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United States Steel Corporation Eastern Steel Operations Clairton Works and United Steelworkers of America Local Union 1557

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BOARD OF ARBITRATION

Case No. USS-8227

March 26, 1971

ARBITRATION AWARD

UNITED STATES STEEL CORPORATION
EASTERN STEEL OPERATIONS
Clairton Works

and

Grievance No. HC-70-30

UNITED STEELWORKERS OF AMERICA
Local Union No. 1557

Subject: Local Working Condition

Statement of the Grievance: "Employees protest being assigned to a sixteen week turn schedule, and all Pipefitters in unit #48 have not been assigned to work a sixteen week turn schedule.

"Employees were assigned to work turns the week of 4/12/70.

"Assign all Pipefitters in unit #48 to sixteen weeks of turns before the aggrieved employees in accordance with a well-known turn rotation master schedule (Grievance HC-69-22)."

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

2.

USS-8227

Grievance Data:

Dates

Grievance Filed:	April 10, 1970
Step 2 Meeting:	April 27, 1970
Appealed to Step 3:	July 10, 1970
Step 3 Meeting:	July 14, 1970
Appealed to Step 4:	September 4, 1970
Step 4 Meeting:	September 24, 1970
Appealed to Arbitration:	December 8, 1970
Case Heard:	March 4, 1971
Transcript Received:	None

Statement of the Award:

The grievance is denied.

BACKGROUND

USS-8227

This grievance from Clairton Works presents a claim by certain Pipefitter employees that Management improperly has required them to rotate on turns, while certain other Pipefitters are scheduled to work steady day turn assignments and are not required to rotate. Specifically, it is alleged that Management, thus, has violated local working condition rights protected to grievants under Section 2-B of the Basic Labor Agreement.

1

Grievants are two Pipefitters in Seniority Unit No. 48 at Clairton Works. Seniority Unit No. 48, it appears, consists of about 220 employees, of whom 95 are Pipefitters, 78 are Pipefitter Helpers and the balance are in various position-rated jobs. The Pipefitters, at least some 75 of them, "are subject to work rotating turns," though normally they are assigned and scheduled to day turns. Some 20 Pipefitters, however, are not required to rotate, being assigned "permanently" on day turns. About 15 Pipefitters normally are assigned to the rotating schedule at any given time.

2

The evidence shows that since about 1964 (and, to some extent prior thereto) most Pipefitters in Seniority Unit No. 48 were assigned to the rotation schedule "in accordance with operating requirements," for 16-week periods, with each affected Pipefitter "catching his turn" about once every three to five years or so. Thus, the most recent complete rotation cycle, which commenced during 1964 ended in late 1969--covering about five years. And, notably, the rotation schedule works by "seniority" to the extent, at least, that junior service Pipefitters are first assigned to the 16-week schedules with senior service Pipefitters following in the order of their established service.

3

The instant grievance arose upon a claim by Pipefitters Samuel E. Wise and Italo Alfonsi, alleging, in effect, that during the week of April 12, 1970, they were scheduled to a second rotation (since the 1964 cycle commenced), while other Pipefitters in the unit yet had not been scheduled to their

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first rotations in the 1964 cycle. The grievants and Union, thus, challenge the exclusion of these Pipefitters from the rotation schedule. Thus, it is urged, specifically, "that certain [Pipefitters] that are now exempt from working turns on the master schedule, have no contractual or practical reason to be exempt"; and, that Management here has violated an established past practice which precludes such "exemptions" of Pipefitters from the rotation schedule.

Upon the filing of this grievance, the following Pipefitter job incumbents were "exempted" from the disputed rotation schedule:

<u>"Check No.</u>	<u>Name</u>	<u>Reason Not Scheduled Turns</u>
82017	A. A. Brandi	Union Representative
82398	J. Gaza	Union Representative
82379	F. S. Francellini	Limited Physical Rating
82366	E. Ginanni	Limited Physical Rating
82423	L. L. Martini	Limited Physical Rating
82376	W. V. Navoney	Limited Physical Rating
82934	J. G. Paolicelli	Limited Physical Rating
82930	C. L. Vrabel	Limited Physical Rating
82004	E. J. Daerr	Special Assignment
*82972	N. M. Kozloski	Special Assignment
82361	L. Paoletti	Special Assignment
82011	U. Ginestra	Relief Foreman
82947	D. Manzini	Relief Foreman
82957	A. Serapiglia	Relief Foreman
82317	B. Pearsol	Personel Problem
82377	J. Plavchak	Personel Problem
*82394	W. J. Chomas	Pop Valve Repairman
*82309	C. H. Hobough	Pop Valve Repairman
82324	C. L. Parsons	Hot Car Repairman
*82412	G. H. Kunz	Layout (Relief)

*Individuals being challenged by the Union."

