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United States Steel Corporation Western Steel Operations Geneva Works and United Steelworkers of America Local Union 2701

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BOARD OF ARBITRATION

Case No. USS-8221

February 26, 1971

ARBITRATION AWARD

UNITED STATES STEEL CORPORATION
WESTERN STEEL OPERATIONS
Geneva Works

and

Grievance No. SGe-70-31

UNITED STEELWORKERS OF AMERICA
Local Union No. 2701

Subject: Seniority - Alleged Improper Layoff
Due to Equipment Breakdown

Statement of the Grievance: "We, the undersigned employees of the Rolling Mill charge Management with violation of Section 13-A and Section 1 of the Basic Labor Agreement and also violation of the Local Seniority Agreement. On February 23, 1970 - the Structural Mill broke down and did not start up till February 27, 1970 - We were laid off and younger Maintenance men remained at work.

"Therefore, we request all monies lost because of this violation of Section 13-Seniority."

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Contract Provision Involved: Section 13-G of the Basic Labor Agreement dated August 1, 1968.

Grievance Data:

Dates

Grievance Filed:	March 6, 1970
Step 2 Meeting:	March 23, 1970
Appealed to Step 3:	April 16, 1970
Step 3 Meeting:	April 22, 1970
Appealed to Step 4:	June 4, 1970
Step 4 Meetings:	July 9, 1970
	September 23, 1970
Appealed to Arbitration:	December 7, 1970
Case Heard:	January 20, 1971
Transcript Received:	None

Statement of the Award:

The grievance is denied.

BACKGROUND

USS-8221

This grievance from Geneva Works' Rolling Mills Division presents a claim by certain Assigned Maintenance employees that they improperly were laid off for three days during the week of February 23 through February 27, 1970, in violation of seniority rights guaranteed them under the Basic Labor Agreement and under an effective Local Seniority Agreement. 1

The relevant background facts briefly are stated in the Company brief as follows: 2

"Grievants are assigned Maintenance employees, Rolling Mill Division, Geneva Works, and all had been assigned to the Structural Mill area for some time prior to this dispute. For the week February 22 to February 28, 1970, grievants were scheduled in the Structural Mill Monday, February 23 through Friday, February 27.

"On Monday afternoon, February 23, 1970, a pinion broke in the 32" Mill, causing a complete cessation of Structural Mill operations. The schedules of all Structural Mill operating personnel and Maintenance men not needed for critical repair work were 'blocked out' until the necessary repairs could be made. Although it was planned to start up Thursday, February 26, it was not until Friday, February 27, that operations were resumed and the operating and maintenance crews were called back.

"Although the schedules for the seven (7) grievants in this case were variously affected for the days of February 24, 25, and 26, all

"of them either worked 32 or more hours during the week or were paid SUB short week benefits. Nevertheless, on March 4, 1970, the grievance was filed.

"In essence the grievants contend that the Structural Mill breakdown on February 23, 1970 called for application of the Reduction in Force provisions of the Basic Agreement and the Local Seniority Agreement to the Rolling Mill Maintenance seniority unit of which they were members. They allege violation of Sections 1 and 13-A of the Basic Agreement and Supplement 2 of the Local Seniority Agreement."

In its brief, as throughout these proceedings, the Union states its position, essentially, as follows:

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"On February 23, 1970, the Structural Mill broke down and Senior Maintenance employees were laid off.

"Under Section 13-B, in the Rolling Mill Department, there is only one Maintenance unit covering all Maintenance employees irregardless of where they work in the Rolling Mill Department. Some employees are assigned to the Structural Mill, some may be assigned to the Plate Mill or the Finishing end, etc.

"Work was available in the Rolling Mill Department. In fact, some Maintenance employees worked overtime.

"If employees were to be laid off, then Management was obligated under the Agreement, to lay off the younger Maintenance employees, in accordance with Section 13 of the Basic Agreement and the Local Seniority Agreement. This is no different than the Central Maintenance unit where employees are assigned to various departments, but when there is a layoff, younger employees are the employees laid off.

"A Maintenance employee is fully qualified to perform work anywhere in the Rolling Mill Department.

"At the time of the breakdown, the Structural Mill was only operating one shift so that it wouldn't have been too difficult to make the Seniority moves in the Maintenance unit."

