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# United States Steel Corporation Gary Works and United Steelworkers of America Local Union 3061

Sylvester Garrett  
*Chairman*

John P. McGury  
*Arbitrator*

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BOARD OF ARBITRATION

Case No. USS-7461-S

February 5, 1971

ARBITRATION AWARD

UNITED STATES STEEL CORPORATION  
Gary Works

and

UNITED STEELWORKERS OF AMERICA  
Local Union No. 3061

Grievance No. SGa-69-P-4

Subject: Performance of Bargaining Unit Duties by Supervisors

Statement of the Grievance: "I, Ernest Everett, request the company to cease and desist from doing our bargaining unit work.

"On June 11, 1969 two men were called from Tin Mill Gate to service an ambulance call. During their absence, a supervisor filled in for them at the Tin Mill Gate. On June 18, 1969, two men called from Tin Mill Gate to service an ambulance call. During their absence, a supervisor and excluded personnel doing union eligible work. The Union reserves the right to enlarge on the statements.

"Supervision to cease and desist from doing our work."

Grievance Data:

Grievance Filed	June 19, 1969
Step 2 Meeting	June 23, 1969
Appeal to Step 3	June 24, 1969
Step 3 Meeting	June 27, 1969
Appeal to Step 4	July 21, 1969
Step 4 Meeting	August 28, 1969
Appeal to Arbitration	October 28, 1969
Scheduled Hearing	April 30, 1970

Contract Provisions Involved: Sections 1, 2, 9, and 13 of the August 1, 1968 Agreement.

Statement of the Award: The grievance is sustained.

DISCUSSION AND DECISION

On two occasions when plant guards were responding to ambulance calls, their places were taken by supervisors. The work done by the supervisors consisted of handling time cards and directing vehicular traffic. The time involved on each occasion was about one hour and fifteen minutes. While the plant guards were taking employees to the plant hospital, the supervisors covered the guard posts. 1

The Company does not deny the occurrences, but defends its actions on several grounds: 2

- (a) There is no contractual basis for the grievance. The contract does not prohibit supervisors from performing bargaining unit work.
- (b) It would be impractical to call out a man for only one hour's work with no way of knowing when he would be needed.
- (c) Emergencies are involved.
- (d) The case is diminimus.

However, the Company states that they will make the necessary scheduling changes to prevent it from happening again.

The Union apparently is not satisfied with this, and requests that a clear direction issue from the board. 3

The Company asserts that the P & M Labor Agreement, in contradistinction to the Plant Protection Agreement, contains specific and express prohibitions against supervisors performing work normally performed by members of the bargaining unit. (2-A3 P & M Agreement). It may be argued that such a prohibition is implicit in the preamble to the Plant Protection Agreement which designates the Union to be the exclusive collective bargaining agent of employees as defined in Section 2. Section 2 A-1 includes guards among several other categories of employees. It must also be noted that the Union, as collective bargaining agent, has agreed on a rate and job description for the plant guards, which also indicates an intention to reserve the work of this job to members of the bargaining unit represented by the Union. 4

In the light of the Company's ultimate determination to discontinue the practice, it is unnecessary in this case to go beyond a statement that allegations of supervisors doing bargaining unit work under the Plant Protection Agreement may present a more complex problem than similar allegations under the P & M Agreement. It is true that the Company will have to make scheduling changes and incur additional expense to ensure against a repeat of this situation. This consideration, of course, may not in and of itself, defeat an otherwise valid grievance. 5

Almost every time the ambulance is used, it will be because of an emergency. However, the Company, in setting up ambulances and crews has recognized the recurrent need for them. The incident which causes an ambulance run may be an unexpected emergency, but the procedures for manning and deploying the ambulance have been foreseen and planned for. The Company has planned for accidents by providing the ambulance and can also plan to cover the plant guard duties by scheduling changes. The time involved in the usual run (one hour and fifteen minutes) multiplied by the average number of runs per month, if lost to the plant guards, would constitute substantial diminution of bargaining unit work.

The Company has promised to schedule sufficient guards, including overtime assignments, to avoid the necessity of assigning supervisors to guard duty. The Company brief stated that this was done, effective July 26, 1969.

The Union alleges that subsequent to July 26, 1969, supervisors have performed guards' duties during ambulance runs. These situations are not specifically before the Board under this grievance, but the ruling herein should govern any fact situations substantially the same as that here involved.

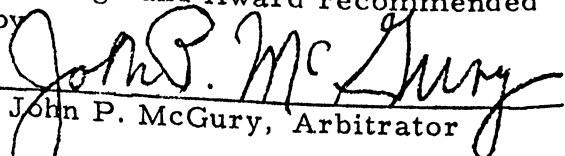
We find that the Company violated the contract when supervisors were assigned to plant guard duties. The Company is ordered to:

- (1) Cease assigning plant guard duties to supervisory personnel, when plant guards are on ambulance runs.
- (2) Make necessary scheduling changes to ensure a sufficient number of guards during ambulance runs.
- (3) Pay the plant guard, who would have been held over or called in for any time during which a supervisor performed or performs plant guard duties, while a guard is on an ambulance run.

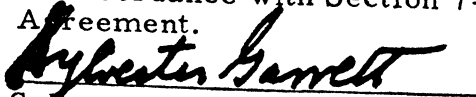
AWARD

The grievance is sustained.

Findings and Award recommended  
by

  
John P. McGury, Arbitrator

This is a decision of the  
Board of Arbitration, recommended  
in accordance with Section 7-J of the  
Agreement.

  
Sylvester Garrett, Chairman