Inland Steel Award No. 746
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DISCIPLINE
GRIEVANCE NO. 1-R-3
AWARD NO. 746

SUMMARY: While post-discharge events may not ordinarily be considered in determining whether there was good cause for discharge, evidence of rehabilitation efforts after a discharge for offenses stemming from alcoholism may properly be taken into consideration in determining whether cause exists for continuing the discharge in effect. The Company was not justified in refusing to return grievant to work after completion of an alcoholic rehabilitation program, where the Counselor of the Company's rehabilitation program had recommended that grievant be reinstated and given another chance and the Company had rejected the recommendation because of conjectural fears as to the effect that reinstatement might have on other alcoholic employees in the department.

COMPANY: INLAND STEEL CO.
PLANT: INDIANA HARBOR WORKS
DISTRICT: 31
ARBITRATOR: CLARE B. McDERMOTT
DATE OF DECISION: AUGUST 30, 1984
STATEMENT OF THE GRIEVANCE:
"The aggrieved,___ ___, Payroll No. 6698, contends the action taken by the Company, when on June 8, 1983, his suspension culminated in discharge, is unjust and unwarranted in light of the circumstances involved.
"Relief Sought--The aggrieved requests that he be reinstated and paid all monies lost.
"Violation is Claimed of Article 3 Section 1, Article 8 Section 1, Article 14 Section 8."
BACKGROUND
This grievance from Plant No. 2 Blast Furnace Department claims that grievant's discharge for excessive absenteeism and his overall personnel record (both caused by alcoholism) were unjust and unwarranted in light of the circumstances and without cause, in violation of Articles 3 and 8, Section 1, and Article 14, Section 8 of the March 1, 1983, Agreement.
Grievant began with the Company in June of 1965 and in May of 1983 was working as a Class 6 Panel Operator in the Sinter Plant. Over the last five years of his employment, grievant compiled the following disciplinary record:

Date	Infraction	Action
9-7-78	Poor work performance	Discipline--1 turn
12-17-78	Absenteeism	Discipline--1 turn
5-29-79	Poor work performance	Discipline--2 turn
7-23-79	Absenteeism	Interview with Assistant Superintendent
7-25-79	Absenteeism	Discipline--3 turns
11-29-79	Poor work performance	Reprimand
6-18-80	Absenteeism	Discipline--2 turns
1-16-81	Absenteeism	Reprimand
5-16-81	Absenteeism and overall record	Suspended
5-29-81		Reinstated--final chance
6-8-81		Interview with Assistant Superintendent
9-8-81	Absenteeism	Reprimand
10-1-81	Absenteeism	Interview with General Foreman
10-31-81	Absenteeism	Discipline--1 turn

7-6-82	Absenteeism	Record review with Assistant Superintendent
10-2-82	Absenteeism--failure to report off	Discipline--3 turns
10-3-82	Tardiness	Reprimand
3-14-83	Tardiness	Reprimand
4-29-83	Failure to report off	Discipline--3 turns

Grievant then failed to report for work and failed to report off on May 22, 1983, for which he was suspended on May 24 for excessive absenteeism and his overall personnel record. On June 8 the suspension was converted to discharge, and this grievance followed. At the August 16, 1983, Step 3 Meeting, the Union said it recognized that some discipline was warranted and, thus, it waived the request for lost pay and sought only to have grievant reinstated.

Many of the events that gave rise to the main issue here occurred after the discharge and after the grievance was filed. Grievant was discharged on June 8, 1983. He was hospitalized at a unit for treatment of alcoholism at Logansport, Indiana, for about 60 days from June to August 1983. That included psychiatric counseling. He received a certificate from that hospital for completing its Alcohol Treatment and Rehabilitation Program and was attending Alcoholics Anonymous meetings regularly. He said approximately 70 people began the Logansport program with him and only 10 finished, including himself.

