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United States Steel Corporation Geneva Works and United Steelworkers of America Local Union 2701

Sylvester Garrett
Chairman

Edward E. McDaniel
Assistant to the Chairman

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BOARD OF ARBITRATION

Case No. USS-8048-S

March 12, 1971

ARBITRATION AWARD

UNITED STATES STEEL CORPORATION
WESTERN STEEL OPERATIONS
Geneva Works

and

Grievance No. SGe-70-30

UNITED STEELWORKERS OF AMERICA
Local Union No. 2701

Subject: Rates of Pay - For "Relief" Assignments

Statement of the Grievance: "We, the Manipulators, charge Management with violation of the August 1, 1968 Agreement in that we have been directed by Management to trade jobs with the Rollers for prolonged periods of time without the pay.

"Therefore, we request all monies lost while we are performing the Rollers job."

Contract Provision Involved: Section 9 of the Basic Labor Agreement dated August 1, 1968.

<u>Grievance Data:</u>	<u>Dates</u>
Grievance Filed:	March 9, 1970
Step 2 Meeting:	March 16, 1970
Appealed to Step 3:	March 20, 1970
Step 3 Meeting:	March 25, 1970
Appealed to Step 4:	May 18, 1970
Step 4 Meeting:	July 9, 1970
Appealed to Arbitration:	September 14, 1970
Case Heard:	January 18, 1971
Transcript Received:	None

Statement of the Award: The instant grievance is sustained to the extent outlined in these Findings.

BACKGROUND

USS-8048-S

This grievance from Geneva Works' Rolling Mills Division protests a refusal by Management to adjust the pay rates of certain Manipulators (JC 14) employees, in the 45" Mill, for periods during their work turns when they are required to "relieve" on the Roller (JC 28) job, as violative of the Basic Agreement. The Union and grievants, thus, "charge Management with violation of the August 1, 1968 Agreement in that we have been directed by Management to trade jobs with the Rollers for prolonged periods of time without the pay." Violation of Sections 9-B-3 and 9-B-4 specifically is alleged.

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The positions of the Union and the Company, respectively, appear in lower step Grievance Procedure Minutes as follows:

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"STATEMENT OF UNION POSITION:

We charge Management with violation of the August 1, 1968 Agreement, Section 9-B-4 in that the Manipulators have been directed by Management to trade jobs with the Rollers for prolonged periods of time without the pay. We request all monies lost for the Manipulators while they are performing the Roller's job.

"STATEMENT OF COMPANY POSITION:

Management expects the Manipulators to continue the brief periods of spelling on the Roller job as they have done historically since 1944, and as is required by the nature

"of the operation. There is no violation of Section 1 of the Agreement. Management is sincerely concerned with the best interests of the employees and the Company in promoting the efficiency of the operations and the employees' well being. Insofar as Section 9 is concerned, discussions with employees over the past several months has led Management to conclude that a primary reason for this grievance is that Manipulator Operators believe that their earnings should be closer to the Rollers' earnings than they are at present. Section 9-G states that no grievance on behalf of an employee alleging a wage-rate inequity shall be filed or processed during the term of this Agreement. Management contends that there is no error in the application in rates of pay for the Manipulators job. The claim that Manipulators are entitled to Roller pay for the time they spend relieving Rollers in line with past practice was settled in Arbitration Case G-105 (RM-28-118-57). Manipulators and other members of the crew have obtained the high incentive earnings which they enjoy through cooperative effort. Management's request that they continue the pattern of cooperative effort so that they may continue to enjoy these high earnings is reasonable; and such cooperation is normal and usual to the work of incentive paid crews throughout the steel industry."

This Grievance Procedure record, under "Summary of Discussion," reflects specific assertions and responses of the Union and the Company, thusly:

"Union representatives stated that the Union is requesting two specific items in this grievance: (1) Roller pay for the manipulators for the time they exchange jobs with the Roller and, (2) A specific time designated for the relief.

"Management representatives stated that the Manipulators are expected to provide the Rollers with brief periods of spelling as they have historically done. A specific time can't be designated due to the fact that each Roller's needs varies and conditions vary also. There isn't a valid basis for Roller pay for the Manipulators during the brief periods of relief.

"Union representatives stated that the relief referred to by Management is actually an exchange of jobs as directed by Management, and the periods of time are not brief. Section 9-B-4 applies to this case, and if Management would pay the Manipulators the Roller rate of pay for the time they exchange jobs with the Roller the case could be resolved.

"Management representatives stated that if Management embraced the Union's contention on Section 9-B-4, it would apply to the Roller for the time that he spent manipulating.

"Union representatives stated that the Company was directing the Manipulators to roll and to know the functions of the Roller job.

"Management representatives stated that there was no question that Management required the Manipulators to know how to roll over a period of time. Management added that relief of this type was common in the steel industry.

