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United States Steel Corporation Heavy Product Operations Gary Steel Works and United Steelworkers of America Local Union 1014

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UNITED STATES STEEL CORPORATION
Heavy Products Operations
Gary Steel Works
and
UNITED STEELWORKERS OF AMERICA
Local Union No. 1014

Grievance No. A-63-158

Subject: Physical Fitness for Job of Rougher

Statement of the Grievance: "I, Walter Billingsley, Check No. 53-174, employed in the 12"-2 Merchant Mill, contend that Management was unfair and unjust by placing Wayne Talley, Check No. 53-214, on the Temporary Vacancy of Rougher in the 12"-2 Merchant Mill, instead of myself, as I have filled these Temporary Vacancies in the past, and, there has been no complaint on my work. This Temporary Vacancy started the week beginning 7-22-63. I request to be placed on this Temporary Vacancy of Rougher in the 12"-2 Merchant Mill, instead of W. Talley, and, be reimbursed for all loss in earnings that I was caused to lose.

"Facts: Management is in violation of Sections 1, 2, and 13 of the April 6, 1962 Labor Agreement.

"Remedy Requested: That Walter Billingsley, Check No. 53-174, be placed on the Temporary Vacancy of Rougher in the 12"-2 Merchant Mill, and, be reimbursed for all loss of earnings."
This grievance was filed in the First Step of the grievance procedure July 22, 1963.


Statement of the Award: The grievance is denied.
An employee from the Gary Works 12" No. 2 Merchant Mill asserts that Management violated Sections 1, 2, and 13 of the April 6, 1962 Labor Agreement (as amended June 29, 1963) when it failed to assign him to the Class 13 Rougher job when that position was temporarily vacant Monday through Thursday, July 22 - 25, 1963, and upgraded an employee whose unit continuous service date is junior to grievant's date of August 18, 1951.

The Company maintains that grievant would have been contractually entitled to fill the vacancy had he possessed Section 13-A-1-b "physical fitness" to adequately and safely perform the Rougher job. It is said that grievant does not possess the requisite fitness since "the left leg and foot of the grievant are considerably underdeveloped and there is a loss of dorsal flexion of the left foot, indicating paralysis of the anterior tibial muscle." The result, in the opinion of Gary Works chief surgeon, is that grievant has a congenitally deformed left leg which has been smaller than normal and atrophied since birth or, at least, since early childhood. The surgeon testified that a November 9, 1964 examination established that the "diameter of the left leg was 2\frac{1}{2}" less than the good right leg, and the foot was 2" shorter than the good right foot; and that he had a paralysis of the anterior tibial muscle which limits his motion upward. In other words, it tends to make the foot drop; especially, I imagine, after reasonable wear and tear and hard work that foot will tend to drop more. There is approximately 50% loss of the use of this leg as he is now. So that we are dealing with a very crippled leg."

The chief surgeon said that he is familiar with various jobs in the mill and considers the Rougher job highly dangerous for grievant since "this leg could give way easily and he would be trapped in a most peculiar position or unusual position with these red hot bars wrapped around his body or leg." For these reasons the surgeon concluded that grievant could not properly be assigned to the Rougher job and he communicated this conclusion to the supervisory staff responsible for the job.

The Company stresses that the initial decision in July 1963 not to assign grievant to the Rougher job was based on the opinion of operational supervision that the foot and
leg abnormality would make it unwise to assign grievant to the temporary vacancy. This decision was seconded several months later by the responsible medical authority at the plant, the chief surgeon.

The Union notes that during fifteen years of continuous service grievant has performed the following jobs—Wrencher, Greaser, Rigger, Hot Bed Operator, Mill Feeder Operator—before attaining his present job of Looper Operator (Assistant Rougher), Job Class 8. At the time of his initial employment grievant received a physical examination and no physical restrictions were noted as guidelines for assignment to various jobs. Previous jobs required great physical agility and foot and leg stamina. This is particularly so of the Wrencher job which grievant held for four years and which required climbing and working on an inclined floor for the full eight hours. Duties on all jobs have been discharged in their entirety and to the satisfaction of all concerned.