Since the late 1960s the Company has had a program for helping all its personnel who had drinking problems, and the program has been on a formal basis from 1973. It is called the Program for the Problem Drinker and deals with alcoholism and other drug-abuse problems, offering individual and group counseling, aid in admissions to hospitals for detoxification and psychiatric care, and information as to outside support groups, such as Alcoholics Anonymous and Narcotics Anonymous. All that is in an effort to supply treatment and employee rehabilitation.

The Local Union has had for some time an Alcohol and Drug Committee, and it cooperates with the Company's effort. The Company and Union program and committee members meet monthly about problem employees and weekly to discuss correcting problems. The parties' cooperation on these problems has been noteworthy and has increased in recent years.

John Bean is the Clinic Counselor and Coordinator of the Company's Alcohol and Drug Program and has held that position for 11 years.

In early October of 1983, following grievant's release from the Logansport Hospital and following appeal of the grievance from Step 3, grievant called Bean, seeking to get his job back. Grievant repeatedly called into late October and his message to Bean then was that he needed help. Bean says that grievant's long-time problems with alcoholism had had a domino effect, that no one was left to support him emotionally and that grievant seemed sad and desperate. Bean checked to see that his offering help to grievant would not cause problems, apparently in light of grievant's having been discharged. He then told grievant to come in to see him and established a counseling relationship with grievant. Bean was concerned for grievant's personal safety because he seemed very despondent. Bean's counseling a discharged employee apparently is not unusual; he has done so before, including for those who did not return to work for the Company. Bean has known grievant since about 1969 when both were working in the Blast Furnace Department, and Bean met with grievant as counselor in prior years from about 1977.

In October of 1983 Bean began meeting with grievant in his office in the Medical Department, and he met with him also off Company premises in group-therapy sessions. He met with grievant quite a few times -- once, twice or three times each week--and they spoke by telephone once or twice each week. Bean set up a program for grievant, conditions of which were that he continue with Alcoholics Anonymous meetings, stop drinking, that he see Bean at regular times, and an exercise and weight-loss program was established for grievant. In January grievant obtained a full-time job at a candy store and has been elected Precinct Committeeman in his neighborhood for a political party. Bean loaned money to grievant and provided transportation from the Company's "Open House" to grievant's home. As a result of his meetings and counseling sessions with grievant, Bean characterized grievant's progress as "good" relative to his efforts in the Company program in past years. He concluded grievant was holding his own.

The first of the three Step 4 Meetings in this grievance was on October 6, 1983. By late January or early February of 1984 and while the grievance was pending in Step 4, Bean called Arbitration Coordinator Castle about grievants progress, and the latter suggested they discuss this with Plant 2 Blast Furnace Department Assistant Superintendent Walton, who had made the discharge decision. The three met in Walton's office on February 2, 1984, for 30 to 45 minutes. Bean explained to Walton that grievant was

changing and what his status was at that time. Bean says he recommended that grievant be reinstated under a second "last chance" arrangement.

At that meeting Bean was told of the extent of grievant's absenteeism, of which he had not been aware. Walton made no decision then but said he would consider Bean's recommendation. Walton wanted to speak first with Supervisors who had had direct, working contact with grievant in the past. He was concerned, if grievant should be reinstated, that excessive "last chance" arrangements could undermine the department's ability to deal effectively with other alcoholic employees.

Bean says he had explained to grievant that he was not making any promise to get his job back, that he had no authority to assure an employee that he would be reinstated, that grievant should not misconstrue his counseling as such a promise, and that all he said was that he would speak to the Department Supervisors on grievant's behalf.

Bean said that in the past he has recommended that some employees be given another chance and that others not be given a second chance, and he says his favorable recommendations have not always been followed. The Union asked for names of employees Bean had recommended favorably for reinstatement but who had been turned down by line supervision, and he could state none because, he says, if they were not reinstated, their case no longer was before him and he was not aware of their names.

