8-10-1965

United States Steel Corporation Heavy Products Operations South Works and United Steelworkers of America Local Union 65

Sylvester Garrett

BOARD OF ARBITRATION

Case No. USS-4941-H

August 10, 1965

ARBITRATION AWARD

UNITED STATES STEEL CORPORATION
HEAVY PRODUCTS OPERATIONS
South Works

and

Grievance No. A-62-141

UNITED STEELWORKERS OF AMERICA
Local Union No. 65

Subject: Elimination of Burner Job; Safety.

Statement of the Grievance: "The Union and the undersigned employees protest the elimination of the job of Burner.

"Facts: It has been a practice of having a Burner assigned to the Maintenance crew over the years. It is a contractual violation for Management to eliminate this occupation.

"Remedy Requested: That Management restore the job of Burner. Also to reimburse the grievants for all money lost."

This grievance was filed in the Second Step of the grievance procedure November 15, 1962.

Contract Provisions Involved: Sections 2-B-3 and -4 and 14 of the April 6, 1962 Agreement.

Statement of the Award:

1. To the extent that it seeks reinstatement of the Burner job and reassignment of grievants to it, the grievance is denied.

2. Management shall review the instruction and certification of all employees who are required to operate burning equipment in order to insure that all who do so have been instructed and certified to handle such work under current conditions.

3. No employee whose clothing is so permeated with oil or grease as to present appreciable risk of its igniting shall be permitted to operate burning equipment.

4. Management shall furnish burning goggles, gloves, sleeves, and leggings to all employees who operate burning equipment and require the use of such protective clothing in the performance of burning work.

BACKGROUND Case No. USS-4941-H

This grievance from the Slab, Plate and Alloy Maintenance Division of South Works protests elimination of the Job Class 8 Burner from the Assigned Maintenance force of the Sheared Plate Department as violating Section 2-B-3 of the April 6, 1962 Agreement. 1

In the Fall of 1962, because it felt that there was not enough burning work then to keep a man occupied for a full turn, Management eliminated the maintenance Burner job in the Sheared Plate Maintenance group. At that time there were four incumbents of the Burner job, all of whom were demoted to class 6 Millwright Helpers, two on October 28 and two on November 4, 1962. One of the four later was assigned to the class 9 Mechanical Repairman in November of 1963, another was so assigned in December of that year, and a third promotion to some job occurred later. No layoffs resulted from the disputed displacement. 2

Since elimination of the maintenance Burner, burning work has been assigned to class 9 Mechanical Repairmen and class 14 Millwrights, whose job descriptions include such work and who always have done some burning. 3

The November, 1962 grievance claimed existence of a practice requiring assignment of a Burner to this maintenance force. As refined in its brief and at the hearing, the Union claim is that a Burner had been assigned to this maintenance group on both operating and repair turns over the years, even during long periods of severe recession, and that the basis of this claimed local working condition was not mill operating levels or volume of assigned maintenance work to be done, but rather safety considerations which required that burning be done by men trained and certified to work with oxy-acetylene equipment and provided with proper protective clothing (burning gloves, goggles, leggings, and sleeves). 4

The Union does not appear to claim that there were gradual step-ups in volume of burning work which required one Burner per turn for certain amounts of burning and two Burners per turn for a given greater volume of burning, and so on. It 5

does assert, however, that traditional Burner scheduling in the past establishes that there always was at least one Burner assigned on every turn when a departmental assigned maintenance force was scheduled out.

It is suggested also that burning has been assigned (since elimination of the maintenance Burner) to Mechanical Repairmen and Millwrights who were not certified to operate oxy-acetylene burning equipment or who were certified so long ago, with intervening years in which no burning was done, that the certification was meaningless, and that Mechanical Repairmen and Millwrights who are required to burn sometimes have their clothing so covered with grease and oil from their ordinary repair tasks that there is undue risk of their being burned by their clothes' igniting from a spark. The Union says also that employees now are required to burn without necessary protective clothing. All of this is claimed to violate various published safety rules of either or both the entire Maintenance Division or this specific Slab, Plate and Alloy Maintenance Department. 6

