

1-8-1971

United States Steel Corporation National-Duquesne Works and United Steelworkers of America Local Union No. 2316

Sylvester Garrett
Chairman

Hillard Kreimer
Arbitrator

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Recommended Citation

Garrett, Sylvester and Kreimer, Hillard, "United States Steel Corporation National-Duquesne Works and United Steelworkers of America Local Union No. 2316" (1971). *Arbitration Cases*. 26.
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BOARD OF ARBITRATION

CASE NO. USS-7796-T

January 8, 1971

ARBITRATION AWARD

UNITED STATES STEEL CORPORATION
National-Duquesne Works

and

GRIEVANCE NO. TN-69S-5

UNITED STEELWORKERS OF AMERICA
Local Union No. 2316

SUBJECT: JOB ELIMINATION: SENIORITY

Statement of the Grievance:

"I was demoted unfairly and improperly.

"On May 12, 1969, I was demoted to Job Class 4
(Data Compilation Clerk) while employees with
less seniority are working on higher job classes.

"Assigning me to job consistent with my seniority
and make whole for all monies lost."

Contract Provisions Involved: Sections 1, 2-B, 9-G and 13 of the
Salaried Employees Labor Agreement of August 1, 1968.

Grievance Data:

Date:

Date Filed:	May 21, 1969
Appeal to Step 3	June 17, 1969
Step 3 Meeting	July 16, 1969
Appeal to Step 4	--
Step 4 Meetings	September 30, 1969; February 6, 1970
Appeal to Arbitration	May 12, 1970
Case Heard:	September 15, 1970

Statement of the Award:

The grievance is denied.

BACKGROUND

Grievant, a former Stores Receiver (Construction Material), Job Class 7, Maintenance Order Planning Department, National-Duquesne Works, with a Plant and Unit service date of May 13, 1963, contends that, when his job was abolished, he was improperly demoted to a lower rated job, instead of being permitted to laterally bump into another Job Class 7 job in the same Seniority Unit, at the National Plant.

1

The job in question is that of Job Scheduler (Repairs), Job Class 7. The job description, dated June 29, 1966, in its relevant portions provides:

2

"Primary Function - Schedules equipment inspections, mill repairs and preventive maintenance

Machines or Equipment used - Rotary calculators, files, etc.

Supervision Received - General Supervisor, Maintenance Planning. Closely supervised by operating maintenance foremen.

Direction Exercised - Assigns work, reviews progress and approves results of one or two Data Compilation Clerks.

Working Procedure...

- 3. Refers to equipment records and drawings and/or consults with General Foremen to determine labor and materials required to complete work orders.
- 4. Issues inquiries to Maintenance Planning to determine availability of materials.
- 5. Schedules and prepares work orders giving consideration to time limits, operating schedules, backlog, and labor and materials available. Submits scheduled work orders to General Foremen for revision and/or approval....

Job Classification

- 1. Pre-Employment Training: Sufficient to learn to schedule equipment inspections, mill repairs and preventive maintenance within previously established time limits - Code C - Classification 1.1....."

Prior to the events giving rise to the grievance, job vacancies for

USS-7796-T

this position were posted. Grievant bid on the vacancies. The vacancies were awarded to two men who were junior in service to Grievant and were former wage employees who transferred into the bargaining unit, as of September 18, 1966. The Company maintained that, by virtue of their prior background and experience as wage employees, they were more qualified to fill the vacancies than Grievant. Grievant did discuss the matter with Company representatives. He was allegedly told he would be considered for the next vacancy, but heard nothing further. Grievant, however, did not file a formal grievance on the matter.