Assistant Superintendent Walton has been with the Company 24 years and has nine years in his present capacity. As such, he is responsible for employee discipline decisions, by delegation from the Department Superintendent. He said the average absenteeism rate for the past four years in the Department was 2.5 per cent, while grievant's was 23 per cent for the last five years, or about 10 times the department average. He says grievant's was the worst absenteeism record of the 400 to 750 employees, depending upon activity level, in the department. Walton has known grievant for 10 or 12 years and got to know him reasonably well during the period of grievant's alcoholism difficulties and absenteeism over the past five years.

In that period, Walton had given grievant oral warnings and three recorded counselings, plus some that were not recorded. Grievant had been suspended preliminary to discharge in 1981 but, following a plea by the Union, he was returned to work subject to a "last chance" agreement, with the following conditions:

"1. You must enroll in and participate in the Company sponsored program for problem drinkers until you are released by the director of the program.

"2. After enrolling in the above mentioned program, you will meet with Assistant Superintendent G. A. Walton or his designated representative, following which you will be referred to your general foreman to schedule you to return to work.

"3. All time lost, including unworked holidays, as a result of this suspension and all additional time lost until you are placed back on the work schedule will constitute disciplinary time off."

A little over one year later grievant had to be warned and reprimanded again about his absenteeism. Walton said he jolted grievant once more with a three-turn suspension for absenteeism in October of 1982. The Company says that grievant did not respond to that discipline and had extended periods of absenteeism from alcoholic binges, ranging from 20, through 30, 40 and up to 60 days. In the spring of 1983 there was another three-turn suspension, and the events of May came next, resulting in this suspension and discharge.

Grievant had participated in the Company's Program for the Problem Drinker on prior occasions, on both a voluntary and a mandatory basis. The first time was from May 20 to September 14, 1977. That was voluntary participation in an out-patient counseling program. The second time ran from October to November of 1977 and again was voluntary and was an out-patient, one-to-one counseling and group-therapy program. The third was from June 4 to August 21, 1981, and that was mandatory participation, following grievant's "last chance" arrangement. From May 21 to June 13, 1977, grievant was in Fairbanks Hospital in Indianapolis as an inpatient for detoxification and education about alcoholism. That was repeated from December 3 to 22, 1977, at the same facility. The in-patient program was paid for by grievant's sickness and accident insurance. Grievant was hospitalized also during a three month absence in 1978 at an alcoholic recovery center. In all such out and inpatient situations, the Union took an active part in helping grievant.

Walton reviewed all that in grievant's record. He said that Bean did not "recommend" grievant's reinstatement but only reported his progress. Bean told him at the February 1984 meeting that he had worked with grievant on many occasions after the discharge and thus thought he understood at last the root of grievant's psychological problems that led to his alcoholism. Grievant had been a successful Golden Gloves boxer in his youth and had enjoyed great stature and respect in that activity in his neighborhood. As he grew older and put on weight, he lost that status and was scoffed at by former admirers, and he retreated

