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United States Steel Corporation Western Steel Operations Gary Works and United Steelworkers of America Local Union 1066

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BOARD OF ARBITRATION

Case No. USS-7997-S

February 2, 1971

ARBITRATION AWARD

UNITED STATES STEEL CORPORATION
WESTERN STEEL OPERATIONS
Gary Works

and

Grievance No. SGa-68-105

UNITED STEELWORKERS OF AMERICA
Local Union No. 1066

Subject: Discipline-Suspension

Statement of the Grievance: "I, Alonzo Harris, request to have the 426 reprimand removed from my record and to be paid all monies lost due to it.

"Facts: On Feb. 2, 1968, I was reprimanded and suspended the rest of the turn plus 3 days suspension Feb. 3, 4 and 5 for using abusive language toward my supervisor which I contend I did not do.

"Remedy Requested: That the grievant's request be granted."

2. USS-7997-S

Contract Provision Involved: Section 3 of the Basic Labor Agreement dated September 1, 1965.

<u>Grievance Data:</u>	<u>Date</u>
Grievance Filed in Step 2:	February 7, 1968
Appealed to Step 3:	March 13, 1968
Step 3 Meeting:	April 8, 1968
Appealed to Step 4:	May 9, 1968
Step 4 Meeting:	April 1, 1970
Appealed to Arbitration:	August 19, 1970
Case Heard:	January 5, 1971
Transcript Received:	None

Statement of the Award: The grievance is denied.

BACKGROUND

USS-7997-S

This grievance from Gary Works' Sheet and Tin, Central Maintenance Department, presents a claim that the grievant improperly was suspended for an alleged use of profane or abusive language toward his supervisor on February 2, 1968, in violation of the Basic Labor Agreement. 1

It appears that grievant, a Millwright, was approached (early during his scheduled turn on Friday, February 2, 1968) by his immediate Foreman and issued certain written safety instructions which grievant then was directed to read. Grievant apparently refused, basing such refusal upon a posted notice to all employees against "reading" on their jobs. Thus, according to grievant at the hearing: 2

"There was a sign on the bulletin board saying no reading on the job. It did not say anything about what! And, we never have been told we had to read the safety instructions contacts."

Later that day, reportedly upon urgings of the immediate Foreman, grievant was approached by his General Foreman (at about 2:30 p.m.) who questioned grievant about his refusal to read the safety contact and, further, about having left his work station before quitting time one day during the previous week. During their discussion of these matters, according to Management, grievant told the General Foreman, in effect, "You're picking on me...you're a s-- of a b----." Thereupon, grievant was suspended for the balance of the turn on February 2 plus three days, i.e., February 3, 4 and 5, 1968. Thus, the instant grievance arose. 3

Essentially, grievant and the Union deny that grievant used profane or abusive language against the General Foreman as charged. It is asserted, rather, that grievant actually said to the General Foreman, "I'll be a s-- of a b---- if I have to stand here and listen to that," or words to that effect. Thus, it is conceded, by both the Company and the Union, that the instant grievance rests wholly upon a proper determination of credibility--the controlling point in conflict being whether grievant, indeed, uttered the words attributed to him by his General Foreman.

Notably, Step 3 Grievance Procedure Minutes reflect the following "Summary of Discussion":

"Mr. Wilkins stated that the grievant was improperly reprimanded and suspended for the balance of the turn on Friday, February 2, 1968, and then given an additional three days of suspension because General Foreman Vidal claimed that Mr. Harris called him an 's.o.b.'. He stated that the grievant admitted using these words but not as a statement to the supervisor. Mr. Wilkins stated that on the occasion in question, General Foreman Vidal approached the grievant and began to question him in a high-handed manner about a safety contact and the grievant said, 'I'll be an s.o.b. if I have to stand here and listen to that.' There was no abusive language directed toward the supervisor, he said, and for this reason the reprimand should be withdrawn from the grievant's work record and he should be compensated for the days of suspension.