The position of the Company, however, appears as follows: 4

"The 'blocking out' of grievants' work schedules during an emergency breakdown was not a violation of the Labor Agreement or the Local Seniority Agreement.

"Grievants contend that the lack of available work during the breakdown period at the Geneva Structural Mill constituted a 'Decrease in Force' under the Basic Labor Agreement and thus called for application by the Company of the Reduction in Force provisions of Supplement 2 to the Local Seniority Agreement. (Exhibit 7).

"The Company believes that neither the Labor Agreement nor the Local Seniority Agreement requires application of Decrease in Force seniority provisions in breakdown matters such as occurred in this instance. Section 13-G Decrease in Force, provides the guideposts set up by the parties for application of decrease in force seniority procedures. That section expressly excludes 'decreases which may occur from day to day' and in addition sets up a cut-off point of 32 hours per week average in the seniority unit before decrease in forces must be effected in absence of agreement.

"In the opinion of the Company, the equipment breakdown at the Structural Mill was a 'day-to-day' situation within both the language and the intent of the exclusionary provision of Section 13-G. While operations were down 3 days while the damaged pinion was disassembled, repaired and reassembled, it was contemplated originally that not more than 2 1/2 days would be lost and certainly that only the schedule for the remainder of the week in question would be affected. Surely a work cessation so short in duration within a single workweek even in 'hindsight' qualifies as a 'day-to-day' type work decrease even though the repair and reassembly required three instead of the expected two days for completion.

"The language of 13-G clearly seems directed toward work decreases which affect a seniority unit to the extent of less than 32 hours per week average at the time with '...further decrease of work...imminent.' Here, we have only a single workweek affected and only to the extent of midweek shift losses with no possibility of either the same or 'further decrease of work' as set out in 13-G. Moreover, the Union has asserted that we must treat this as a reduction in force for the entire Rolling Mill Maintenance Seniority Unit. Using that unit, which includes approximately 150 Rolling Mill Maintenance employees, it is apparent that the 'average' work loss is much less than that required under Section 13-G for application of decrease in force seniority provisions.

"The Union has referred also the Supplement 2 of the Local Seniority Agreement. Examination of Supplement 2 reveals that it applies only to bona fide reduction in force situations and refers to Section 13-G of the Basic Agreement for determination of 'decrease in force' application. The Company submits that neither the language nor the intent, either expressed or implied, requires application of decrease of force procedures to the one-shot emergency breakdown which occurred at the Geneva Structural Mill on February 23, 1970.

"The Company has pointed out that historically it never has applied Reduction in Force seniority provisions to breakdowns of this nature. Indeed, a similar breakdown in the same Structural Mill area in 1956 was processed by operating employees through arbitration in Case G-84. The Company there, as here, contended that a reduction in force was neither required nor practicable and that the 'blocking out' of work schedules was the proper as well as the established method of handling breakdown of this nature. That grievance was denied by the Board and the same rationale properly should be applicable in this case. There is no contractual requirement, expressed or implied, requiring or suggesting application of decrease in force seniority provisions to such breakdown and there is no record or practice of any kind in the Geneva Rolling Mills Division of effecting reduction in forces under similar circumstances. Moreover, here, as in G-84, the method used of 'blocking out' maintenance, as well as operating schedules, was the most - if not the only - practicable way of handling an isolated short-term breakdown of this nature."

The evidence reveals that during the period in question, there were some 28 Assigned Maintenance employees, including grievants, assigned to the Structural Mill. These employees, it appears, had been assigned there on a somewhat indefinite basis,

with little or no actual turnover (among such employees) at that location. These 28 or so Assigned Maintenance employees, however, represented only one segment of a total of some 150 or so Maintenance employees assigned (for seniority purposes) in the plant Maintenance Department. These employees were not assigned to that location by seniority, though many of them, including grievants, were senior to other Assigned Maintenance employees assigned to other areas in the plant. It is undisputed, moreover, that during the period in question, i.e., three days beginning February 24 through February 26, junior Maintenance employees elsewhere assigned were not affected by the Structural Mill layoff. It is likewise undisputed that the layoff itself resulted directly from an unexpected breakdown of equipment--namely, a broken pinion in the 32" Mill--and that such layoff lasted only three days.