The Union apparently has no complaint concerning the regular day turn assignments of all the above named persons except for employees N. M. Kozloski (special assignment), W. J. Chomas and C. H. Hobaugh (Pop Valve Repairmen) and G. H. Kunz (Layerout-Relief), who it claims, as individual Pipefitters, never were intended to be excluded from the "master" rotation schedule. According to the Union these employees and/or other incumbents of their assigned "day turn" jobs, prior to 1964, always were included among other Pipefitters on the rotation schedules. The Union argues, therefore, "Pipefitters are Pipefitters, paid the same and supposedly capable by Job Description to all do the same work. Where the Union could realize some special jobs and special skills were needed for exempt jobs, they went along with the exemptions. However, the Union cannot go along with these jobs." In its brief it continues:

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"It becomes very difficult for the Union to explain to the grievants that younger men in seniority have a right to steady daylight work because the Company deems them more qualified to handle what they feel are specialty jobs. What really makes it difficult to understand is that the so called exceptional pipefitters receive the same amount of monies.

"The real stand out of the grieved job happens to be the POP VALVE REPAIRMEN. Every Pipefitter has at one time or another worked with pop valves as to installing or repairing them. It takes the ordinary skills of a regular Pipefitter to handle pop valves in any way or fashion. Yet the Company singles this job and several men out to exclusively be responsible for the handling of them. This is a disgrace to the senior Pipefitters, especially the grievants, who are told they do not possess the necessary skills to be able to do an ordinary job that falls within the scope of Pipefitter work.

"The Company would have you believe that the Union is attempting to usurp the authority they have in Sections 3 and 10, when in reality all we are attempting to do is to prevent them from showing favoritism as outlined in Section 2-B-2. The Company maintains they have a practice that establishes a local working condition, namely, assigning certain jobs and certain personnel to steady daylight work which makes them exempt from an agreed to scheduling practice. This error in judgment in effect establishes an uncalled for local working condition that brings about a deprivation of employee rights under this agreement as far as the grievants and this Union is concerned."

Essentially, the Union believes that employees Kozloski, Chomas, Hobaugh and Kunz reasonably should rotate on turns as do other Pipefitters. It urges that their day turn jobs, unlike those of other exempted employees, may be performed by any Pipefitter. The Company, however, believes that the selection of employees for such day turn jobs is a matter over which it has complete discretion. 7

The Company asserts, as its reason for regularly assigning Chomas and Hobaugh to the pop valve repair work, that these Pipefitters are uniquely familiar with rules and regulations and are personally acquainted with representatives of certain outside regulatory agencies who perform inspection functions critical to plant operations. Kunz the Company says, is a relief man for the (unquestioned) Layerout job, and as such, has become efficient enough to substitute for the regular Layerout man and to perform all Layerout job duties. It wants to keep Kunz available, therefore, and not have to "break-in" another Pipefitter. Finally, the Company claims that Kozloski works closely with and under the direct supervision of the day turn Foreman performing "special" 8

drafting and sketch work. According to a principal Company witness at the hearing, Kozloski has an unusual ability to do minor drafting to bring blue prints up to date, and he also is involved in training apprentices. Thus, the Company believes that its assignment of these four Pipefitter employees on regular daytime turns is reasonable and necessary to its operations, as well as a matter over which it has complete discretion.

Conflicting testimony was offered by Union and Company witnesses at the hearing as to whether prior to 1964 incumbents of the involved day turn jobs were assigned to the disputed 16-week rotation of turns schedules, as were other unit Pipefitters. It is not disputed, however, that since 1964 none have been so assigned--with Kunz being the possible exception. In any event, neither the Company nor the Union could provide sufficient records to clarify this point. 9

The Union itself relies upon a claimed "practice," which it contends over the years evolved into a local working condition, and which, subsequently, was "acknowledged" by supervision upon the settlement of a prior related grievance matter (Grievance HC-69-22) on or about April 7, 1969. That "settlement," the record shows, was triggered by a complaint and formal grievance filed on January 29, 1969, by Pipefitter Attico Brandi, then complaining that he was being scheduled to rotate a second time in a single cycle. Brandi, reportedly, could not prove that he already had been assigned to one 16 weeks of rotations during the involved cycle and so it was agreed that his grievance would be withdrawn. Brandi's grievance, still (although, in effect, it was denied), did lead to the following communication: 10

"April 7, 1969

"Mr. Frank Puschak, Sr., Chairman
Grievance Committee - Local No. 1557
United Steelworkers of America
332 State Street
Clairton, Pennsylvania 15025

Dear Mr. Puschak:

On April 3, 1969, we discussed the following Clairton Works' case. The consideration and status of such case is as follows:

"It was mutually agreed that the following case be withdrawn from the grievance procedure without prejudice to the contractual rights of either party on the basis that Pipe Shop Supervision have established a well-known turn rotation master schedule for the affected incumbents of Seniority Unit No. 48 - Pipe Shop Crews, since the year 1964.