As a result of plant mergers, Stores activities at the National plant were combined with those at the Duquesne plant. Certain of the job duties performed by Grievant were reassigned to the Claims Investigator, Job Class 8, in the same Unit. Grievant was one of three occupants of the job Scheduler job which was eliminated effective May 12, 1969. Company representatives met with each of the displaced employees. Each was informed that he could, if he chose, move to the Duquesne plant. Each was told that, if he elected to remain with the Unit, he would be assigned to a lower-rated job, but be given the opportunity to learn higher rated jobs, as quickly as possible. However, each was informed, he would not be given the chance to laterally bump into another Job Class 7 position in the Unit. Two of the displaced men were satisfied; Grievant was not.

Grievant had occupied the following jobs within the Unit; in addition to his own: Stores Order Clerk (job class 7), Construction Record Clerk (job class 7), Claims Investigator (job class 8), Shop Order Clerk (job class 7) and Returnable Property Clerk (job class 7). Grievant sought to laterally bump into the Job Scheduler (Repairs) position, in his discussions with Management. While there was no question raised concerning Grievant's physical fitness to perform the job, nor concerning the fact that he was senior to at least two of the job occupants, Management did challenge his ability to perform the job, on the basis that Grievant had never occupied the job before.

The Company permitted Grievant to remain in the Unit but demoted him to Data Compilation Clerk, Job Class 4. Grievant had never occupied this job either, but the Company felt he was qualified to perform it. In the course of this assignment, Grievant displaced a junior occupant of that job. Approximately one month subsequent to the filing of the grievance, Grievant was temporarily assigned to the Job Scheduler position. This process continued so that, by the time of the hearing, he had accumulated about four weeks on the job he originally sought. According to Grievant, he was given no more than 20 minutes of instruction before his first such assignment.

The Union emphasizes the provisions of Section 12-A, paragraph 198 of the Salaried Agreement, by which job security, in the event of a decrease

in force, should increase in proportion to the length of continuous service and, wherever practicable, full consideration must be given to continuous service. The Union contends Grievant thus has the right, under this provision, to maintain his earning power. The Union asserts that, while paragraph 201.1 permits a mutual agreement between the parties on this subject and further provides for the recognition of a written agreement, it does not require such an agreement. The Union maintains there is an existing past practice entitling men in Grievant's position to automatically bump into an equal or the next lower job. It submitted a number of instances in which this practice allegedly occurred, without any written agreement.

The Union further maintains that Grievant has the ability to perform the work of the job he seeks, relatively equal to that of the men he seeks to replace, so that, under Section 13-A-2, he is entitled to assert his seniority to get that job, when the force was decreased. While Grievant had never performed the Job Scheduler work prior to the grievance, neither had he performed the work of Date Comilation Clerk to which he was assigned. The Union challenges the right of the Company to assume Grievant could perform the one job without assuming he could similarly perform the other. The Union points to Grievant's experience on his own job as well as on the many others within the Unit as providing him with the necessary background. It argues that if Grievant was qualified for temporary assignment to the job one month after the grievance was filed, he was equally qualified before that time. The Union argues that merely because Grievant might require a short break-in period on the Job Scheduler position does not mean his relative ability is less than that of the junior job occupants. The Union feels the differences in relative ability between Grievant and the junior men must be substantial enough to result in an appreciable superior performance of the work required by the job; otherwise, under Section 13-A-2, continuous service must obtain.

The Company first denies the existence of any 2-B practice in this area. It also cited a number of instances in which senior employees were allegedly downgraded in a decrease of force, while junior employees continued to work in equal or higher job levels. In the Company's view each individual case requires a separate mutual agreement. The Company claims that, in any event, the practice asserted by the Union cannot be applied, since it would contravene the provisions of Section 13-A-2, which require that relative ability also be taken into consideration in these situations. Longer continuous service alone, states the Company, is not sufficient to enable a senior employee to claim the job of a junior in a force decrease situation.

