3-5-1965

United States Steel Corporation Fairfield District Works Ensley Steel and United Steelworkers of America Local Union 1489

Sylvester Garrett
Chairman

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BOARD OF ARBITRATION

Case USS-4896-S

March 5, 1965

ARBITRATION AWARD

UNITED STATES STEEL CORPORATION
Fairfield District Works
Ensley Steel

and

UNITED STEELWORKERS OF AMERICA
Local Union No. 1489

Grievance Nos.
151-2318; 151-2319

Subject: Safety - Disciplinary Suspensions.

Statement of the Grievances:

Grievance 151-2318:
"I, J. W. Armstrong, Badge No. 23714 protest management's action in giving me a 2 day suspension and a form '74' on December 30th, 1963."

Grievance 151-2319:
"I, L. O. Ingle, Badge No. 12794 protest management's action in giving me a 2-day suspension and a form '74' on December 30th, 1963."

These grievances were filed in the Second Step of the grievance procedure Jan. 7, 1964.

Statement of the Award: Grievance 151-2318 (Armstrong) is denied. Grievance 151-2319 (Ingle) is sustained.
These two grievances from the M. and E. Shops of Ensley Steel Works protest two-day suspensions imposed upon J. W. Armstrong and L. O. Ingle because of alleged safety violations resulting in injury to another employee.

On December 17, 1963 the two grievants were at work on a rebuild of No. 1 Blast Furnace to which they had been assigned several weeks earlier. Armstrong, a Rigger with many years' experience, was assigned to operate the Cast House crane. Ingle, a long service Ironworker (Boilermaker-I.W.), was assigned to ride the crane as a Signalman for Armstrong. The latter also had a Hooker on the ground level to signal when lifts should be made. Ingle rode on the ground level to signal when lifts should be made. Ingle rode on the ground level to signal when lifts should be made. Ingle rode on the ground level to signal when lifts should be made. Ingle rode on the ground level to signal when lifts should be made. Ingle rode on the ground level to signal when lifts should be made. Ingle rode on the ground level to signal when lifts should be made. Ingle rode on the ground level to signal when lifts should be made. Ingle rode on the ground level to signal when lifts should be made. 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proceeded down the runway, Ingle saw that Walding had moved his foot onto the crane girder and was in a position of danger. By this time the crane was close to 20 feet from Walding. Ingle tried to signal Armstrong to stop the crane, but Armstrong was not looking at him. Ingle also was unable to attract Armstrong's attention by shouting, because of the noise from the work in progress, and particularly from 6 or 7 welding machines on the Cast House floor about 25 feet below. Ingle then tried shouting to Walding, but he also did not hear because of the work in progress and so continued to work with his back to the crane until struck. Shortly before the impact, Armstrong's attention finally had been attracted (he could not recall by whom), and he had put the crane into reverse so that more serious damage to Walding's foot was prevented.

This very type of accident had been anticipated as possible when the project originally was lined up by General Foreman (Projects) Landrum several weeks earlier. Landrum and various Foremen under his direction discussed the project before it was started and were aware of the danger posed by Ironworkers working on the lean-to roof adjacent to the crane runway. It was to meet this danger that a Signalman was assigned to ride on the crane truck at the far end of the crane bridge, opposite the Crane Operator.

In deciding upon this working procedure, Projects General Foreman Landrum did not have before him a memorandum to all interested personnel by Vice President (Operations) Spearman on "Safe Working Procedures - Crane Runways & Overhead Traveling Cranes" dated November 8, 1954. This had been prepared after the death of an employee working on an Open Hearth crane runway in 1954; it was intended to provide stringent safe working procedures on crane and crane runway jobs, and read as follows:
Numerous accidents have occurred to men working on cranes and crane runways, irrespective of the many rules provided for safe conditions of men working on them. In view of these accidents, the following rules regarding the safe working procedures on cranes and crane runways are effective immediately in this Division:

'Where a crane or crane runway job requires men from different departments, the job shall be planned with all groups or departments involved, including operations supervisors.

'A leader will be designated among the crew to conduct the work. This designated leader will be present at the working area at all times while the men are working there and he will be held responsible for maintaining all safety devices in operation and prescribed safe procedures in effect during the progress of the job. A workman shall not go onto the runway or crane, or leave the working area without permission of the leader.