"Union representatives stated that the Union was willing to settle the grievance on the basis that the Company pay the Manipulator, Roller pay for one hour the first half of the shift and one hour the second half of the shift.

"Management representatives stated that Management is only requiring the necessary relief for the Roller that has been provided in the past. Management stated that Management contends that there is no error in the application in rates of pay for the Manipulator job."

The Slab Mill Crew, in order of job class ratings, is made up as follows: Slab and Bloom Operator (JC 5), Ingot Buggy Operator (JC 5), Stamper (JC 5), Operator Pilot (JC 6), Slab Shearman Helper (JC 7), Edger Operator (JC 8), Shearman-Blooming Mill (JC 12), Manipulator (JC 14), and Roller-Blooming Mill (JC 28). At Geneva Works one such crew is scheduled for each operating turn. One Roller incumbent and one Manipulator incumbent (the two jobs involved in the instant dispute) regularly

are assigned in each Slab Mill Crew for each operating turn. This crew for the Slab Mill operation has been so organized under "lines of progression" established since about April 25, 1951. The Roller and Manipulator jobs, however, for purposes of this record, originally were described and classified effective March 21, 1947 and October 23, 1947, respectively, though they each apparently existed and were filled as early as 1944.

Evidence adduced at the hearing reveals that as early as 1944 (and perhaps prior thereto) the Manipulator on certain occasions worked the Roller position. During the early years, since about 1944, the Manipulator worked the Roller position only for training purposes and not, per se, to "relieve" the Roller. Over the years, however, and particularly during the past ten years or so, there developed a practice, as between the Manipulator and the Roller incumbents, to "exchange chairs" and to provide periodic temporary relief to the Roller. Whereas, until about five years or so ago, the "relief" to the Roller consisted primarily of observing the operation, since that time, the Manipulator on each turn (during such relief periods) actually has performed the complete duties of the Roller job. Thus, as reported by one principal Union witness at the hearing, "Until about five years ago, the Roller would not let me touch the controls."

The record shows that since about 1950 crew Rollers have appealed to local supervision for relief, and more specifically, for a "spell man" to be assigned during each operating turn. Management, however, consistently has refused. A "voluntary" practice of relief, then, evolved over subsequent years (though with no definite consistency and though the extent to which such practice was followed varied from turn to turn) between Manipulator and Roller incumbents. The evidence shows that such

relief usually was given the Roller at his personal request. And, while certain Rollers apparently made relatively frequent requests of their crew Manipulators to "exchange chairs," other Rollers seldom, if ever, requested such "relief" during their work turns. As it developed, therefore, the relief practice, here, took on no clearly identifiable character in terms of frequency and/or duration of occurrences in the overall Slab Mill Crew operation. 7

The disputed "relief" practice, thus, developed, as between the Manipulator and the Roller, on a purely voluntary basis. Local Management, it appears, knew of the practice and it acquiesced in its continuation (with expressed approval and encouragement) although, ostensibly, it neither required nor requested the Manipulator incumbents to provide such "relief" to the Roller. On this point, notably, a principal Company witness testified, in effect, "The spelling arrangement, as it has existed, was worked out by the crews and it varies from crew to crew." Another Company witness added, "The crews took care of it pretty much themselves." The Company witness added finally, "I have no recollection when the Roller was not relieved in some form or other by the Manipulator, but we never had the occasion actually to have to assign anyone to relieve the Roller in this respect." 8

The Company version of the involved practice, notably, was described in detail at the hearing by Supervisor George Morgan (now retired) who, until 1967, was assigned to the Slab Mill. The former Supervisor testified:

"Some Rollers did not seek relief as much as others. They worked it out themselves and we encouraged it because it was good for everyone. Everybody got trained and as we got more trained workers, they did more spelling of the Roller.

"The system was wholly operated by the crew among themselves as far as I was concerned as a turn Foreman. It was more of a 'swapping' of jobs as we did not have a spell man, as such. The system worked successfully during the 50's and late 60's until I retired about 1967.

"Some Roller Manipulators had better spell arrangements than others. One Roller, as I recall, Powell, did not get any relief because he and the Manipulator whom he worked with did not get along. McMillen, another Roller, and his Manipulator also had the same attitude.

"The system did not work too well for them. Others worked out well. What helped one, wouldn't help the other. We had a smooth operation when the Roller Manipulators worked together.

"I never felt it was necessary to direct a Manipulator to relieve a Roller. It just never came to that."

This witness continued:

"There was always some discussion and complaining about Rollers not getting enough relief--and about the job being tough. They wanted an extra man on the crew. I told them at the time that to put another man on the crew would require an adjust-

"ment of their incentive. They seemed to accept that, and continued to work under their own system. Powell and McMillen were the men who wanted a spell man for each shift--they did not complain, however, about their Manipulators giving them sufficient relief when they needed it.

