSSION AND DECISION

Article VII, Section 1, reads in part as follows:

"It is understood and agreed that where factors (b) and (c) are relatively equal, length of continuous service as hereinafter defined shall govern. In the evaluation of (b) and (c) Management shall be the judge; provided that this will not be used for purposes of discrimination against any member of of the Union. If objection is raised to the Management's evaluation, and where personnel records have not established a differential in abilities of two employees, a reasonable trial period of not less than thirty (30) days shall be allowed the employee with the longest continuous service record as hereinafter provided."

The essential question is whether Management's judgment was "used for purposes of discrimination".

The Grievant, Mr. Placido Hernandez, was on this job for seventeen turns. The testimony and the documentary evidence presented by the Company does show the specific reasons for his removal from this job.

The most accurate evidence in this record as to the basis for the Company's determination to demote the Grievant are the Rollers' reports made at the end of each shift. (Co. Ex. E).

Eleven of these reports were made by Roller Verosik and two reports were made by Roller Johnson. There is no specific mention in any of these reports of the Grievant's inability to speak or understand the English language.

There can be no question, however, that the observations of the Rollers together with the observation of the Assistant Superintendent, Mr. Higgins, was that the Grievant was not performing the work properly.

While the job is largely non-verbal once it is learned, it was necessary verbally to communicate with the Grievant during the learning stage.

Roller Verosik testified that he went over to the Grievant and showed him what he was "doing wrong." He also "took the hook" and showed him how to perform the work. He explained that it was necessary to try to get the plate in the middle and to get it over at the time that the 2nd Hooker gets the signal. Timing is important; according to the Assistant Superintendent, the employee must have proper co-ordination and make the right move at the right time. It is essential that the employee move at the precise time of the reverse of the table rolls; he must not do this either before or after.

The Assistant Superintendent testified that he did observe Mr. Hernandez possibly as many times as ten or fifteen times for periods varying from fifteen minutes to thirty minutes.

It is difficult to find that the two Rollers and the Assistant Superintendent made their judgment as to the Grievant's qualifications for the purpose of discriminating against him.

The Union's testimony confirmed the Company's testimony that the men on the crew do help a new employee. No bargaining unit employee who actually observed the Grievant's work performance was presented to counter the Company testimony and the documentary evidence.

Other employees who were able to perform the Slab Burner and Scarfer jobs were, nevertheless, unable to do the work of the Second Hooker and were also disqualified.

It is noted that the employee who succeeded the Grievant on this Second Hooker job was also of Spanish-speaking origin. The testimony of both Company and Union witnesses would indicate that numerous employees of Spanish-speaking origin have been promoted into this Mill in the last seven years.

It is evident from a reading of the Rollers' reports, which the Union knew were being made, and all of the Company answers in the three steps of the grievance procedure that the Grievant was not disqualified on the basis that he could not speak the English language well. It was his inability to perform the work which constituted the basis.

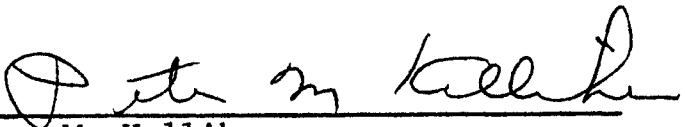
This inability may have been partly due to his lack of understanding of instructions. Considering, however, the instructions given by the Roller and the help that is generally given by other members of the crew, an employee in Mr. Hernandez's position should have been

able to understand these instructions if he had the requisite physical co-ordination to properly time his movements.

This Arbitrator has carefully analyzed the testimony to determine if there was any possible discrimination. Considering the fact that another employee, Mr. Harbin, had been disqualified after only eight turns of work, and the Grievant was given seventeen turns of work, he was certainly given an adequate opportunity to demonstrate his qualifications. Another Spanish-speaking employee qualified for this job after Mr. Hernandez was demoted.

AWARD

The grievance is denied.

  
\_\_\_\_\_  
Peter M. Kelliher

Dated at Chicago, Illinois

this 7 day of February 1963.