Case No. HC-69-22 - Scheduling Turn Work -
Eugene C. Quinn

If the above is contrary to your understanding of our transaction, please notify this office immediately.

Very truly yours,

H. A. Long, Superintendent
Personnel Services"

The above cited letter, the Union asserts, establishes the existence of a "2-B practice," which precludes Management from "exempting" Pipefitters from the rotation schedule--and from, thereby, discriminatorily, requiring all others to rotate more frequently. The Company denies that this "letter of understanding" is of such effect, and it urges, moreover, that no such agreement or practice ever has existed to prevent Management from exercising a discretionary right reasonably to assign and schedule Pipefitters in Seniority Unit No. 48 on day turns and/or on rotating turns "in accordance with operating requirements."

Exactly what the involved rotation "practice" was, prior to 1964, is not entirely clear. The record shows, notably, that no physical records ever were kept with respect thereto, and it appears that not all Pipefitters, in any event, were scheduled to the rotating turns assignment. According to undisputed Management testimony, moreover, (1) prior to about

1964, the required "back-turn" assignments were filled in large part by "volunteers"; (2) no systematic "order" of rotation was followed; and (3) certain Pipefitters and/or classes of Pipefitters always have been exempted from rotating turns. Furthermore, according to Management, it never has "agreed" with the Union as to which employees, if any, would not participate in turn (rotation) work assignments.

The Union and Management agree that certain classes of Pipefitters, e.g., Union representatives, those with limited physical (disability) ratings, those on certain special assignments (Layerout man and Plumber), and relief Foremen nearly always have not been required to work the rotating turns assignments. Exactly how the "practice" developed as to these "exempted" Pipefitters, the evidence clearly does not establish. And, while the Union claims that it always had "agreed" to these exemptions, there is no evidence that the Union and local Management ever actually "negotiated" with respect to this matter. 13

The issue remains whether the Company improperly has violated an established 2-B practice, herein, involving the assignment of Pipefitters in Seniority Unit No. 48 to rotating turns schedules. 14

FINDINGS

Significantly, no strict seniority rights violation is claimed, nor otherwise shown on this record. The sole and controlling question, then, appears to turn upon whether the claimed established local working condition improperly has been breached by local Management. 15

About all which reasonably and logically can be gleaned from this record of evidence, including the letter of understanding issued in the 1969 Attico Brandi "settlement," 16

is that, since about 1964, the local parties have recognized a practice, albeit a "local working condition," to assign and rotate Pipefitters in Seniority Unit No. 48 on turns for periods of 16 weeks at a time. The evidence is insufficient, however, to establish that such practice actually required, as the Union claims, that all unit Pipefitters (except as agreed upon by the local Union and Company) be so assigned and scheduled. Admittedly, certain "exemptions" (the historical basis for which, critically, is unknown) always have been allowed. And, in any event, at least since about 1964, Management specifically has exempted the very Pipefitters now challenged by the Union.

Though the Union claims here that it first learned of such exemptions at the time of the instant grievance, the burden clearly falls upon it to show how and why such exemptions were improper--thus, to establish the specific local working condition claimed. The present evidence offers no basis upon which it reasonably may be determined that Management is precluded, based upon any relevant established "past practice," from assigning and scheduling certain of the Pipefitter employees to the disputed regular "day turn" jobs. The particular past practice and "local working condition" herein relied upon by the Union is not shown to have been established and, therefore, the instant grievance must be denied.

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

BOARD OF ARBITRATION

Case No. USS-8270

March 11, 1971

ARBITRATION AWARD

UNITED STATES STEEL CORPORATION
(EASTERN STEEL OPERATIONS)
Fairless Works

and

Grievance No. SFL-70S-122

UNITED STEELWORKERS OF AMERICA
Local Union No. 5092

Subject: Discharge - Calculation of Probationary Period

Statement of the Grievance: "I, the undersigned, claim that the Company is in violation of the Basic Labor Agreement.

"Facts: The Company did in fact discharge said Grievant without full compliance with Section-8 of the Basic Labor Agreement. The Union further contends that the Company is to carry out its obligation to the Grievant, and to the Union on the procedural steps outlined in Section 8- of the Basic Agreement.

"Remedy Requested: The Grievant is to be returned to work, and made whole for all monies lost."