

12-16-1965

United States Steel Corporation Sheet and Tin Operations Gary Sheet and Tin Works and United Steelworkers of America Local Union 1066

Sylvester Garrett

Follow this and additional works at: http://knowledge.library.iup.edu/garrett_series

Recommended Citation

Garrett, Sylvester, "United States Steel Corporation Sheet and Tin Operations Gary Sheet and Tin Works and United Steelworkers of America Local Union 1066" (1965). *Arbitration Cases*. 202.
http://knowledge.library.iup.edu/garrett_series/202

This Article is brought to you for free and open access by the Sylvester Garrett Labor Arbitration Collection at Knowledge Repository @ IUP. It has been accepted for inclusion in Arbitration Cases by an authorized administrator of Knowledge Repository @ IUP. For more information, please contact cclouser@iup.edu, sara.parme@iup.edu.

BOARD OF ARBITRATION

Case Nos. USS-5231-S,
USS-5232-S,
USS-5233-S

December 16, 1965

ARBITRATION AWARD

UNITED STATES STEEL CORPORATION
Sheet and Tin Operations
Gary Sheet and Tin Works

and

Grievance Nos. A-64-84;
SGa-64-114; SGa-65-14

UNITED STEELWORKERS OF AMERICA
Local Union No. 1066

Subject: Interpretation of Local Seniority Agreement

Statement of the Grievances: Grievance No. A-64-84 (USS-5231-S)

"I, Priscilla Bartee, request to be transferred to the Continuous Pickle."

This grievance was filed in the First Step of the grievance procedure May 14, 1964.

Grievance No. SGa-64-114 (USS-5232-S)

"I, Gladys Ehrenfeld, request to be transferred to the 66" Pickle Labor. Pay all monies lost and transfer grievant."

2.

USS-5231, -32, -33-S

This grievance was filed in the First Step of the grievance procedure June 26, 1964.

Grievance No. SGa-65-14 (USS-5233-S)

"I, Bert Newman, class 13 Inspector of the Sheet Mill, charge that the Company is depriving me of the right to transfer to Sheet Mill production."

This grievance was filed in the Third Step of the grievance procedure February 6, 1965.

Contract Provision Involved: Section 13 of the April 6, 1962 Agreement, as amended June 29, 1963.

Statement of the Award: The grievances are denied.

BACKGROUND

Cases USS-5231, -32, -33-S

In these three cases employees of Gary Sheet and Tin Mill, holding seniority-listed positions above the pool level, request transfers under Section 6-J of the July 21, 1963 Local Seniority Agreement to Laborer positions in other departments.

1

The issue cannot be fully understood without a comment on the history of the Local Seniority Agreement at Gary Sheet and Tin. For many years, promotions, demotions, reductions in force and recalls have been governed by continuous plant service. A certain measure of "job rights" was provided by assigning to each job in a promotional sequence a number of "incumbencies" corresponding to the number of employees scheduled on the job during normal operations. If, for instance, a given mill was normally operated 5 turns per week, the position of Roller was filled by only one employee on the seniority list; on another mill, normally operated 10 turns per week, the position of Roller would show two employees as "seniority listed." If production fluctuated upward or downward, the number of seniority listings was not changed unless long-range forecasts indicated that the new operating level would be a "permanent" one, in which case the Company and Union agreed to change the number of seniority listings in given positions. If, for instance, a Rolling Mill would go from two to four crews, the additional crew members normally did not receive a seniority listing in their assigned jobs but remained seniority-listed in their former positions, or not be seniority-listed at all. Since the number of seniority listings given to jobs was rather conservative, there was a large number of employees in the mill prior to March 20, 1961, whose names did not appear on any seniority lists because no "permanent" vacancy had opened up in any of the departments to which they had been assigned.

2

When the March 20, 1961 Local Seniority Agreement was adopted by the parties, it was provided that each employee would be given a seniority listing. All employees who, on that date, were not seniority-listed in a "position", received a seniority listing in the bottom job of the line of promotion

3

in which they filled a job. Employees temporarily transferred after March 20, 1961, or employees assigned to pool jobs during reductions in force in other departments, kept the seniority listing in the position of the department from which they came. Therefore, it was possible that a job was filled at the same time by employees who: (a) were seniority-listed for the position; (b) were seniority-listed for a different position in the same department; (c) were seniority-listed in a different department.

Under the Local Seniority Agreement, the assignment of an employee to a job at a higher job level, can be treated as either: (1) a temporary day-to-day vacancy, (2) a vacancy which is unexpected or to last for no longer than the length of a maximum vacation, (3) a temporary vacancy which is to last for a known period of more than the length of the maximum vacation, or (4) a promotion.

The filling of temporary vacancies involves the move of an employee from a lower to a higher job level without affecting his seniority listing. A promotion, on the other hand, changes the seniority listing of an employee. A promotion can be made only if (a) Management has created a new position, or (b) the number of employees filling a given position is less than the number of incumbencies shown on the seniority list, and a "permanent vacancy" is to be filled.