'When the work is ready to be started, suitable safety signs shall be placed in the area directly under the working area, and this area shall be roped off or otherwise barricaded to prevent passage under the working area. It will be considered that barricading the area beneath the crane or runway where work is being performed will be possible in every instance unless impracticability can be conclusively demonstrated.
'The proper supervisor shall make arrangements beforehand with the operating supervisors for the shut-down of the crane to be worked on, and for other arrangements necessary for the safety of the job. He shall have the necessary workmen meet the leader near the job at the time agreed upon.

'When the work on a crane involves work on a runway also, and particularly when such work is on adjacent runways which are supported by a single building column for two adjacent cranes, signalmen shall be provided. The sole duty of these men shall be to signal cranemen on cranes approaching the restricted working area and to obtain a full stop of the cranes before the boundary of the area is reached. These signalmen shall be provided with police whistles, flags or lanterns as required. The signalmen shall be located on the floor, in the crane cage, in adjacent crane cages, or on the crane runway as required to avoid collision between cranes on the same runway and to prevent injury to men by the cranes on adjacent runways when passing the working area. One signalman will always be placed at the working area to warn the working men that a crane will pass the area.

'Work will not be performed on a crane unless it is stationary.'"
While Landrum did not have this memorandum before him in setting up the safety procedures involved in this case, he testified that he did have in mind several similar directives which were not further identified or described. After meeting with Landrum, Foremen Connell and Sanders then discussed the safety problems with Armstrong and Ingle, and explained their duties on the crane.

By the end of the first day on the job, Ingle and Armstrong had concluded that the noise of the work made it impossible at times for Armstrong to hear Ingle's shouts; Ingle thus asked Foreman Sanders for a police whistle to attract Armstrong's attention above the noise of operations. Sanders tried to obtain a police whistle for this purpose but apparently failed to find one, and instructed the two men to proceed without a whistle.

Under the testimony of both Ingle and Armstrong, it seems clear that Armstrong made his lift and proceeded to bridge the crane toward the opposite end of the Cast House without receiving any signal from Ingle, and without looking to Ingle at any time. Apparently Armstrong was watching the lift and the numerous employees on the floor below, instead of looking to Ingle or down the crane runway to be sure that nobody was in the position to be injured. Armstrong clearly was unaware of Ingle's efforts to attract his attention.

The day after the accident Ingle was provided with a police whistle. On the same day, the erection of a wire mesh barrier was commenced, to separate the crane runway from the area where the Ironworkers were required to work on the lean-to roof. Shortly thereafter the defective limit switch on the crane also was repaired.

Apparently Projects General Foreman Landrum did not consider the desirability of providing the Signalman on the crane with a whistle. He testified that he did not think that
the possible danger of injury to employees such as Walding would have been reduced if Ingle had had a whistle. He also indicated that the defective limit switch could not have contributed to the accident because the hoisting portion of the operation had to be completed before the crane was set in motion toward the opposite end of the Cast House.

The Union holds that in a case of this sort, Management must establish by substantial evidence that the grievants contributed to the accident through some act or omission which violated a safety rule or the standard of reasonable care required of all employees. It argues that the accident could not have occurred if Management had taken necessary steps to assure safety of the employees as contemplated under Section 14 of the Basic Agreement. The Union stresses that (1) the limit switch on the crane was known to be defective; (2) no wire mesh barricade was erected to keep Ironworkers off the crane runway; (3) no whistle was provided to the Signalman despite his request for one; and (4) that crane bumpers were not used to prevent the crane moving into the known area of danger. The Union stresses the view that Management was obliged under Section 14 to take all of these precautionary steps as "reasonable provisions for the safety...of its employees." In its view, the two grievants are scapegoats for an unfortunate failure of Management to meet its responsibility under Section 14.

The Company notes, as to Section 14, that no grievance ever was filed by employees assigned to this project claiming that they were being required to work under unsafe conditions. Since the Signalman was assigned to ride the crane solely and specifically to see that the crane did not move into the area of danger until it was clear, the Company sees no escape from the conclusion that both Ingle and Armstrong were negligent in failing to observe the safety instructions given them, initially and on a daily basis, by their Foremen. The Company urges that
the defective limit switch did not contribute to the present accident, and that crane bumpers could not have been used without impeding the entire operation. Neither the erection of a wire mesh barricade nor the provision of a police whistle for the Signalman were necessary, in the Company's judgment, to assure that the operation could be conducted in a safe manner. The Company stresses that these steps were taken after the accident only as an excess of caution. Finally, it notes that the 1954 Memorandum of Vice President Spearman applies only to work on cranes and crane runways.