"Management's representative stated that General Foreman Vidal went to the 80" Hot Strip Mill where the grievant was working on February 2, 1968, to talk to him about staying on the job until he was released by his supervisor because during the previous week he had left the job at about 2:30 P.M. without supervisory permission. However, he said, before discussing this item, Mr. Vidal first asked Mr. Harris why he had refused to read a safety contact that morning as requested by his foreman, and then asked him if he understood that he was to remain on the job until released by his foreman. At this time, he said, Mr. Harris directly faced Mr. Vidal and said, 'You're picking on me, and you're a /s-- of a b----/.' Management's representative stated that in discussing this case, Mr. Harris stated that he told Mr. Vidal that he did not want to hear anymore about the safety contact and objected to the General Foreman even discussing the matter with him. In fact, he said, the grievant claimed that it had been wrong for the foreman to approach him the way he did the first thing in the morning.

"Mr. Wilkins stated that Mr. Harris admits to facing Mr. Vidal when he used the term '/s-- of a b----/,' but this was not directed toward the foreman. Furthermore,

"he said, Mr. Vidal approached the grievant in a hostile manner and started to improperly interrogate him. Mr. Wilkins then pointed out that the reprimand issued to the grievant referred to the use of abusive language and not insubordination as now inferred by Management. He then questioned the supervisor's action in requesting the grievant to read a safety contact claiming that the supervisor should read the safety message to the employee.

"Management's representative stated that safety contacts are handled in various ways and there was nothing improper or unusual in requesting the grievant to read the safety message. He also stated that the grievant and other employees had been previously contacted and made aware of the requirement on 80" Hot Strip Mill repair turns to work until released, and some employees including the grievant had been disciplined in the past for failing to stay on the job.

"Mr. Wilkins stated that in view of the conflicting stories of Mr. Harris and Mr. Vidal there was evidently a misunderstanding as to the intent of an unfortunate use of words, but in fairness to the grievant, the reprimand should be removed from his work record and he should be compensated for the days of suspension.

"Management's representative stated that the grievant was disciplined for proper cause and there is no basis for the claim of a violation of the Basic Labor Agreement."

And, the respective positions of both Parties are set forth in Fourth Step Minutes as follows:

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"STATEMENT OF
UNION POSITION

"In view of the conflicting stories of Grievant Harris and General Foreman Vidal, there was evidently a misunderstanding as to the intent of an unfortunate use of words; in fairness to the Grievant, the reprimand should be removed from his work record and he should be compensated for the days of suspension. He has been improperly charged in this instance in violation of Sections 1, 4, 8 and 9 of the Labor Agreement.

"STATEMENT OF
MANAGEMENT
POSITION

"The Grievant was disciplined for use of abusive language toward his Supervisor and was disciplined for proper cause;

"there is no basis for the alleged violation of the Labor Agreement."

The Fourth Step record further reveals:

"The Parties discussed their respective positions as stated above; additional comments were as follows:

"Union Witness Wilkins said that, although the General Foreman involved here has calmed down a good deal in recent periods, he was excitable in this kind of situation at the time of the incident in dispute; that because of this, he believes, the General Foreman misunderstood the situation and jumped to the conclusion that the Grievant had directed the comment made toward him whereas he simply was voicing his objection to what he considered an harassing-type contact by the General Foreman.

"The Company's Representative said that the General Foreman's recollection of the situation and words addressed to him by the Grievant are positive and that there was no misunderstanding of the situation on his part as alleged."

At the hearing the Union presented the grievant and the Company presented the involved General Foreman Vidal as their principal and sole witnesses. Each witness thereupon offered his own version of the events leading up to the suspension of grievant, with conflicting testimony concerning grievant's statement, in his alleged use of profane and/or abusive language toward the supervisor. 8

According to the grievant, he was approached by the General Foreman some time around 2:30 p.m. and questioned about his having refused to read a safety contact issued him sometime earlier by his immediate Foreman. Grievant reported, in effect, that there had been little or no discussion about this matter when the General Foreman abruptly changed the subject, questioning him (grievant), "saying something about my leaving the job early sometime before that." Grievant stated: 9

"He continued to talk, saying, 'You were told to stay on the job and you left.'
I said, 'I discussed this with you before and I don't want to talk about it now.' I turned away and said, 'I'll be a s--- of a b---- if I have to listen to this.' He asked me what I said, and I might have repeated what I had said. He then said, 'Get your tools and go to the shop.' He then came in to the shop and gave me a reprimand and three day's leave. He did not say at the time why he was disciplining me. And, I don't remember what the written discipline slip said."