If the parties, for instance, have designated two incumbencies to a Roller position but the mill is operated on a single turn schedule for some time, a permanent vacancy exists, if there is no demoted seniority-listed employee for that position. If a second crew is added to the mill, even if only for a brief period of time, the Roller of the second crew will automatically be seniority-listed in the permanent vacancy then existing.

If, on the other hand, a unit has operated with three 7
crews for a considerable time, on which originally only two
incumbencies for the job of Roller had been established, the
Roller on the third crew will not receive a seniority list-
ing in that position unless and until the Company and Union
decide that a third seniority listing should be created.

Promotions within a seniority unit are made on the 8
basis of negotiated promotional sequences under the provisions
of Section III of the Local Seniority Agreement as follows:

"A. Existing promotional sequence charts
and any charts hereafter established,
shall be maintained on a current basis,
through mutual agreement between the
Department Superintendent and Grievance
Committeeman involved, so as to reflect
the following basic objectives:

"1. Job progressions which follow logical
work relationships so as to provide
properly trained employees to fill per-
manent and temporary vacancies as they
occur, and

"2. Job progressions which provide
opportunity for employees to progress
upward with respect to earnings, con-
sistent with '1' above."

After the adoption of the 1961 Agreement, all 9
employees without seniority listing were seniority-listed in
the bottom job in the line of progression of their department.
Therefore, the number of employees seniority-listed in bottom
jobs does, in many instances, exceed the number of employees
actually scheduled to work as Laborers, particularly in times
of high production. The number of incumbencies in the Laborer

level fluctuates constantly and is not subject to negotiations as required for those jobs where the number of incumbencies is fixed by mutual agreement between the parties.

Turning to the specific provisions of the Local Seniority Agreement, Section V describes the seniority listing as follows:

10

"SECTION V - Seniority Lists

"A. Consistent with the provisions of Paragraph 230 of the April 6, 1962, Labor Agreement, Management shall maintain and furnish to the Grievance Committeeman a list of employees regularly assigned to each promotional sequence within each seniority unit. Such lists, to be known as 'Seniority Lists', shall indicate the job to which each employee is assigned as a regular incumbent, together with the date on which he began his continuous plant service, and shall be for the sole purpose of recording his relative service and seniority-listed position and to provide a basis for recall following displacement. It is the intent of the parties that there shall be no 'paper' promotions to the 'seniority lists.'

"B. The name of an employee promoted or assigned to fill a permanent vacancy in the unit shall be placed on the 'seniority list' at his new job and the name of the replaced employee shall be deleted from such job on the list.

"An employee listed on a 'seniority list' who is temporarily assigned to another job and or unit shall retain his position on the 'seniority list' while on such temporary assignment. An employee absent because of formal leave of absence, military leave, disability or layoff, shall retain his position on the 'seniority list.' No employee may be listed on more than one 'seniority list' but all employees who have completed their probationary period shall be assigned to a 'seniority list.'

"C. Employees permanently transferred from one seniority unit to another shall have their names removed from the 'seniority list' of the unit from which transferred and their names shall be listed on the 'seniority list' of the unit to which transferred. Such listing shall be at the appropriate job level, in accordance with the terms of this Local Seniority Agreement."

Promotions are specifically defined in Section VI-E
as follows:

11

"Promotions shall be made only when Management deems it desirable to increase the size of the working force, creates a new position or positions, or determines that existing vacancies are to be filled. However, any changes to existing 'seniority lists' shall be in accordance with Section V of this Agreement."

Although employees are now "seniority-listed" in Laborer positions, the addition of employees to Laborer jobs is neither considered the filling of new positions or of permanent vacancies, and therefore not subject to job posting under Section IV-A which provides as follows:

12

"A. When Management creates a new position, or when it is determined that a permanent vacancy exists, Management shall post a notice of such vacancy within the unit for a period of ten (10) days. This means that posting is required in all cases of filling a vacancy which involves a change in the 'seniority list'. Such notice is for the purpose of information and any such vacancy shall be filled in accordance with the appropriate provisions of this Agreement."

After Section 13-L was included in the April 6, 1962 Basic Agreement, the parties at Gary Sheet and Tin reviewed their then current Local Seniority Agreement and found:

13

"That the Local Seniority Agreement which has been in effect since March 20, 1961, provides greater over-all seniority protection than required by Section 13-L of the April 6, 1962 Basic Labor Agreement; thus, no modification to meet the requirements of that provision is required. However,

"in consideration of other factors, this new Agreement, effective July 21, 1963, is entered into by the parties for the purpose of redetermining the units and rules of application within which the factors of seniority shall be applied."

(Copied from the preamble to the new Local Seniority Agreement.)

After the review, only two changes were made in the Local Seniority Agreement. Section 13-L-6 of the Basic Agreement was incorporated as Section IX-B-2, and Section 13-L-7 of the Basic Agreement was adapted to local conditions in Section VI-J which reads as follows:

14

"Any permanent vacancy in any position not filled in accordance with the other provisions of this Local Seniority Agreement, and which cannot be filled by recall from the roster roll of a seniority listed employee of that position, shall be made available to a qualified senior employee in any other seniority unit of the plant covered by this Local Seniority Agreement before any new employees are hired for the available jobs. Employees desiring any such transfers shall have made their wishes known by filing a written application with the Employment Office within a reasonable period of time prior to any available vacancies."