According to Company witnesses at the hearing, the equipment breakdown here neither was anticipated nor was it expected to continue beyond a day or so. Management, thus, believes that it had no obligation to invoke any change in its schedule of Maintenance employee assignments, based on seniority provisions of the Basic Labor Agreement or upon any effective local agreement or established practice. The Union (as is indicated above herein) believes otherwise, and it has sought throughout these proceedings, therefore, to establish that Management was just so obligated (under both the Basic Agreement and an effective Local Agreement) and that it properly should have "reshuffled" Assigned Maintenance personnel throughout the plant so as to provide continued work for affected grievant senior employees. 6

In this situation the Union relies primarily upon the language of Section 13-A of the Basic Agreement and upon the language of Supplement No. 2 (dated September 23, 1963) of a June 9, 1949 Local Seniority Agreement. Section 13-A (Basic Agreement) in relevant part, thus, provides: 7

"The parties recognize that promotional opportunity and job security in event of promotions, decrease of forces, and recalls after layoffs should increase in proportion to length of continuous service, and that in the administration of this Section the intent will be that wherever practicable full consideration shall be given continuous service in such cases."

And, the effective Local Seniority Agreement further provides:

- "2. Reductions in force will be accomplished as follows:
 - a. Necessary displacements from the highest occupation affected in each line of progression involved in a specific force reduction will be made on the basis of occupational continuous service. (Example #1)
 - b. Employees displaced in accordance with a. (above) shall move downward within their established line of progression matching their unit continuous service against the unit continuous service of all incumbents on lower occupations within that line of progression, and available jobs remaining within the line of progression will be filled on that basis. (Example #1)

- "c. Where the line of progression stems from the Hooker Pool Rolling Mill Department, selection of necessary Hookers will be made from among employees displaced in accordance with a. and b. above, plus incumbent Hookers on the basis of Hooker occupational continuous service.
- d. Where the line of progression stems from the Labor Pool, selection of necessary laborers will be made from among employees displaced in accordance with a., b., and c. (where applicable), (above) plus incumbent laborers on the basis of departmental continuous service.
- e. Every effort will be made to place men elsewhere in the Plant in lieu of actual layoff.
- f. Division of available work among employees will be handled in accordance with Section 13-G of the August 15, 1952, Agreement."

The issue remains whether grievants were improperly laid off in violation of their seniority rights under the Agreement as claimed.

FINDINGS

As the Parties have presented this case, the principal issue appears to be whether Management under the particular circumstances involved herein properly should have effected a "decrease of force" under Section 13-G, as it provides:

"In the event a decrease of work, other than decreases which may occur from day to day, results in the reduction to an average of 32 hours per week for the employees in the seniority unit and a further decrease of work appears imminent, which in the Company's judgment may continue for an extended period and will necessitate a decrease of force or a reduction in hours worked for such employees below an average of 32 hours per week, the Management of the plant and the grievance committee will confer in an attempt to agree as to whether a decrease of force shall be effected in accordance with this Section or the available hours of work shall be distributed as equally between such employees as is practicable with due regard for the particular skills and abilities required to perform the available work. In the event of disagreement, Management shall not divide the work on a basis of less than 32 hours per week."

The controlling question then, as we see it, both under language of the Basic Agreement and the Local Seniority Agreement (above cited) is whether the lost days because of a breakdown here

properly were treated as a decrease in force "which may occur from day to day." There can be no doubt, under any interpretation of the above cited language, that if the situation were properly so treated, Management had no clear obligation to "reshuffle" its Maintenance employees, i.e., to reassign them on the basis of seniority.

The equipment breakdown in the instant situation resulted in a temporary loss of work to grievant Assigned Maintenance employees which, we believe, properly was treated by Management as one involving "decreases which may occur from day to day," within the meaning of Section 13-G of the Agreement. Thus, we conclude that Management had no obligation under any Agreement language to reschedule employees on the basis of their individual seniority in the Maintenance Department. For such unplanned and unanticipated day-to-day breakdowns (occurring, as here, over a relatively short period of time) Management reasonably could not be required--absent local agreement or established past practice--to reshuffle all affected employees on the basis of seniority. 11

And, significantly, the total evidence does not establish the existence of any relevant past practice or local working condition which otherwise would support the Union claim that grievants properly should have been reassigned to other locations (and in place of junior employees) on the basis of their established seniority. 12

The total position of the Union and grievants clearly is lacking of sufficient factual or contractual support upon the entire evidence presented. Thus, the grievance in this case may not be sustained. 13

12.

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AWARD

The grievance is denied.

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