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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-8002-S

March 17, 1971

ARBITRATION AWARD

UNITED STATES STEEL CORPORATION
WESTERN STEEL OPERATIONS
Gary Works

and

Grievance No. SGa-69-23

UNITED STEELWORKERS OF AMERICA
Local Union No. 1066

Subject: Local Working Condition Regarding Manning of Jobs

Statement of the Grievance: "Management has changed a local working condition of long standing.

"Facts: Week ending 12-14-68, Management as a form of harassment, removed a Motor Inspector and Millwright from the daily schedule.

"Remedy Requested: Make all involved employees whole for all monies lost due to this action and pay all penalties due under the law."

Contract Provision Involved: Section 2-B of the August 1, 1968 Agreement.

Grievance Data:Date

Grievance filed in Step 2:	January 15, 1969
Appealed to Step 3:	March 18, 1969
Step 3 Meeting:	April 7, 1969
Appealed to Step 4:	April 22, 1969
Step 4 Meeting:	April 8, 1970
Appealed to Arbitration:	August 19, 1970
Case Heard:	March 3, 1971
Transcript Received:	None

Statement of the Award:

The grievance is sustained.

BACKGROUND

USS-8002-S

This grievance from the Galvanize Maintenance Department of Gary Works claims violation of Section 2-B-3 of the August 1, 1968 Agreement in Management's working one Group Leader (Mechanical), only one Motor Inspector and one Millwright, and one Electrical Repairman on a reduced "preparatory" turn. The contention is that the claimed local working condition requires that on such "preparatory" turns there be two Motor Inspectors (one of whom may be a Group Leader) and two Millwrights, if four employees are out, and those four plus a Group Leader, if five are out.

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On second turn of December 8, 1968, only one Galvanizing Line (No. 8) was scheduled for operation. None of the three lines had operated first turn that day, and thus it was necessary to prepare only the one line for operation. On such "preparatory" turns, a reduced crew is scheduled. The parties agree on that, and the dispute here goes only to the specific jobs which make up that reduced crew.

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Management scheduled a reduced crew of five employees on the turn in question, made up of one Group Leader (Mechanical), one Millwright, one Motor Inspector, one Mechanical Repairman, and one Electrical Repairman. The scheduled Millwright reported off, however, and the Mechanical Repairman was promoted to Millwright for that turn. Thus, four employees were used, and the Union claims that when four employees are needed on such "preparatory" turns, they must be worked and paid as two Motor Inspectors (one of whom may be a Group Leader) and two Millwrights. This is called "scheduling from the top down," the claim being that when only four employees are needed, they must be Motor Inspectors and Millwrights and that the lower rated jobs should be left vacant.

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The evidence shows that departure from that tradition occurred on the turn in dispute because it was arranged by the

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Department Superintendent, while the General Foreman, who usually sets up these crews, was on vacation. When the General Foreman returned from vacation, the Union says he agreed that a mistake had been made and he sought to return for several weeks to the system of two Millwrights and two Motor Inspectors usually followed on these turns in the past, but that the Department Superintendent then insisted that the disputed arrangement would be followed.

The Union claim is that, regardless of the way in which these employees had been scheduled for these turns in the past, if only four employees were needed, two were moved up and were worked and paid as Motor Inspectors (allowing for the Group Leader situation) and two as Millwrights, and that is what the Union seeks here.

Union testimony said that the Department Superintendent had told the witness that he had searched the records and found that the Millwright force made up as the Union insisted here was in fact followed on fifty out of fifty-one such turns from 1938 through 1968.

The Company's case differs as between the two jobs involved. As to the Millwright, it concedes that on forty-five out of forty-six such turns from 1962 through 1968 there were two Millwrights. Thus it agrees that on only one possibly applicable occasion between 1962 and 1968 was there only one Millwright. As to the Millwright, therefore, the Company agrees there was a 2-B-3 local working condition, as claimed by the Union, but Management then says that in May of 1968 it installed air-knife equipment on Lines 6 and 8, which thus eliminated much Millwright work on coating rolls, thus constituting a 2-B-4 change of basis, justifying its change of the local working condition. The Company says that because of the air-knife equipment it reduced the regular Millwright force on day turns from eight to six in January of 1969.

As to the Motor Inspector, the Company says that the Union's system was applied on only thirty-eight of forty-six identical situations, and it says, therefore, that there is no 2-B-3 local working condition covering the Motor Inspector, arguing that a manning system which has been applied only about 83 per cent of the times when the appropriate circumstances occurred, has not ripened into a local working condition.