to alcohol to try to ease his anguish. Bean told Walton that grievant was on the road to recovery, had made reasonable progress, and, from a rehabilitation point of view, grievant was a good risk.
Walton said he did not discard that advice out of hand. He told Bean and Castle that first he wanted to speak with General Foremen who had supervised grievant in the recent past. One or more of them allegedly had been exasperated by grievant's absenteeism. He had been demoted down to an Oiler job and, on some turns with little or no supervision, some bearings apparently had been left unlubricated and, therefore, grievant was put in the Labor Gang and then sent to the Sinter Plant. Three General Foremen thus were aware of grievant's troubles. Walton says he was impressed with Bean's opinion and that he played Bean's role when he called each of the General Foremen following the February 2 meeting. He asked each if they would give grievant another chance, and all three said a vigorous "No." Walton then considered the possible effect of grievant's return to work from a morale point of view. There were other alcoholic employees in the department, and the Mechanical General Foreman said that, if grievant were returned to work, there would be no reason for any of them to try to stop drinking. He thought that grievant had so abused the Company's Program for the Problem Drinker that morale of other alcoholic employees would be ruined by grievant's return to work. Walton ultimately agreed with that and declined to change the discharge decision. He says no employee ever has been given a second "last chance" arrangement.
The Union had charged, as discussed in the grievance proceedings, that Walton had said to another Supervisor that, "If [grievant] comes back, I'm quitting." He said that was not quite accurate. He explained that after the Step 3 Meeting, which was held in August of 1983, he was approached by the Department Superintendent who said he just had received a telephone call about grievant and asked if Walton would consider reinstating grievant. Walton agreed he then said flippantly, "Great, you can reinstate him, and he can have my job". Walton said the level of activity in the department was so low then that a lot of good employees were laid off and, if one employee were brought back (as grievant), another, a good one, would have to be laid off, and the thought of bringing back a terrible problem (grievant) caused him to answer as he had. He said each employee has two families, his personal family and his work family. Walton said grievant had lost the love and compassion of his working family. Walton insisted he had no animosity toward grievant. He feels he has spent more time trying to salvage grievant than on others.
The Union charged that at the Step 3 Meeting, as Grievance Committee First Vice-Chairman Gailes began to speak on grievant's behalf, Walton, conducting the meeting for the Company, interrupted and said, "Save your speech because (grievant) never will be employed by the Company again."
Walton denied that he made any such statement. He agreed that after the Secretary of the Grievance Committee and the Grievance Committee First Vice Chairman had made their speeches, he did say he thought their compassion was late, since the Company had been working with grievant for years and yet, after grievant's second suspension, here was the Union trying to do what the Company had been trying to do for years.
The Union stresses that Walton said that he, by delegation from the Department Superintendent, made these disciplinary decisions, and yet he tried to shift that responsibility to the three General Foremen he consulted, after Bean's favorable recommendation, and they said they would not give grievant a second chance. The Union charges that Walton's mind already was made up against reinstating grievant. First Vice-Chairman Gailes said he tried to explain to Walton the parties' policy on the matter, arising out of Article 14, Section 8, and that it was that alcoholism was a disease and, as such, was treatable and that alcoholics could be rehabilitated. Walton allegedly replied that the best thing grievant could do then was look for another job. Gailes stressed grievant's 18 years of Company service.
Walton said that there were three other alcoholic employees in the department and, if grievant were to be reinstated, it would encourage those employees to do as grievant had. Gailes believed that attitude to be contrary to the meaning of Article 14, Section 8. Management, in the person of Walton, had said that the switch should be pulled on grievant, but the Union was resisting that, and then Bean, the Company's Counselor for the Company's Program for the Problem Drinker, also advised against it.
The Company points out that the parties do cooperate on this problem and that some suspended employees are reinstated, showing, says Management, that it agrees that alcoholism is a treatable condition.
The Union agrees with that but says grievant made an about-face in his behavior, as Bean had reported.
Mozell Haymon, Executive Director of Serenity House, a Gary, state-certified center for rehabilitation of alcoholics, said he had contact with grievant on a regular basis during the last several years.
Grievant testified about his meetings and sessions with Bean. He said that Bean told him that, if he would stop drinking and lose 35 pounds, he would get his job back. Grievant saw Bean every Monday at 9:30 a.m., and Bean weighed him then.

Grievant had stopped drinking. He bought a bicycle and a jogging suit, exercised, held to the strict diet Bean had recommended and lost 20 pounds in two months. Grievant said that Bean called him later and said he was sorry but Supervision had turned him down. Grievant said that Bean several times had promised him that, if grievant lost the weight (35 pounds) and stayed off alcohol, he would get his job back.

