

Award No. 669
In the Matter of the Arbitration Between
INLAND STEEL COMPANY
AND
UNITED STEELWORKERS OF AMERICA
AND ITS LOCAL UNION 1010

Grievance No. 13-N-62

Appeal No. 1266

Arbitrator: Burt L. Luskin

August 2, 1979

INTRODUCTION

An arbitration hearing between the parties was held in Harvey, Illinois, on July 17, 1979.

APPEARANCES

For the Company:

Mr. John T. Surowiec, Senior Labor Relations Representative

Mr. T. L. Kinach, Arbitration Coordinator, Labor Relations

Mr. Robert H. Ayres, Manager, Labor Relations, Industrial Relations

Dr. P. M. Dunning, Director, Medical

Mr. D. F. Johnson, Superintendent, 44"-76" Hot Strip Mills

Mr. W. C. Wingenroth, Superintendent, Industrial Relations Planning

Mr. R. B. Schuler, Assistant Superintendent, 76" Hot Strip Mill

Mr. W. P. Boehler, Assistant Superintendent, Labor Relations

Mr. J. T. Bean, Clinic Counselor, Medical

Ms. K. M. Chapekis, Coordinator, Labor Relations

For the Union:

Mr. Theodore J. Rogus, Staff Representative

Mr. Joseph Gyurko, Chairman, Grievance Committee

Mr. Don Lutes, Secretary, Grievance Committee

Mr. Gene Cieslak, Griever

Mr. Earl Neal, Griever

Mr. Jose Puentes, Grievant

BACKGROUND

Jose Puentes was employed by the Company on August 28, 1956. In 1978 he was working as a janitor in the 76" Hot Strip Mill Department.

On September 21, 1978, Puentes reported for work and was found to be under the influence of alcohol. On September 22, 1978, Puentes was suspended (preliminary to discharge) for violation of Plant Rule No. 127-d. The rule reads as follows:

"127. The following offenses are among those which may be cause for discipline, up to and including suspension preliminary to discharge:

"d. Reporting for work under the influence of intoxicating beverages; being in possession of, while on Plant property or bringing onto Plant property intoxicating beverages."

A suspension hearing was held on September 27, 1978. On October 4, 1978, Puentes was informed that he had been terminated from employment.

A grievance was filed in Step 3 on October 6, 1978, contending that the discharge action taken by the Company on October 4, 1978, was ". . . unjust and unwarranted in the light of the circumstances." The grievance requested reinstatement and pay for all moneys lost. The grievance cited violations of Article 3, Section 1, Article 8, Section 1, and Article 14, Section 8, of the Collective Bargaining Agreement.

In the period between August 16, 1974, and November 4, 1976, Puentes had been reprimanded for absenteeism and tardiness on four different occasions including two suspensions of one turn each. In that same period of time Puentes had reported for work under the influence of alcohol on six different occasions. In February, 1975, he had been suspended for the balance of one turn and for three additional turns for reporting for work under the influence of alcohol. The identical penalty was invoked for the same offense in June, 1975, and shortly thereafter (July 1, 1975) the Assistant Superintendent conducted a record review with Puentes and a Union representative, at which time Puentes was given a final warning. On April 20, 1976, Puentes again reported for work under the influence of alcohol and he was suspended preliminary to discharge. On April 28, 1976, the suspension was revoked on the basis of a "last chance stipulation,"

with the intervening period to constitute a period of disciplinary suspension. On May 11, 1976, the Assistant Superintendent conducted a record review with Puentes and his Union representative, at which time there was a full and complete discussion of the last chance stipulation of April 28, 1976.

Although Puentes has some difficulty in speaking English, he fully understood the meaning of the "last chance stipulation." On September 23, 1976, Puentes again reported for work under the influence of alcohol and a record review was conducted by the Superintendent of the Department. On November 4, 1976, Puentes again reported for work under the influence of alcohol. Before any formal action could be taken by the Company as a result of the repeated rule violations, the Union interceded and asked the Company to withhold any further discipline since Puentes had been hospitalized for treatment for alcoholism.

On several occasions Puentes had been referred to the Company's Medical Department. The Company's Medical Department arranged for Puentes to receive medication and outside therapy and counseling. The Company's counselor provided Puentes with supportive counseling and every reasonable effort possible was made by the Company to comply with the provisions of Article 14, Section 8. That provision of the Agreement is hereinafter set forth as follows:

14.10 "Section 8. Alcoholism and drug abuse are recognized by the parties to be treatable conditions. Without detracting from the existing rights and obligations of the parties recognized in the other provisions of this Agreement, the Company and the Union agree to cooperate at the plant level in encouraging employees afflicted with alcoholism or drug abuse to undergo a coordinated program directed to the objective of their rehabilitation."

Following Puentes' period of hospitalization in November and December, 1976, for alcoholism, Puentes returned to work. He visited the Company's Medical Department sporadically. He was referred to the Salvation Army in Gary for additional supportive therapy. He continued in employment without substantial problems until the incident of September 21, 1978, that led to his suspension and discharge. The only matters of discipline invoked against Puentes in the period between November, 1976, and September, 1978, was a reprimand in October, 1977, for absenteeism, and a one-turn suspension for absenteeism in April, 1978.

The Company called attention to Puentes' attendance record. In the period between April 28, 1976, and September 21, 1978, Puentes had accumulated 37 days of separate and multi-day absences and 16 weeks of total weeks of continuous absences.

Puentes was characterized as a quiet, relatively introverted person who accepted supervision and carried out the directions of members of supervision. He was considered to be a good employee except for a poor attendance record and his seven separate, distinct occasions between August, 1974, and September, 1978, when he reported for work under the influence of alcohol.