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FINDINGS

The parties used the phrase "scheduling from the top down" as a shorthand expression of the Union claim, and the evidence on the whole supports the Union contention. It would be useless to pursue the matter of whether two Millwrights were paid on turns such as these on fifty out of fifty-one occasions over thirty years or only on forty-five out of forty-six over six years. In either event, it is agreed that only one such turn was missed over a period of years, and that is sufficient to confirm existence of the local working condition relied upon by the Union, as the Company admits.

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It is thus necessary to meet the Company's claimed change of basis under 2-B-4. There are several reasons why that does not hold up under the evidence. First, the air-knife equipment was put in in May of 1968, and this dispute did not arise until December. The evidence does not indicate whether any of the "preparatory" turns counted fell in that period between May and December. But, however that may be, there really is no solid evidence that the event in dispute arose because of installation of air-knife equipment, with its claimed

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elimination of some Millwright work. What gave rise to this whole problem was that the Department Superintendent arranged the force on the turn in dispute, in the absence of the General Foreman who was on vacation. The evidence shows that the General Foreman then tried to return to the established system but that he was overruled by the Department Superintendent. The General Foreman testified that, if he had been present on this day, he would possibly have used only one Millwright. That does not support the view that the disputed arrangement resulted from a conscious decision that fewer Millwrights were needed than in the past because air-knife equipment had reduced necessary Millwright work. Indeed, there is no detailed evidence to indicate what Millwrights had done with the coating rolls which was reduced by air-knife equipment. Moreover, there is no evidence that two Millwrights always were used on similar turns because of necessity to turn coating rolls. The Union claims, indeed, that there were turns when two Millwrights were paid in these circumstances even though no such machining work was done. In short, the evidence in this record simply is insufficient to carry the Company's burden under 2-B-4.

Regarding the Motor Inspector, the Company says that two Motor Inspectors were used on only thirty-eight out of forty-six similar occasions and that that is not consistent enough to create the local working condition urged by the Union.

Those statistics seem to have been gathered by the Department Superintendent before the Step 3 Meeting, from a search of some records. The Superintendent was not at the hearing, and thus it is not clear what records were checked. The General Foreman testified about all this, but he had not done any of this checking himself.

The Company notes, however, that it is the Union's burden to prove existence of the local working condition on

which it relies, and that is true. The Company notes also that the Union might be said to have adopted the Company's figures, both those indicating that two Millwrights were assigned on fifty out of fifty-one possible occasions, which the Union stresses successfully, and those indicating that two Motor Inspectors were assigned on thirty-eight out of forty-six possible occasions, which the Company says is insufficient.

The Union "adopted" those Company figures, but only in the light of its original contention that two Millwrights and two Motor Inspectors (allowing for the Group Leader situation) always had been assigned on turns such as this, the thought being that even the Company's evidence agreed with that, to the extent of fifty out of fifty-one times respecting the Millwright (almost 100 per cent of the possibly applicable occasions), and thirty-eight out of forty-six respecting the Motor Inspector. That is, the Union took those figures practically as admissions by the Company of the Union's claim. When viewed in light of all pertinent factors, that Union position seems sound enough.

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That is, some confusion in this respect might arise from the fact that schedules alone (if they are what the Superintendent looked at), would not resolve this problem, since they would continue to show employees as Repairmen even though they had been upgraded and paid as Millwrights or Motor Inspectors. Furthermore, any such counting is rendered somewhat uncertain also by the fact that a Group Leader may be counted as one of the two Motor Inspectors. Finally, and perhaps most telling on this point, is the uncontradicted Union testimony that the General Foreman said upon his return from vacation that the disputed schedule had been a mistake and that he had tried to reinstate the system urged here by the Union. That shows that, whatever the accurate figures may have been, the history of these assignments over the years in the past was obviously sufficient in the General Foreman's mind to convince him that on the turn in

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question, if only four employees were needed, they should have been two Millwrights and two Motor Inspectors (allowing for the Group Leader). Thus, in light of all above factors and when taken on balance, the evidence seems sufficient to conclude that, with respect to the Motor Inspector, too, the local working condition asserted by the Union did in fact exist.

Accordingly, the grievance will be sustained, and the appropriate employees shall be made whole, as if they had worked as a Millwright and a Motor Inspector, respectively, on the turn in question.

AWARD

The grievance is sustained.

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


Clare B. McDermott
Assistant Chairman

Approved by the Board of Arbitration


Sylvester Garrett, Chairman