

6-28-1965

# United States Steel Corporation Tubular Operations National Works and United Steelworkers of America Local Union 1408

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BOARD OF ARBITRATION

Case USS-5052-T

June 28, 1965

ARBITRATION AWARD

UNITED STATES STEEL CORPORATION  
Tubular Operations  
National Works

and

Grievance No. N-N62-172

UNITED STEELWORKERS OF AMERICA  
Local Union No. 1408

Subject: Scope of Bargaining Unit: Wage Relief Foremen.

Statement of the Grievance: "Nature of Request: To have all wage relief Foremen removed from wage rolls.

"Reason for Request: All employees on as wage relief foremen not in accord with our Basic Labor agreement cannot be members in good standing."

This grievance was filed in the Third Step of the grievance procedure September 10, 1963.

Contract Provisions Involved: Sections 2-A, 13-A, 13-B, and 9-D of the April 6, 1962 Agreement, as amended June 29, 1963.

Statement of the Award: The grievance is returned to the parties for full consideration of all relevant facts in accordance with this Opinion.

BACKGROUND

Case USS-5052-T

This grievance by the Grievance Committee at National Works requests that Management be directed to remove all "wage relief Foremen" from the wage rolls at National Works. The grievance states that "wage relief" Foremen cannot be members of the Union in good standing under the April 6, 1962 Agreement, as amended June 29, 1963.

1

In support of the grievance the Union claims that violations of at least Sections 2-A, 13, and 9-D have occurred. The Union evidence is to the effect that early in 1961 Management began to increase greatly the number of "wage relief" Foremen so as to replace many Group Leaders (bargaining unit employees). The Group Leaders had been selected on the basis of seniority rights under Section 13-A and were compensated in accordance with the agreed rate structure under Section 9. Late in 1960, a discussion took place between the Grievance Committee and the National Works Superintendent of Industrial Relations as to whether Foremen, who had been promoted from the bargaining unit, thereafter could return to jobs in their former seniority units without loss of accumulated continuous service rights. The Union refused to agree to such an arrangement. It was shortly thereafter, under the Union evidence, that local Management began to supplant Group Leaders with "wage relief" Foremen who are continued in the bargaining unit by the Company. The "wage relief" Foremen are said to have all of the authority and status of regular salaried Foremen, save that they are carried on the payroll ostensibly as hourly paid employees in the bargaining unit. Thus, the Company continues to deduct Union dues for such individuals and pays them over to the Union under Section 4 of the Agreement.

2

Some such individuals allegedly functioned for as much as two years, consecutively, as "wage relief" Foremen, and were converted to regular salaried Foremen after this grievance was filed. There are about 250 individuals functioning as Wage Relief Foremen

3

at National Works, all of whom allegedly have gone through training periods to become members of Management, and at least some of whom have full supervisory responsibility on many turns, and have imposed discipline upon regular bargaining unit employees. Union evidence revealed several instances of such disciplinary action. Other Union evidence was to the effect that some "wage relief" Foremen had been retained on the active payroll while senior service employees in the same seniority units had been laid off for lack of work. Thus, says the Union, these individuals improperly are given preferred seniority status as members of the bargaining unit, because of their supervisory roles, yet the Union is denied any right to negotiate concerning their seniority status.

The Union suggests that all such individuals should simply be excluded from the bargaining unit and deemed part of Management for all purposes. Management will not negotiate with it as to the compensation of such individuals, how they are to be selected, or the scope of their duties. If "wage relief" Foremen truly are in Management, the Union does not claim any right to negotiate on these points. But if they properly are in the bargaining unit, the Union believes it is entitled to a voice in these matters. On this basis it holds that the way Management has proceeded here involves violation of at least Section 2-A, Section 13-A, and Section 9-D. 4

The Company's response to the grievance is threefold. First, it asserts that there is no claimed violation of the Agreement in respect to any obligation to the Union as such. It cites Case N-270 where a grievance was dismissed because none of the members of the Grievance Committee there were themselves aggrieved, and the general claim did not involve violation of any obligation to the Union as such. Second, the Company asserts that the grievance is too vague to provide any basis for decision by the Board; it cites numerous cases where grievances were dismissed because no details were provided to establish violation of the Agreement. Third, the Company 5

asserts that the Board lacks authority to rescind the wage relief Foreman assignments. The Company cannot understand, moreover, why the Union would request that wage relief Foreman assignments be discontinued--since this would result in displacement of wage relief Foremen and employees occupying positions in the P. and M. bargaining unit.

At the hearing the Company suggested that even if the Board saw possible basis for finding a failure to meet an obligation to the Union as such, nonetheless there is insufficient information and detail in the record to permit sustaining the grievance.

6

#### FINDINGS

The evidence before the Board thus far permits a final ruling only on the Company's jurisdictional argument. The Company presented no evidence, and the Board at this stage accepts the Union evidence at face value in deciding whether the grievance claims violation of an obligation to the Union as such. On this basis the ruling must be that the evidence suggests the possibility of a problem as to the scope of the bargaining unit as defined under Section 2-A. This is a matter as to which the Union is entitled to process a grievance. The Union's further claim that the use of wage relief Foremen reflects a subterfuge to violate Section 13-A and the Local Seniority Agreement (covering the return of Foremen to the bargaining unit) also might entail violation of an obligation of the Company to the Union as such, if proven. Finally, depending upon the outcome of the issues under Section 2-A and 13, there possibly might be issues presented within the scope of Section 9-D. The present grievance is signed by five members of the Grievance Committee, including the then Chairman and the then Secretary, and reasonably may be construed to seek a determination of whether there have been violations of obligations owed by the Company to the Union as such, in its capacity as collective bargaining representative for the unit defined in Section 2-A.

7

At the hearing the Union suggested that the Board now might simply direct the Company to discontinue any use of "wage relief" Foremen, except as they are treated as members of Management for all purposes. This would exclude them from the bargaining unit and they no longer could be members of the Union.

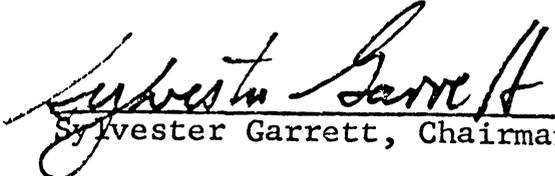
The Board does not have before it sufficient detailed information to support any such shot-gun award. It is clear that "wage relief" Foremen have been used under widely different circumstances and for considerably varying periods of time. Some serve only on a day-to-day and occasional basis, to fill temporary vacancies in the same way as has been long established in many U.S. Steel plants under the Agreement. In order to grapple with the problems in this case intelligently, therefore, the parties must develop all necessary detail as to individuals who function as "wage relief" Foremen in each of the various types of situations where they may be used.

The grievance will be returned to the parties to develop and consider such detail with respect to each individual involved. When all such factual material has been developed and analyzed, the parties should be able to agree upon a sound disposition of any problems thus defined. If they do not, of course, the unresolved questions may be returned to the Board to determine whether any violations of an obligation to the Union as such has occurred.

AWARD

The grievance is returned to the parties for full consideration of all relevant facts in accordance with this Opinion.

BOARD OF ARBITRATION

  
Sylvester Garrett, Chairman