"I always recognized the spelling arrangement between the Manipulator and Roller as a voluntary system of relief as between themselves. I think it was the finest thing I ever saw. We let them know we appreciated what they were doing by changing their vacations about for their convenience and other such things. This was not a one way street. I might add that the men never requested Roller's pay for such relieving, this switching, and actually they always were paid for any real 'spelling' which on occasion was required. And, the system worked well this way up until I retired in about February of 1967."

Another principal Company witness reported, however, that the crew employees "started complaining sometime about the spring of 1969" about "relieving" the Rollers. According to this witness:

"In the spring of '69 the crew wanted to talk to the Superintendent of the Rolling Mill. They wanted a relief man and/or an increase in pay for the time they relieved the Roller. Mr. Rinnger, the Division Superintendent told the crew, as I recall, that he would look into the matter. As far as I know, the matter has not really been determined yet."

The witness, moreover, added:

"When this matter came up, I told the Manipulators to relieve as they had done before-- whatever was necessary. I never had personally observed exactly how much time had been spent by the Manipulators relieving the Rollers. I do recall that one Roller, Anderson, told me he needed relief about two hours a day. The Rollers at that time had complained to me that the Manipulators were, in fact, refusing to relieve them. I told the Manipulators, therefore, that they were not to stop the practice of relieving the Rollers as it had existed over past years. And, I did tell them that if they did refuse to relieve the Rollers as they had done in the past, I would discipline them for insubordination."

The witness stated finally:

"There had always been some relief arrangements worked out by the crew over the years, and I insisted that this arrangement be

"continued. The Manipulators actually were given no specific periods of time to relieve the Rollers. The standard I used was based on whatever time was necessary for proper rest and relief for the Roller."

According to several employee witnesses at the hearing the crew Rollers, over the years, increasingly required more and more relief. Such relief these Union witnesses contended voluntarily was offered and provided by the Manipulator who simply would "exchange chairs" with the Roller for periods of time during the turn. The Union witnesses asserted, in effect, that the workload for the entire crew (and particularly that of the Roller) became increasingly greater, and that the Rollers "couldn't possibly do their jobs now without relief."

It appears that about January or early February, 1970, certain crew Manipulators began refusing relief to the Rollers. Moreover, they indicated that they no longer would "exchange chairs" with the Rollers unless they were paid at the Roller rate. According to Union witnesses, the Manipulator employees, at that time, were approached by supervision and directed to continue relieving the Roller "at the Roller's discretion." One such witness reported, "Foreman DeGoede notified me personally, 'You relieve that Roller any time he wants relief, or I'll send you home on charges of insubordination.'" The witness added, "I asked DeGoede then if I would have to assume all the Roller's responsibilities at Manipulator's pay. DeGoede responded, 'Yes, when you're in that chair--you do.'" The witness continued, "The Company has not given any definite time for us to relieve the Roller during a given turn. I am told, though, that the Foreman asked the Rollers how much time they needed and were told by them that they needed about 1-1/2 hours in the morning and 1-1/2 hours in the afternoon for relief."

That grievant Manipulator incumbents have since about February, 1970, spent approximately two to three hours per day, i.e., about 1-1/2 hours in the morning and 1-1/2 hours in the afternoon, performing at the Roller job is undisputed on this record. Such "relief" specifically and consistently is now provided to the Roller through an "exchange of chairs" with the Manipulator--and occasionally, with other crew members participating. Grievant Manipulator employees have not been paid other than at the rates of their regular jobs during such periods.

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Company witnesses at the hearing yet were emphatic in denying that grievant Manipulators now are required to relieve the Rollers "for any particular specified period of time" during any given turn. One Company witness, however, did concede that he had "asked one or more Rollers how much time they each felt they required for relief during a given turn," and that "they told me that about one hour or so in the morning and one hour or so in the afternoon would be adequate." This witness, moreover, allowed that he subsequently had directed grievant Manipulators to relieve the Rollers at the Rollers' discretion. The Company witness still maintained that grievant Manipulators actually are required to relieve the Rollers "only as they have done in prior years," and in accordance with that practice.

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FINDINGS

In this situation, although grievants apparently do not protest having to perform Roller work, as such, they yet argue that Management properly must pay them at the Roller rate when they are required to "relieve" and/or "spell" on that higher paying job. Grievants do not deny, moreover, that over the years there existed a practice (as between the Manipulator and the

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Roller) to "exchange chairs," so as to provide some relief to the Roller incumbent. Grievants do claim, however, that the practice of providing such relief always existed as a voluntary arrangement (among the employees themselves) and never as an actual requirement of their particular Manipulator jobs. And, they complain that they now are required by Management to spell the Roller incumbents on a regular basis, and for a total of about three hours during each operating turn. This, grievants urge, never was an established practice, and thus, now may not be required without appropriate pay adjustments for such work.