Grievant explained that he has attended Alcoholics Anonymous meetings regularly and is taking other alcoholics with him. Grievant said he first went to Alcoholics Anonymous meetings in 1977 as part of the Company program. Bean advised grievant to avoid his old buddies and surroundings, and he has done so. Alcoholics Anonymous helped him to stay sober

Grievant said he was off alcohol from the time of his going into the alcoholic-treatment hospital in Logansport in June of 1983 up to early 1984, when he learned that Walton had refused to go along with Bean's recommendation. He drank then, but he continued attending Alcoholics Anonymous meetings, and members there realized he was drinking and told him to stop and convinced him that that was not the answer to his problems. He attended Alcoholics Anonymous meetings four times each week in February. He has not had a drink since January of 1984. Grievant insisted that Bean did promise his job back if he performed the conditions that Bean laid down.

Grievance Committee Secretary Lutes is on the Union's Alcohol and Drug Abuse Committee and is a recovering alcoholic. He has gone to Alcoholics Anonymous meetings with grievant. Lutes says he has recommended against reinstatement of an employee with 34 years of Company service because he was sure the employee was not yet ready to stop drinking. Recently he so recommended as to an employee with 28 years' service because the employee was not being honest about his problem, but Management put him back, and two weeks later discharged him again. He said honesty with oneself and with others is one of the main requirements of successful rehabilitation and when he (Lutes) argues for an alcoholic employee, most Supervisors give the employee another chance because they realize he is not lying.

Lutes explained that in the fall and winter of 1983 grievant was trying to open a half-way house for people with alcoholism problems. Lutes said he thinks grievant now can survive and be a good employee. He decried Walton's concern for the morale of other alcoholic employees should grievant be reinstated, because he said all departments in the plant have alcoholic employees and, if Walton's theory were to be applied, no one ever would get another chance. Lutes said this was the first case he had heard of where Bean had recommended reinstatement and was turned down.

The Company stresses that grievant was in the Company program before, on a mandatory basis in 1981, and did not finish it. It argues that there is no serious denial that it had cause for suspension and discharge of grievant in May and June of 1983 for his terrible absenteeism record. It says it used all the means within its power to get grievant to change his behavior over a five-year period, including a prior suspension, and then reinstatement. The Company stipulates it is not relying here on the claim that grievant breached the term of his 1981 "last chance" reinstatement. It agrees it had waived that by later allowing for other, intermediate absenteeism.

Management says it satisfied its Article 14, Section 8 obligation in encouraging grievant to undergo a coordinated program directed to his rehabilitation on several occasions, but grievant did not pursue them long enough. It contends that Article 14, Section 8 cannot overturn an otherwise proper suspension and discharge. The Company cites Inland Award 476 and one from another relationship, to the effect that ultimately there comes a point, even with long-service employees, when Management is justified in severing the employment relationship because it has become clear that the employee is not and apparently will not respond to progressive disciplinary efforts. In that regard, the Company stresses that grievant's absenteeism was the worst in the department.

Management contends also that post-discharge rehabilitation efforts of alcoholics are too late and may not be relied upon to modify a discharge that was imposed for cause at the beginning. It argues they are dangerous in that they would demonstrate to alcoholics they could postpone the decision to face up to their problem. It is said also that it is very difficult to evaluate the sincerity of post-discharge rehabilitation efforts, and that the general experience in industry is that reinstated alcoholics have the worst employment records following reinstatement and often are discharged again.

As to grievant's claim that Bean promised grievant that he would get his job back, the Company notes that Bean lacks authority to do so and, therefore, would not likely have done so. It argues that Walton did not have any bias against grievant, as evidenced by Walton's reinstating grievant in the past. Walton noted that he never had offered a second "last chance" arrangement to an employee. The Company contends that