The issue arising out of Puentes' termination from employment became the subject matter of this arbitration proceeding.

DISCUSSION

There are no fact disputes. Puentes' disciplinary record since September, 1974, has been set forth in the background portion of this opinion and award.

The evidence will support a conclusion and finding that Puentes, on seven different occasions between September, 1974, and September, 1978, violated General Rule 127-d when he reported for work under the influence of intoxicants. Under the Company's published rules any of those violations could have led to disciplinary measures "up to and including suspension preliminary to a discharge."

The Company complied with its responsibilities under Article 14, Section 8. The Company considered Puentes to be an alcoholic and it treated him accordingly. He was counseled, advised and urged to accept treatment that was available to him under the Company's program and the related outside programs utilized by the Company and the Union pursuant to the provisions of Article 14, Section 8. The Company was humane, compassionate and understanding toward a long-service employee in imposing minor measures of discipline against Puentes for the commission of serious offenses. There is no need to discuss the potential safety hazards and problems that are involved when an employee reports for work in a steel mill under the influence of an intoxicant. The fact that Puentes worked as a janitor may have somewhat reduced the risk potential. The fact remains, however, that the rule has been in existence for a substantial period of time and an employee who violates the rule takes a calculated risk that his action may result in termination from employment.

Between September, 1974, and June, 1975, Puentes reported for work under the influence of alcohol on three occasions. He made his initial contact with the Inland clinic for treatment in June, 1975. He received a

final warning in July, 1975. Less than ten months later Puentes was suspended preliminary to discharge (April 19, 1976). The Company again agreed to modify the penalty and Puentes was permitted to return to work after a short period of suspension. He was again issued a final warning (May, 1976) after a record review. Some four months thereafter (September, 1976) Puentes again reported for work under the influence of alcohol. Puentes received a third final warning (October 13, 1976), and he was referred to the Company's clinic for counseling, therapy and treatment. Almost immediately thereafter (November 4, 1976) Puentes again reported for work under the influence of an intoxicant. The Company at that time intended to suspend Puentes preliminary to discharge, but it withheld that action at the urging of Union officials who informed the Company that Puentes had been hospitalized for his drinking problem and was undergoing treatment at that time. For almost two years thereafter (between November 4, 1976, and September 22, 1978) there were no further recorded instances of Puentes' reporting for work under the influence of an intoxicant. Although he may have had some attendance problems in that period of time, it is evident that Puentes was making a serious effort to keep from drinking before reporting for work.

The record in this case is remarkably similar to the record of the grievant in Inland Award No. 644. In that case the grievant had 26 years of service; Puentes had 22 years of service. In that case (Award No. 644) the grievant had a drinking problem; Puentes has a drinking problem. The distinction between the cases is that the grievant in Award No. 644 had been terminated because of poor attendance related to his addiction to alcohol, whereas Puentes had been terminated because of his propensity for reporting for work under the influence of an intoxicant. In Award No. 644 the grievant had received a last chance to correct his problem and had failed to do so, although his attendance record had indicated improvement in the two-year period immediately preceding his termination. Puentes also had shown improvement since he had not repeated the offense for a period of almost two years, whereas he had committed that offense on six occasions in the two-year period between 1974 and 1976. In Award No. 644 this arbitrator found that the grievant should be given one more opportunity to demonstrate that he was willing and able to report for work as scheduled, and he was restored to employment without back pay.

In Award No. 644 this arbitrator stated that "last chance agreements of the type reached between the Company, Granados and the grievant's Union representative should be honored." This arbitrator found that, although the grievant's long service with the Company did not provide him with immunity from termination, the grievant's length of service "may mitigate against discharge where circumstances are present which would justify the imposition of a penalty less than that of termination from employment." In the instant case Puentes had demonstrated for a period of almost two years preceding his termination that he could control his drinking problem to the extent that he could report for work in a sober condition. He suffered a relapse in September, 1978, after which the Company concluded that it had gone as far as it should be required to go with Puentes.

Following Puentes' termination from employment he was admitted to a State Hospital (Logansport State Hospital) where he entered the alcoholic treatment program on November 8, 1978. He was released from the hospital on January 5, 1979, and was found (by the medical director thereof) to be capable of returning to work. Puentes continued to receive treatment. He reported regularly for counseling and therapy sessions and he regularly attended A. A. meetings and received A. A. individual counseling. He testified that he was able to refrain from drinking until he suffered a relapse in April, 1979, and was re-admitted to the Logansport State Hospital's alcoholic treatment program. He completed that program and was released from the hospital on June 19, 1979, and again was found able to return to work as of June 26, 1979. Puentes is currently receiving medication (Antabuse). He is fully aware of the fact that he is an alcoholic and that he requires regular medication, supportive treatment and counseling in order to control his addiction to alcohol.

In the light of the record in this case the arbitrator is of the opinion that Puentes had demonstrated a substantial improvement in his attempts to control his addiction to alcohol. It would appear that he was making a sincere effort to avoid committing any further violations of the Company's rule against reporting for work while under the influence of an intoxicant. Puentes should, therefore, be afforded one more opportunity to demonstrate that he can regularly report for work and to refrain from any further violation of General Rule 127-d.

Puentes has waived any claim for back pay, and the Union has requested only that Puentes be restored to employment with seniority rights, but without any back pay for the period between the date of his suspension and termination from employment and the date of his restoration thereto.

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

AWARD

Grievance No. 13-N-62

Award No. 669

Jose Puentes shall be restored to employment with the Company with seniority rights, but without any back pay for the period between September 22, 1978, and the effective date of his restoration to employment. The intervening period shall be considered to constitute a period of disciplinary suspension from employment.

/s/ Burt L. Luskin

ARBITRATOR

August 2, 1979