

1-29-1971

United States Steel Corporation Fairless Works and United Steelworkers of America Local Union 5092

Sylvester Garrett
Chairman

Alexander M. Freund
Arbitrator

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BOARD OF ARBITRATION

Case No. USS-7596-S

January 29, 1971

ARBITRATION AWARD

UNITED STATES STEEL CORPORATION
Fairless Works

and

Grievance No. SFL-69S-56

UNITED STEELWORKERS OF AMERICA
Local Union No. 5092

Subject: Performance of Bargaining Unit Work by Non-Bargaining
Unit Personnel

Statement of the Grievance: "We the undersigned feel that our contractual rights have been violated under the basic Labor agreement where as:

"Facts: Management trainees, coop students have been doing photograph work such as taking pictures which was normally done as one of the duties of plant photographer.

"Remedy Requested: Have two full time photographs as we had previously and management cease and desist."

Contract Provision Involved: Section 2-A-3 of the August 1, 1968 Salaried Employees Agreement.

Grievance Data:Date

Grievance Filed:	July 4, 1969
Appealed to Step 3:	August 22, 1969
Step 3 Meeting:	August 28, 1969
Appealed to Step 4:	September 19, 1969
Step 4 Meeting:	October 29, 1969
Appealed to Arbitration:	January 15, 1970
Case Heard:	September 9, 1970
Transcript Received:	No transcript

Statement of Award:

The grievance is denied.

BACKGROUND

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This grievance from the Metallurgical and Inspection Department at Fairless Works claims that non-bargaining unit personnel are performing some of the work of the salaried job of Plant Photographer in violation of Section 2-A-3.

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The primary function of the Plant Photographer job is described as follows:

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"Photographs new construction, operating equipment, metallurgical equipment, special metallurgical and other tests. Processes films and plates and prepares for printing by retouching, reduction, or intensification. Prepares prints by enlargement, and/or contact printing. Develops and adapts special photographic equipment and processes particularly for use in recording plant functions and in development and complaint work."

Specifically, the Union contends that management trainees, coop students and supervisors are taking Polaroid pictures in the Plant for various purposes. The Company's position is that picture taking is not exclusively the work of the Plant Photographer position.

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According to the testimony of Plant Photographer Bruce Murray, who has been with the Company since 1956, every kind of photographic job in the plant is included in his work: construction, metallurgical, public relations, personnel, etc. He uses several type of cameras, including a Polaroid adapter, which gives better clarity and definition than a Polaroid camera. He also makes copies of the pictures taken by non-bargaining unit employees, making a negative of the Polaroid picture, from which he makes prints.

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Murray names supervisors who he knows have taken pictures-- the General Foreman of the Soaking Pits, the Maintenance Engineer, the General Foreman of Construction and a Foreman at the 45" Mill. He also described the pictures taken, in each case with a Polaroid camera. Two were of accidents, a derailment of railroad cars and a

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crane which had hit a high tension line; and a third showed the cracks in the welding done on precipitators the Company was having built. The purpose of others was to show wear and tear on equipment (a blast furnace, the Coke Works smoke stacks and a rebuild at the 45" Mill). At the request of supervision Murray made copies of the Polaroid prints of the precipitator and smoke stack pictures; and he was present in the other instances and also took pictures.

Murray testified further that the number of Polaroid pictures he takes has declined substantially since he entered the Plant Photographer job two years ago; and he denies the Company's testimony that the Polaroid pictures taken by non-bargaining unit personnel constitute only one percent of the pictures taken in the Plant Photographer job. To the contrary, he believes that the layoff five to six months ago of one of the two incumbents of the Photographer job was caused by the use of non-bargaining unit employees to take pictures. Additionally, Murray testified, Process Observers with photographic experience were upgraded on a regular basis to the Plant Photographer position when the work load increased, and that the frequency of such upgrading was decreased because excluded employees are performing the work of the Photographer job.

Under cross-examination Murray stated that the cutback to one Photographer was not unusual, and that the last time two Photographers were scheduled prior to August 1969 was three or four years ago. And when asked whether the decrease in Polaroid work in the Plant Photographer job was the result of an increasing number of requests for more than one print of a shot, Murray did not answer in the negative, stating only that the taking of Polaroid pictures by excluded personnel could also account for the decrease.