FINDINGS

Probably the most important single issue in this case is presented in the claim that the responsible cause of the accident was Management's failure to make reasonable safety provisions to prevent such an accident and that the grievants, therefore, are not truly responsible for it.

There should be no doubt, at the outset, that Management should have repaired the defective limit switch promptly upon discovery that it was inoperative. It was both negligent and contrary to the requirements of Section 14 to permit this unsafe condition to continue for over a month. This failure to maintain an important safety device in working condition is here relevant only in that Management thereby demonstrated a careless attitude toward safety which was a poor example to the employees. Lack of an operative limit switch nonetheless does not appear to have contributed directly to Walding's injury, which occurred well after the hoisting phase of the operation had been completed. Lack of an operable limit switch plainly does not relieve a Crane Operator of the requirement to operate in as safe a manner as possible under the known conditions.
It also seems clear that Vice President Spearman's November 8, 1954 memorandum does not apply directly to the present problem. On its face this is addressed to safety of men working "on cranes and crane runways." Since no one was assigned or required to work on the crane runway here, the Spearman memorandum literally is not applicable. But, absent a showing of any more directly relevant safety directive, the Spearman memorandum provides an appropriate reference in determining whether reasonable safety provisions were made to meet the known possibility that Ironworkers would be on the crane runway despite instructions to stay off it.

This specific and anticipated danger could have been met by erection of a wire mesh barricade. Such action would have made the Signalman procedures outlined in the Spearman memorandum irrelevant to this job by assuring that the Ironworkers would not stray onto the crane runway. This is confirmed—if any confirmation be needed—by the fact that use of a Signalman was discontinued after the wire mesh barrier was erected. In the absence of such a barricade, however, the provision of a police whistle (or like device) for the Signalman was a minimum reasonable safety precaution since (1) the blast furnace rebuild entailed considerable noise with a number of welding machines below the crane, and up to 25 men at work on the floor, and (2) the crane bridge is only about 25 feet above the Cast House floor, while Ingle was about 60 feet from Armstrong when the events leading to the accident developed.

Unlike the failure to repair the limit switch and to provide a whistle to the Signalman, there is no basis to find that Management should have used crane bumpers on this job. Use of such devices would have impeded the work seriously, and they would not have been necessary in any event if other more reasonable precautionary steps had been taken.

Turning to the evidence of negligence by the two grievants, Ingle does not seem to have contributed to the accident by any act or omission on his part. Armstrong began to
move the crane without any signal from Ingle. Ingle's efforts to attract Armstrong's attention thereafter were frustrated because Armstrong did not look at him, and Ingle had no whistle or other device to attract Armstrong's attention. Ingle likewise was unable to attract the attention of the injured Ironworker, Walding. It seems reasonable to believe that, with a whistle, Ingle would have been able to make either Armstrong or Walding, or both, aware of the danger in ample time to avoid the accident.

In evaluating Ingle's case, moreover, it seems relevant that various Management representatives seemed to place too much reliance upon an assumed complete observance of safety rules by all employees, and so did not deem safety equipment to be necessary in situations where the employees were specifically instructed to perform their work safely. This view overlooks the essential function of many safety devices: these are needed simply because experience has proven that men cannot always be counted upon to observe safety instructions and to refrain from placing themselves in positions of danger. Since it was known that Ironworkers might stray onto the crane runway, the failure to provide Ingle with a whistle made him unable to perform the very essence of his job at a critical moment, when Armstrong and Walding both failed to conform to the safety instructions which had been given them. It is this circumstance which relieves Ingle of culpable responsibility for the accident. His grievance will be sustained.

The situation as to Armstrong is different. First, he moved the crane down the runway without obtaining any signal from Ingle, and then he continued the crane in motion without looking to Ingle or looking down the runway himself to be sure that it was clear. Even assuming that the accident would not have occurred if Ingle had had a police whistle, Armstrong was fully aware of the conditions under which he was operating. As a responsible Crane Operator, he should have proceeded in light of the known hazards and looked to Ingle for a signal that all
was clear before moving the crane into an area where he knew the Ironworkers might be present. His acts thus constituted a principal, direct cause of the accident. The fact that the performance of certain Management representatives in this situation left much to be desired, does not warrant revoking Armstrong's suspension.

AWARD

Grievance 151-2318 (Armstrong) is denied. Grievance 151-2319 (Ingle) is sustained.

BOARD OF ARBITRATION

Sylvester Garrett, Chairman