The Company believes, essentially, that grievants always have performed a "relief" function over the years, and that such function now has become an integral part of their regular jobs. Though acknowledging that the Manipulator job description expressly does not provide for such relief, the Company believes that grievants nonetheless properly may be required to continue the practice and, so, are not now entitled to be paid at the Roller job rate for providing relief. Management denies that it has acted in any way to change the established relief practice, and it insists that grievants now are not required to provide any more or less relief to the Rollers than that provided in the past.

As we see it, the basic issue herein involves (1) whether over the years a "practice" of Manipulator-Roller relief was established and followed to the extent that such relief now must be recognized as part of grievant Manipulators' actual job; (2) whether such practice, if established, now substantially has been changed by Management (to the extent that the actual "relief" now exceeds, in terms of its frequency and duration, that which reasonably was established) and, (3) whether, in any event, grievants are entitled to receive pay at the JC 28 Roller job pay rate during such periods as they now are required to "relieve" in the Roller position.

This Board consistently has held that the nature and scope of a particular job necessarily is not limited by the express language of its written job description. Moreover, it has held that specific duties actually performed by incumbents of a particular job (when reasonably required by Management over a reasonable period of time) are relevant to a determination of the true nature and scope of such job--notwithstanding classification questions possibly emerging.

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In the instant situation the entire evidence, we believe, amply demonstrates the existence of a practice of providing "some" relief to Roller job incumbents. However, the evidence conspicuously is lacking in "specifics" as to true nature and scope of that practice. At best, it may only be concluded (1) that some such practice did evolve and (2) that such practice varied with respect to time involved as well as with respect to the actual degree of participation by particular Manipulator and other crew job incumbents. (Indeed, it appears that only the affected employees themselves know what the disputed practice here actually involved.) But, whatever it was and however it worked, Management, we believe, clearly is entitled to require its continuation--notwithstanding its reported "voluntary" evolvment. Management may not, however, require more.

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We believe that the evidence in this case yet quite clearly reveals that Management, since about January, 1970, unreasonably and improperly has required grievant Manipulator incumbents regularly to spell the Roller incumbents for excessive periods of about 1-1/2 hours in the morning and 1-1/2 hours in the afternoon of each operating turn. This was never, prior to about January, 1970, consistent with the established voluntary "relief" practice. Indeed, it is not now claimed, nor does the evidence otherwise show, that grievant Manipulators ever in the past relieved or spelled the Roller incumbents with such regularity and/or for such durations.

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In this situation Management, in effect, has "changed" the established relief practice, to the extent that all Manipulators now are required to relieve at such regular intervals and durations. Under the total circumstances, to require grievant Manipulators regularly to relieve or spell Rollers for periods of 1-1/2 hours in the morning and 1-1/2 hours in the afternoon (nearly one half of the entire turn), is both unreasonable and improper--without appropriate pay adjustments.

The present situation, we believe, involves a new "spelling" requirement which reasonably dictates that Management either (1) revise the actual job descriptions and classifications of grievants to such extent that this new duty would require, or (2) pay grievants at the rate of the Roller job for such extended periods as here they have been required to perform it--whichever, under the total existing circumstances, would be deemed more appropriate. Though Management properly may require grievants to continue a reasonable established practice of providing "relief" to the Roller, it properly may not, as here, require grievant incumbent Manipulators to relieve or spell the Roller job incumbents on any new basis.

Accordingly, the instant grievance will be sustained to the extent of a direction to Management to cease and disist from effecting any new requirement for grievant Manipulator incumbents to relieve and/or spell the Roller job incumbents, on any basis other than that which existed under practices in effect prior to about January 1970--and thus to return to the status quo.

This matter thus will be returned to the Parties for a reasonable determination of the exact nature and scope of the relevant established past practice, upon which, and in turn which, hereafter may be continued as a reasonable and proper requirement for grievants, in the performance of their regular Manipulator job in the 45" Mill at Geneva Works.

15.

USS-8048-S

AWARD

The instant grievance is sustained to the extent outlined in these Findings.

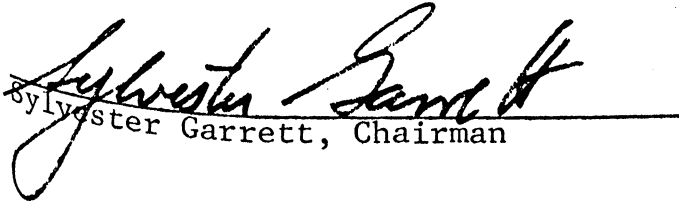
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Findings and Award recommended pursuant to Section 7-J of the Agreement, by



Edward E. McDaniel
Assistant to the Chairman

Approved by the Board of Arbitration


Sylvester Garrett, Chairman