Chief Control and Development Metallurgist R. Miller, who schedules the Plant Photographer job and who has been at Fairless Works since 1952, testified that non-bargaining unit personnel have taken Polaroid pictures since the early 50's. And according to the Coordinator of Operating Practices in the Utilities and Maintenance Division, J. Delate, every supervisor in his Division at one time or another has taken Polaroid pictures for various purposes. They are

used, for example, in the detailed reports prepared on breakdowns, the pictures being used to supplement the written material. Polaroid pictures have also been included since November 1961 in the maintenance reports which go to the General Plant Superintendent. In addition to supervisors, Delate's testimony continues, Polaroid pictures have been taken for many years by management trainees, coop students and summer students.

A Maintenance Turn Foreman in the 80" Hot Strip Mill, A. Capriotti, testified that he takes Polaroid pictures of accidents, breakdown and outages of an emergency or planned nature, the pictures being used instead of words in reporting the results of the investigation. Capriotti stated further that if he needs a professional job in order to get clarity, he requests the services of a Photographer. And according to Metallurgist Miller, who handles these requests, the Plant Photographer is used when a number of prints are needed or when a professional job is required for purposes of detail, clarity, focus and similar considerations.

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Miller testified further that two employees have been scheduled in the Plant Photographer job for a total of 65 weeks in the last ten years. And he explains that the employee who had been laid off from the Photographer job five to six months ago had been scheduled as a second Photographer in August 1969 because a blast furnace rebuild, which requires a large number of pictures, and some construction projects were in process so that many pictures over a period of several months were necessary.

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The Parties' Arguments

The Union argues that it was unaware that bargaining unit work was being done by non-bargaining unit personnel to the degree that the record reveals; that the fact that a Polaroid camera does not yield professional results does not mean that its use is not covered by the Plant Photographer job description; that furthermore, Polaroid cameras may be greatly improved in years hence and could be used to circumvent the contract; that the fact that a

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Plant Photographer is also present when excluded employees are taking Polaroid pictures does not excuse the violations, since Process Observers are being denied an opportunity for upgrading.

Contending that a matter of job security is involved, the Union requests that the Company be directed to cease the use of non-bargaining employees to take Polaroid pictures and have all Polaroid work done in the Plant Photographer job.

The Company argues that it is undisputed that certain photographic work has been done by other than the Plant Photographer ever since Fairless Works has been in operation; that the subject matter of the picture has no bearing on whether or not the Plant Photographer is used; that picture taking which does not require professional results have always been done by non-bargaining unit employees in the past and the Union now seeks to add such work to the Plant Photographer job; that the Union has recognized that this was the basis for the use of the Plant Photographer, as evidenced by the fact that it did not grieve the taking of Polaroid pictures by excluded employees until 1968.

The Company contends further that the claimed reduction in Polaroid work by the Plant Photographer is unrelated to the use of Polaroid cameras by non-bargaining unit employees; and that the reduction from two to one Photographer five to six months ago is not significant in the light of the fact that two Photographers have been scheduled for a total of only 65 weeks in the last ten years.

FINDINGS

In view of the Company's unrebutted testimony there can be no question that the taking of pictures in the plant with a Polaroid camera, the only aspect of photographic work involved in this case, has been performed for many years by supervisors and other non-

bargaining unit employees without protest by the Union. It is therefore evident that such photographic activity has not been considered the exclusive work of the Plant Photographer job.

Nor is there any support in the record for what appears to be the Union's main complaint here, that Polaroid picture taking by non-bargaining unit employees has substantially increased at the expense of the performance of such work in the Plant Photographer job. There is no substantiation for this contention in Union witness Murray's reference to the layoff several months ago of an employee from the Plant Photographer position, for it is readily apparent from his testimony as well as the Company's that for as long as ten years only one incumbent has been regularly scheduled in the job. His claim that the frequency of upgrading of Process Observers to the Photographer job has decreased does not appear to be any more firmly based. And nothing else in Murray's testimony indicates a shift in Polaroid work from the bargaining unit work to excluded personnel.

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For the foregoing reasons the Union does not establish a Section 2-A-3 violation.

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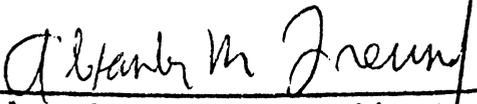
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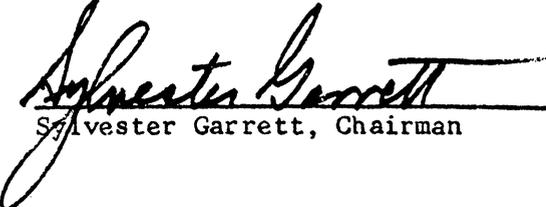
AWARD

The grievance is denied.

Findings and Award recommended by


Alexander M. Freund, Arbitrator

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


Sylvester Garrett, Chairman