The Company denies that a Burner always was assigned in the past on every turn with a maintenance force and thus believes that there is no local working condition under 2-B-3 which might prevent elimination of the Burner. 7

Management argues, moreover, although Mechanical Repairmen and Millwrights always had done some burning, that up to a few years before this grievance the maintenance Burner did most of it, so he was fully occupied throughout a turn, since, it is said, he performed not only maintenance burning, but also operating burning (cobbles and stickers in rotary shears). The argument is that, despite the fact that the various operating departments carried a Burner occupation, they did not fill it and had taken advantage of the Maintenance Department by using the maintenance Burner to do their operating burning. 8

In mid-1962, the Company says that it analyzed this situation and then required the operating departments to fill their Burner jobs and do their own burning. With operating 9

burning thus removed from the maintenance Burner and in light of the fact that Mechanical Repairmen and Millwrights always had done some burning, it is said that the maintenance Burner was left with only enough burning to keep him occupied for a small portion of a turn. The decision thus was made to assign all maintenance burning to the Mechanical Repairmen and Millwrights, who always had done some of it, and to eliminate the maintenance Burner.

FINDINGS

The parties posed other arguments also, which ran broad and deep throughout the processing of this case, each advancing some points which may have had merit and some which clearly did not. It is unnecessary here to reach all those arguments, however, for the case turns upon more fundamental issues. 10

The Union alleges that a Burner had been scheduled with all departmental maintenance forces on both operating and repair turns. The Company denied this and said that, although there had been only one or two turns during the six years preceding the grievance when no maintenance personnel were scheduled, the Burner had not been assigned on all such turns and had not been covered on twenty-one turns per week or anything like that level of coverage. In closing argument the Union thereupon said that "We do not quarrel with the argumentation regarding whether it is a complete twenty-one turn coverage or eighteen or nineteen turns. It has been the Union's position, and we feel that we have simply established, that there were four incumbent burners who had been assigned around the clock for over thirty years in this group." 11

Since it had appeared originally that the Union was claiming uniform Burner coverage in the past on at least twenty turns per week (four incumbents for five turns each) and since the above Union statement seemed to recast that claim in some measure which was not readily apparent, the Board sought further 12

The second Union parry was to the effect that, as 15
Management admits, the payroll information reflects only hours paid for by departmental maintenance for employees assigned to the class 8 Burner job in question and does not include hours which were spent on departmental burning work by employees on class 9 and class 14 jobs assigned to that group from the old bull gang or from Central Maintenance field forces. Again, however, it is difficult to discern how this helps the Union position. It is true that significant numbers of hours were worked on burning with this maintenance group by employees on class 9 or class 14 jobs from the bull gang or Central Maintenance. But, a claimed "crew," which is "filled" by employees on other jobs, paid at other rates, and from other departments surely would not establish any right by these assigned maintenance grievants to be reassigned to the eliminated Burner job. Thus, it has not been demonstrated that this Burner job always was scheduled in the past or even that it was filled at least sixteen turns per week.

In the alternative (and even if it were assumed that 16
a 2-B-3 local working condition requiring Burner coverage on every assigned maintenance turn had been established) it seems clear that there has been also a 2-B-4 change of basis sufficient to justify elimination of the Burner.

The evidence indicates that not all maintenance burning had been done by the Burner in the past and that Mechanical Repairmen and Millwrights, too, always had done some burning over the years. Since operating burning (cobbles and stickers) was made the responsibility of jobs in the operating departments serviced by this assigned maintenance force, the Burner job was left with only maintenance burning and thus there was appreciably less burning work for that job than there had been. The Company then decided to have that maintenance burning work done by Mechanical Repairmen and Millwrights, who always had done some of it. These are not trade or craft jobs, and thus there is no basis on which it could be claimed that the Burner job had exclusive jurisdiction over burning work. Indeed, that job never did do all burning in the department. With maintenance burning assigned to Mechanical Repairmen and Millwrights, there was no need for continuation of the Burner. 17