The three grievants claim in this case that Section 15
VI-J makes it mandatory for the Company to accept requests
for transfers to the position of Laborer in another department.
The Union points out that the time when the grievances were
filed in 1964, was one of high production and high employ-
ment, and the Company added many Laborers to its force.
Since employees were hired into Laborer jobs, vacancies with-
in the meaning of Section VI-J existed, and transfer requests
to Laborer positions should have been granted.

The Company denied these requests, because, in its 16
opinion, Section VI-J, although dealing only with transfers,
was inserted in the Local Seniority Agreement as part of
Section VI which is titled "Promotions." Therefore, it
argues, Section VI-J applies to promotions only, and transfer
requests need not be honored unless they involve a promotion.
In this case, grievants requested transfers to the Laborer
level from positions considerably higher in job classification.

The Company also insists that Section VI-J applies 17
only to the filling of a "permanent vacancy." The term
"permanent vacancy" has a well-defined and understood meaning
under the provisions of the Local Seniority Agreement supported
by long practice under which no permanent vacancy can exist
at the Laborer level.

The Company lastly argues, at least in the case of 18
two grievants, that they cannot be considered "qualified"
within the meaning of this Section. In view of the decision
of this Board it is not necessary to outline the positions
of the parties on this point.

FINDINGS

The first sentence of Section 13-L of the Basic Agreement provides: 19

"In order to increase job security for longer-service employees, all local seniority agreements or rules not providing similar or greater over-all seniority protections shall be modified by the local Union Grievance Committee and plant Management (hereinafter for the purposes of this Subsection referred to as the 'local parties') in accordance with the following principles."

(Underscoring added)

The wording of this introductory sentence reaffirms the approach of the parties to questions of seniority administration, expressed throughout Section 13 of the Basic Agreement, of leaving considerable latitude in the implementation of this Section to local parties. 20

Section 13-L-7 specifically reflects this approach as follows: 21

"Any vacancy that is not filled in accordance with the provisions of Subsections A, B, and H of this Section shall be made available to a qualified employee in any other seniority unit in the agreed upon area (as provided for hereinabove).

"The rules for application of the seniority factors, including service dates, and method of applying for the vacancy shall be those agreed upon by the local parties."

(Underscoring added)

(Subsections A, B, and H of Section 13 deal with the seniority status of employees, determination of seniority units, and posting of job openings respectively.) 22

It need not be decided in this case, whether discretion in the application of the seniority factors also gives local parties the authority to restrict transfers to requests involving a promotion. Section VI-J of the Local Seniority Agreement does not spell out that transfers shall be granted only if they result in a promotion. The mere inclusion of the clear and unambiguous language of Section VI-J in a section titled "Promotions" cannot change its plain meaning, as argued by the Company, particularly since no such restriction is contained in Section 13-L-7 of the Basic Agreement, from which it has been adapted. 23

Since the Local Seniority Agreement does not consider job classes or earnings as the exclusive criterion for the establishment of promotional sequences, the interpretation given Section VI-J of the Local Seniority Agreement by the Company would also create considerable confusion, since it would be difficult to compare jobs in different departments, slotted into lines of promotion under Section III of the Local Seniority Agreement. 24

Thus, the threshold defense of the Company to grievants' claim cannot be considered as meritorious. The grievants cannot prevail, however, because the laboring 25

positions to which they requested transfers cannot be considered "permanent vacancies" within the meaning of the Local Seniority Agreement. Its provisions make it abundantly clear that the term "permanent vacancy" has a special and rather technical meaning. In view of the clear language in the Local Seniority Agreement, and long-standing past practices under which this language has found consistent application, the Board cannot now find that the term "permanent vacancy" should be given a different interpretation for purposes of Section VI-J. Although the applicability of Section VI-J is somewhat restricted if transfers are limited to the filling of permanent vacancies, it is clearly an application of seniority factors, left to the discretion of the local parties by Section 13-L-7 of the Basic Agreement. The local parties jointly found that their 1961 Local Seniority Agreement provided greater over-all seniority protection than the minimum standards of Section 13-L. There is no basis for the Board to differ with this conclusion. Thus, whether Section VI-J of the 1963 Local Agreement is less favorable to the employees, than Section 13-L-7 might be, is not the controlling question here. The problem rather is to determine how Section VI-J is to be applied.

It may be that the local Union representatives who negotiated Section VI-J were hopeful of establishing a new procedure for easy transfers, while their Company counterparts intended to restrict transfers to situations involving promotions. The language of the Local Agreement, however, is too clear to permit of doubt in this case. There being no ambiguity in Section VI-J, the grievances cannot be sustained.

26

AWARD

The grievances are denied.

27

12.

USS-5231, -32, -33-S

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



Peter Florey
Assistant to the Chairman

Approved by the Board of Arbitration



Sylvester Garrett, Chairman