The Company takes the position that Grievant did not have the same relative ability as any of the junior job occupants he sought to bump. Based upon the cited sections of the working procedure, and the

USS-7796-T

function of the job, the Company maintains that the ability to work with mechanical and electrical blue prints or drawings is one of the essential parts of the Job Scheduler position. Because the job occupant must be able to identify parts or sub-assemblies from prints and drawings, argues the Company, the work is more complex and requires more technical know-how than merely the ability to read the documents themselves. The Company claims that Grievant admitted he was unable even to read the blue prints. The Company buttresses this by pointing to the fact that Grievant recently elected to take a course in blue print reading, thus indicating, in its view, his acknowledged disability. The Company asserts that all but one of the job occupants works primarily alone, thus requiring greater ability to read and work with the prints and drawings. The Company views the temporary promotions it gave Grievant as in keeping with its announced policy to the displaced men to work them into the higher rated jobs, under proper supervision and training. The Company also alleges that the job occupants Grievants sought to displace had three years of experience on the job in question, thus demonstrating that their abilities were greater than those of the Grievant, who had never even worked on the job prior to his demotion.

On the matter of ability, Grievant contends that, in 1956, he did take blue print reading courses in high school. He denies stating he was unable to read blue prints. While presently enrolled in a course designed to improve his skills, Grievant nonetheless feels he was and is able to do the necessary print reading for mechanical work required for the job he seeks. Union testimony indicated that none of the Job Schedulers have much ability to read electrical prints; all must seek help from more qualified people to aid in identifying electrical parts required. The Union disputes the emphasis on blue print reading as such an essential part of the job. It points to the primary function of the job and notes that the cited portion of the working procedure makes no specific mention of reading blue prints at all. The Union further calls specific attention to factor 1 in the job classification, which, again, makes no reference to the ability to read either mechanical or electrical blue prints as a required part of the pre-employment training. As of the time of the demotion, the Union maintains the Company failed to establish that any of the junior job occupants had ability superior to that of the Grievant.

FINDINGS

The transfer of work from the National Plant to the Duquesne plant, as a result of the merger, necessitated the elimination of the job Grievant occupied at National. This amounts, in effect, to a force reduction, thus bringing into play the provisions of Section 13-A.

There is no written local agreement which would permit Grievant to exercise a lateral bump in the event of a reduction in force. Ordinarily, under these circumstances, no such right to exercise a lateral move in the same job class would be available to him, under Section 13-A.

12

There is no evidence to indicate that all of the Class 7 jobs in the seniority unit in question have, in the past, been lumped together for purposes of promotion and demotion. Therefore, the only basis upon which the Grievant can succeed is if the Union could establish a clear past practice of justifying lateral bumping solely on the basis of continuous service. It is not sufficient to show, as in the instant case, that Grievant was awarded a job at a lower class level than his own, without having previously occupied the new job. This does not prove the Company thereby waived its right to insist on relatively equal ability when there is a proposed lateral move at the same Job Class. Existence of the past practice the Union seeks to establish would mean, in effect, that the ability factor to perform each of the specific Class 7 jobs would be regarded as not controlling. It would require that the parties' conduct over the years had recognized that all Class 7 jobs properly could be lumped for the purpose of determining relative employee ability in this type of situation. The record does not establish such a practice.

13

The job incumbents Grievant seeks to unseat have already had three years of job experience, as Job Schedulers; Grievant had none. The Grievant's lack of ability to read requisite blue prints, at the time of the force decrease, further emphasizes the ability gap between him and the Job Scheduler incumbents. The fact that Grievant was temporarily promoted to the job he sought, within a month after he was demoted to Job Class 4 merely indicates the Company's willingness to promptly train Grievant for the higher-rated job. It cannot act as a retroactive admission of Grievant's ability by the Company. The Company's conclusion that as of the date of his demotion Grievant did not have the same relative ability as the incumbent job Schedulers was, under these facts, not unreasonable.

14

AWARD

The grievance is denied.

15

Findings and Award recommended by

Hillard Kreimer
Hillard Kreimer, Arbitrator

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

Ephraim Garrett
Ephraim Garrett, Chairman