According to the General Foreman, Vidal, at the hearing:

"On the day in question, I learned from grievant's immediate Foreman Harris, that he, Harris, had issued grievant a safety contact to read but that grievant had refused to read it. When the Foreman told me about this, he also asked me to speak to grievant about his having left his work area before quitting time one day during the previous week.

"I asked grievant why he had refused to read the contact...what his reason was for not reading the contact. He first said, 'I don't have to read a safety contact,' and then something to the effect, 'and I don't have to have a reason.' And, as I started to question grievant about leaving his work area before quitting time, he then turned and started to walk away and at the same time said, 'You're picking on me. You're a s-- of a b----.' I then said, 'What did you say?' And, he turned facing me and repeated, 'You're a s-- of a b----.'

"I asked grievant to repeat himself so as to make sure that I had understood him correctly. I understood him both times as saying, 'You're a s-- of a b----.' I did not understand him to say either the first time or when he repeated it, 'I'll be a s-- of a b----.'

"In the office I asked him, 'Do you realize what you just said to me?' He said, 'Yes, I sometimes lose my temper and don't realize what I'm saying,' or words to that effect. He indicated, in effect, that he was sorry he lost his temper and had said what he said. I told him, however, that I could not just let the matter go. I told him then that I was reprimanding him and suspending him for using such language toward me."

The Union at the hearing argued that grievants use of the words "s-- of a b----" was mill language not directed at the Foreman, but rather "an utterance of verbal self-indictment, a frequently used 'mill language' expression at the Gary Sheet and Tin Mill and other plants." 11

The Union urged that the apparent credibility issue herein be resolved in favor of grievant's account of his use of such words. The Union argued that grievant should be believed in this situation, "as an employee with a good service record of no previous disciplinary actions against him for a period of some 21 years." 12

The issue remains whether grievant improperly was suspended as alleged. 13

DISCUSSION AND FINDINGS

The controlling question in this case centers upon whether grievant, in fact, called his General Foreman a "s-- of a b----," as charged. Thus, this entire case must turn upon 14

a proper resolution of credibility as between grievant and the General Foreman, based on their conflicting versions of grievant's utterances, as reported.

In this situation it is significant, we think, that grievant on the day in question displayed a generally negative attitude in his contacts and communications both with his immediate Foreman and the General Foreman. We believe this attitude must be seen as a reflection of resentment and unreasonable hostility. Notably, grievant's reaction to the simple request to read a safety contact, indeed, was somewhat bizarre. And, upon later being approached by the General Foreman, his temperment had not changed. He obviously resented being questioned by either the immediate Foreman or the General Foreman. He withdrew from both in an abrupt and curt fashion verbalizing unreasonable hostility.

It is likewise significant, we think, that grievant failed at the hearing to deny, or even to respond in any way, to assertions by the General Foreman that he, grievant, in effect, actually had acknowledged use of profane and abusive language to the Foreman and, indeed, had apologized to him for it. Finally, but of no less significance, we believe, grievant's general manner and demeanor while testifying at the hearing itself reflected something less than complete cooperation, as viewed and judged by the Arbitrator. Upon these considerations and upon the total evidence presented, we conclude that the herein controlling question of credibility, and conflict therein, reasonably must be resolved against the grievant. Accordingly, the grievance must be denied.

11.

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AWARD

The grievance is denied.

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Findings and Award recommended
pursuant to Section 7-J of the
Agreement, by

Edward E. McDaniel
Edward E. McDaniel
Assistant to the Chairman

Approved by the Board of Arbitration

Sylvester Garrett
Sylvester Garrett, Chairman