

Inland Steel Award No. 670

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RECOGNITION AND BARGAINING UNIT

GRIEVANCE NO. 28-N-5

APPEAL NO. 1259

AWARD NO. 670

SUMMARY: Company did not violate the Agreement when it included records of grievances and dispositions thereof in the personnel files of employees involved.

COMPANY: INLAND STEEL CO.

PLANT: EAST CHICAGO, IND.

DISTRICT: 31

ARBITRATOR: BERT L. LUSKIN

DATE OF DECISION: SEPTEMBER 28, 1979

BACKGROUND

Michael Pinson was employed by the Company on March 1, 1977, and worked at the Company's No. 3 Cold Strip Mill East Department.

On September 22, 1977, Pinson filed a grievance contending that the Company policy and/or practice of inserting grievance forms in a personnel file was "improper." The grievance was filed by the Union on behalf of Pinson "as well as all other department employees." The grievance requested that all grievance forms and records be removed from employee's personnel records and Company policy should be changed to prevent that procedure from being followed in the future.

The grievance contended that the Company had violated Article 3, Section 1, Article 4, Section 2, and Article 13, Section 2, of the Collective Bargaining Agreement when it inserted records of grievances (and dispositions thereof) that may have been filed by employees of the Cold Strip Mill East Department in the respective personnel files of such employees. The Union contended that the Management Article of the Agreement (Article 3, Section 1) provides the Company with certain vested rights limited by specific provisions of the Agreement. The Union contended that the language appearing in Article 13, Section 2, is clear and unambiguous and describes the type of documents and instruments which may become a part of an employee's personnel record. The Union contended that personnel records cannot include records of grievances filed by an employee and the inclusion of any such records could be prejudicial to an employee and could have a resulting harmful effect upon an employee's promotional and transfer requests. The Union contended that it could unreasonably influence the exercise of supervisory judgment with respect to an employee's ability to remain in an occupation after he has been transferred or promoted. The Union contended that the contractual prohibition and limitation appearing in Article 13, Section 2, would mandate the removal of grievance records from an employee's personnel file.

The Company contended that it has followed a consistent procedure in this department since the department was established more than 20 years ago. The Company contended that the contractual language in question has appeared in Collective Agreements between the parties since 1974 and in substantially the same form as it appears in this Agreement. The Company contended that many departments of the Company, in maintaining personnel records of employees in those departments, have included records of grievances filed by employees and the results of the dispositions of those grievances as a part of the integral and essential records relating to such employees. The Company contended that the language relied upon by the Union refers to the inclusion of certain forms of documents, but it does not exclude the inclusion of the grievance documents that are in question in this proceeding.

The grievance was denied and was thereafter processed through the remaining steps of the grievance procedure. The issue arising therefrom became the subject matter of this arbitration proceeding.

DISCUSSION

The provisions of the Agreement cited by the parties as applicable in the instant dispute are hereinafter set forth as follows:

"ARTICLE 3

"Plant Management

3.1 "Section 1. Except as limited by the provisions of this Agreement, the Management of the plant and the direction of the working forces, including the right to direct, plan and control plant operations, to hire, recall, transfer, promote, demote, suspend for cause, discipline and discharge employees for cause, to lay off employees because of lack of work or for other legitimate reasons, to introduce new and improved

methods or facilities, and to change existing methods of facilities, and to manage the properties in the traditional manner are vested exclusively in the Company, provided, however, that in the exercise of such functions the Company shall not discriminate against employees because of membership in or legitimate activity on behalf of the Union.

"ARTICLE 4

"Responsibilities of the Parties

4.2 "Section 2. The Company recognizes and will not interfere with the right of its employees to become members of the Union, and there shall be no discrimination, interference, restraint or coercion by the Company or any of its agents against any employee because of membership in the Union.

"ARTICLE 13---SENIORITY

13.7 "Section 2. Personnel Records. Records as to each employee's service with the Company shall be maintained in the department in which he is employed, and such records shall include matter relative to an employee's work performance and length of service. Each employee shall at all times have access to his departmental personnel record and in case of those employees whose departmental record indicates unsatisfactory workmanship, the superintendent of the department or his assistant will call the employee in and acquaint him with the reasons for unsatisfactory rating.