The Union denies that the maintenance Burner ever was reduced to burning for only about 10% of a turn, but even if that figure were too low and if it should be doubled or tripled, still there would be no bar in these circumstances to Management's assigning whatever reduced amount of maintenance burning might have remained to other jobs which always had done some of it and eliminating the Burner because it was not needed. 18

The remaining problem relates to the Union's safety arguments. It is suggested that, since elimination of the Burner, employees have operated burning equipment who never had been instructed and certified on it or who were instructed so long ago (20 years or more), with little or no intervening burning, as to be meaningless. The evidence is rather vague on this point, but the Grievance Committeeman said that he has seen no indication of Supervisions' checking to determine whether maintenance personnel (Motor Inspectors and Electrical Repairmen) who have burned, were certified to do so. 19

On this general question, the parties fell into dispute about whether Maintenance Division Safety Pilot rules or those of the Slab, Plate and Alloy Maintenance Department would apply here. It would appear to make no difference which set of rules were used, however, since both include one which bears on the problem directly. 20

Rule 1560 of the larger Maintenance Division reads as follows: 21

> "No employee is permitted to operate a hand or machine torch...until he has been certified to perform each of the individual operations, except during training periods under the direct supervision of the trainer."

Rule 712 of this Department's rules reads as follows:

> "Do not use any burning...equipment until you have been properly instructed and authorized on handling and use of such equipment."

Although the evidence is unclear, this is an important safety matter and, therefore, the Board is justified in directing Supervision to review it in order to insure that all who operate burning equipment have been instructed and certified to do so in timely fashion and that no uncertified employees be permitted to operate that equipment. 22

The Union charges also that unsafe conditions are created for maintenance personnel (Mechanical Repairmen and Millwrights) who may be required to burn after coming from a repair task which left their clothing covered with oil or grease. Here, too, the record furnishes no specific details, but again a potential but significant safety factor is involved. Thus, Supervision will be directed to police this situation and to see that no employee is permitted to operate burning equipment when his clothing has such oil or grease on it as to present an appreciable risk of its igniting from the burning operation. 23

Finally, there seems to have been clear violation of published safety rules regarding use of protective clothing and equipment when burning, and again, it makes no difference which set of rules would apply since both cover the matter. 24

Rule 1569 of the larger Maintenance Division says that "Employees using torches must wear approved goggles and wearing apparel." Rule 713 of this Maintenance Department's rules reads as follows: 25

> "Wear proper gloves, leggings, sleeves, eye... protection when using and handling burning... equipment. Your foreman will issue any or all safety equipment required for your protection."

The Union witnesses testified that Burners were provided in the past with burning goggles, gloves, sleeves, and leggings, which are exactly what the department safety rules require, but that, since elimination of the Burner job, one was issued only goggles and gloves when he was required to burn, and the other was issued only goggles. 26

Management's witness, who had been General Maintenance Foreman of this department up to August of 1964, said that employees doing burning work in the past had been issued goggles and gloves and that leggings were available in the Tool Room, but that Supervision had not been insisting that sleeves be worn while burning. 27

Here, too, there was a minor factual dispute as to whether employees ever had been disciplined in this department for burning without wearing proscribed protective clothing and equipment. But that is rather beside the point, since this department's safety rule, which Management insists does apply here, expressly requires wearing of "...gloves, leggings, sleeves, eye...protection...." Those four items are covered in Section 14-B, and thus Management will be directed to furnish such devices and to see that they are worn by all employees who operate burning equipment. 28

AWARD

1. To the extent that it seeks reinstatement of the Burner job and reassignment of grievants to it, the grievance is denied. 29

2. Management shall review the instruction and certification of all employees who are required to operate burning equipment in order to insure that all who do so have been instructed and certified to handle such work under current conditions. 30

3. No employee whose clothing is so permeated with oil or grease as to present appreciable risk of its igniting shall be permitted to operate burning equipment. 31

4. Management shall furnish burning goggles, gloves, sleeves, and leggings to all employees who operate burning equipment and require the use of such protective clothing in the performance of burning work. 32

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

Clare B. McDermott

Clare B. McDermott
Assistant Chairman

Approved by the Board of Arbitration

Sylvester Garrett

Sylvester Garrett, Chairman