The Union explains that grievant did function as a Rougher on two turns in 1962 without experiencing difficulty of any sort. Moreover, grievant's present Looper Operator job is really that of Assistant to the Rougher and requires more walking than the Rougher job.

Management countered that grievant, in its judgment, might experience difficulty with and sustain injury from "running with a bar" in making adjustments to "twisters." Twisting may cause loops in the hot bar of up to nine or ten feet. This looping occurs at irregular and unpredictable intervals when the Rougher runs with a bar and it is on these occasions when the Rougher must possess full use, agility, and reliability of normal legs. For the Company to adopt a contrary view would be to knowingly and deliberately place a man in severe jeopardy of injury. Union witness Rutkowski, a Rougher, testified that he runs with a bar five or six times a turn on average and ten – fifteen times on a bad day. Each instance of running covers ten feet at the most, according to Rutkowski, and is not truly "running" in the normal sense but is a fast, long-stepped walk.
FINDINGS

It is understandable that this grievant, occupying a Class 8 job, would aspire to fill all available temporary vacancies on the Rougher job, Class 13, preparatory to eventually attaining the job on a permanent basis. It is also apparent that Union and Company agree that grievant meets most of the indicia of an excellent employee with a splendid record on all of the taxing jobs he has filled since his initial employment in 1951 without subjecting himself or others to any injury that could be interpreted as major. Further, grievant appears to be a strong, robust, and well-coordinated man in his prime except for his leg deficiency. Visual observation of leg and foot established that the left leg is underdeveloped in relationship to the right; the left foot is shorter and the toes turn down and under; and deformity is beyond question. In jumping up and down grievant appears to favor his left leg and since the only medical testimony presented clearly so indicates, the Board must conclude that the left leg is either weaker than the right, is more readily susceptible to fatigue, or is not dependable in times of emergency requiring quick footwork.

The only medical evidence at hand is unilateral in the sense that it comes from a full-time doctor and surgeon in the employ of one of the parties and this doctor positively affirms that grievant has less than 50% use of his left leg and should not, in his own interests and the Company safety program, work the Rougher Job.

A visit to the 12" No. 2 Merchant Mill on May 27, 1965, enabled the arbitrator to witness a Rougher "running with a bar," the purpose of which is to apply a wrench to the front of the hot bar and exert sufficient pressure to assure that the bar will enter the pinch rolls at the No. 6 Stand. It is unclear whether the Rougher normally strides rapidly with the bar (Union estimate) for 10 feet or for 20-25 feet (Company estimate), and there also exists the question whether the Rougher traverses a better than average mill floor or walks fast over a "rough and uneven floor." Neither consideration is determinative of the issue. What is
readily apparent is that the process of "running with the bar" is dangerous in the extreme. Should a Rougher stumble or fall while executing this duty at a moment when the bar unpredictably loops up to ten feet, he would be in real and present danger of sustaining burns and injuries, perhaps mortal. The utmost in fleet-footedness would be called for in a split second to maximize chances of reaching safety. It is this need for instant reliance on full reliability of one's limbs that distinguishes the Rougher job, in this aspect of "running with the bar," from the physically onerous jobs that grievant has successfully performed in the past. His powerful physique, excepting only the left leg and foot, served him well on these six or seven other jobs, which, however much strength and stamina are required, are dissimilar from the key aspect of the Rougher job which demands lightning footwork at unknown intervals.

From its observation of the operation and noting the unrebutted nature of the medical evidence, the Board is constrained to sustain on this record Management's decision not to compound an inherently dangerous operation by assigning Rougher work to a man possessing something less than a fully developed, normal, and entirely dependable leg. This conclusion is arrived at with chagrin since both parties and the Board cannot but entertain respect for a man who ambitiously carries on and performs heavy labor in the face of a substantial physical disability that is not and never has been his fault.

AWARD

The grievance is denied.
Findings and Award recommended pursuant to Section 7-J of the Agreement, by

David C. Altrock
Assistant to the Chairman

Approved by the Board of Arbitration

Sylvester Garrett, Chairman