13.8 "The superintendents of departments will, when necessary, continue the program of acquainting the employee with written notices of discipline or warning to stop practices infringing on regulations or improper workmanship. These letters are recorded on the personnel cards. In all cases where one (1) year elapses after a violation requiring written notice, such violation will not influence the employee's record.

13.9 "These records of the employee's individual performance have much influence on the 'Ability to perform the work' clause in Section 1 of this Article, but in no case will the Company contend inability to perform the work when the procedure as outlined in this Section has not been strictly complied with. Should any dispute arise over the accuracy of the personnel record, it shall be disposed of through the normal grievance procedure."

The Union contended that the words "work performance and length of service" were clearly designed to refer to matters relating to an employee's work record, records of ability or lack thereof, and reprimands relating to poor performance. The Union contended that the language in issue was never designed to permit the Company to include grievance forms filed by an employee as a part of the employee's record. The Union contended that the inclusion of grievance forms that are not related to an employee's length of service or his work performance could have a prejudicial effect on that employee's opportunities for promotion, retention or intra-plant transfer. The Union contended that some members of supervision could view a presence of grievances in an employee's personnel file as an indication that the employee is a "trouble maker" and that kind of improper determination could have a prejudicial effect on the exercise of judgment by a member of supervision.

Article 13, Section 2, contains language substantially similar to language that has existed in collective agreements between the parties for approximately 30 years. There is evidence in this record that the procedure followed throughout the Plant with respect to maintenance of records is not uniform. The department in question has included grievance forms in employees personnel files for some 20 years. Other departments' personnel records would not necessarily include grievance forms filed by an employee. In some departments grievance records are kept separate and apart from personnel records.

The Company has the right and the obligation to maintain personnel records. It has the right to include within those records all matters relating to an employee's activities in the Plant, provided that those records are not used for the purpose of discriminating against such an employee because of the exercise of his legitimate rights. Article 3, Section 1, does not constitute a limitation on the right and obligation of the Company as expressed in Article 13, Section 2.

Article 4, Section 2, prohibits the Company from interfering with the right of its employees to become members of the Union. It includes language which would prohibit the Company from discriminating against, interfering with or coercing any of its employees because of membership in the Union. That provision would not be directly applicable in the instant dispute.

The Company is required by mandatory language appearing in Article 13, Section 2, to maintain personnel records (in the department in which the employee is employed) as to each employee's service with the Company. Those records must include matters relative to an employee's work performance and length of service. Permanent records must be kept in order that the Agreement between the parties may be properly administered. The inclusion within those records of matters relating to an employee's work performance and length of service would not mean that all other matters would be excluded from those files. Matters.

relating to work performance and length of service are essential records and must be preserved. They represent, however, only a part of the records that must be maintained within an employee's personnel file. The Company examined three personnel files and found approximately 60 different types of documents within those files that related to overall work history and employment activity. A substantial portion of that material had nothing to do with work performance or length of service.

The Union does not contend that the Company may not maintain a record of grievances. The Union agrees that in some instances grievance forms and information relating thereto should be in an employee's personnel file. In many instances grievances and dispositions thereof become an essential part of an employee's personnel record since they may reflect agreements reached between the parties that would have prospective effect upon an employee's earnings, his seniority status or his transfer rights.

Although it is possible that the presence of grievance forms in an employee's personnel file might improperly influence the judgment of a member of supervision, such an act would be clearly discriminatory in nature. There are provisions of this Agreement that would constitute safeguards against such acts. The inclusion of grievance forms in an employee's personnel file would not constitute a violation of the applicable provisions of the Collective Bargaining Agreement between the parties.

The Arbitrator must find that the Company did not violate Article 3, Section 1, Article 4, Section 2, or Article 13, Section 2, of the Collective Bargaining Agreement when it inserted records of grievances (and dispositions thereof) in the personnel files of the respective employees of the Cold Strip Mill East Department.

For the reasons hereinabove set forth, the award will be as follows:

AWARD

Grievance No. 28-N-5

Award No. 670

The grievance is hereby denied.