Walton's statement that he did not want to return to work a problem employee when good employees were laid off is understandable.
The Company argues that this case boils down to whether or not the Arbitrator would modify a discharge solely in light of post-discharge behavior. It notes that it returns a lot of discharged employees to work but insists there is a difference between its charitable consideration and return of an employee and a contractual obligation to do so.
The Union sees this case as an exception to all past cases. It says there never was another case like it, since here the Company functionary responsible for all elements of its Program for the Problem Drinker himself worked with grievant for about four months and then recommended that he be returned to work.
The Union urges there is no special problem of relying on post-discharge behavior here since all knew for some time of grievant's alcoholism and since here the Company's expert on alcoholism had recommended that grievant be reinstated.
The Company says Bean's recommendation was formed only from the rehabilitation point of view and did not take account of grievant's terrible absenteeism record and what his reinstatement might do to the morale of other alcoholic employees. It says it would not be enough to warrant modifying its decision for the Arbitrator to find that he would have reached a different result on the facts; it is said he must be able to find that Management abused its discretion. It stresses that grievant's claim of abstinence should not be persuasive because he backslid in January upon learning of Walton's turning Bean down, and he drank then. It says there always will be such set-backs in his life and that grievant might react similarly to future ones, should he be reinstated.
Article 14, Section 8 reads as follows:
"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."
FINDINGS
Cases of discipline for absenteeism, tardiness and poor work performance stemming from alcoholism try the patience and creative skills of the parties and of the Arbitrator. They contain elements of other disciplines, but the trier ordinarily is equipped by training and experience only for the arbitration function. These parties, however, have negotiated a provision into their Agreement recognizing alcoholism as a treatable condition, and each party has, pursued that recognition by establishing a substantial alcoholism-rehabilitation program and a committee, and the Company's program is open to all Company personnel, bargaining unit, Supervision, and other staff.
Of course, it always is difficult to assess accurately the sincerity of claims of alcoholics that they have stopped drinking and will continue to refrain. A degree of deception and manipulative skill appears to become part of the syndrome. The Company seems to be correct also in noting that the success rate of alcoholics reinstated in arbitration is not encouraging. The problems often are further complicated by the factor present, and, indeed, central, here, that the only positive evidence of any sincere rehabilitation effort by grievant occurred after discharge. On the other hand, the possible shock therapy presented by the discharge may be sufficient in some situations to cause the alcoholic to realize his life is becoming worthless and to stop drinking and become a recovering alcoholic.
It is clear that grievant's absenteeism record is so bad that, if not for arguments that arise from Article 14, Section 8 and the events after his discharge, there would be obvious cause for discharge, and the grievance would have to be denied. But, since alcoholism is to be viewed as a treatable condition under this Agreement, the matter cannot be so quickly foreclosed in a situation where it is seriously asserted that the condition has indeed been treated, so that there might be reasonable ground to conclude that, if grievant were reinstated, he no longer would be absent excessively. This is not to say that Bean concluded that grievant had been "cured," for alcoholics apparently never are "cured," but only that he said that grievant's four-month rehabilitation efforts gave reasonable grounds for believing that he was recovering.
One matter can be resolved rather easily in the circumstances of this case. Ordinarily, assessment of whether or not there was cause for Management's disciplinary action must be confined to events before and at the date of the event. At one time or another, each party vigorously reminds the Arbitrator that events after the discharge should not be considered, and ordinarily that makes sense.
Here, however, the specific charge is excessive absenteeism and overall personnel record. Grievant's disciplinary record contains no offenses aside from poor work performance, absenteeism, tardiness and

failure to report off, all stemming from alcoholism. There are no instances of insubordination, theft, violence or damaging equipment, as were present in the cases cited by the Company at the hearing. His record is a classic example of the industrial dereliction's that are caused by alcoholism. The charge is that because of alcoholism, a treatable condition, he could not be relied upon to be at work. Suppose, however, that his excessive absenteeism had been caused by diabetes or tuberculosis, other "treatable" conditions, as it well might have been. If we were dealing here with a diabetic or a tubercular employee who had been discharged for excessive absenteeism caused by his condition, who would have the temerity to refuse to listen to, and perhaps be persuaded by medical advice that the diabetic or tubercular condition now was arrested? Thus, evidence of grievant's rehabilitation efforts after his discharge are properly here for consideration. The Company resists that and warned of the possibly misleading tendency of such efforts, and the warning is a reasonable one.

It is clear that the hinge element in this proceeding is Counselor Bean's working regularly with grievant in counseling sessions and at Alcoholics Anonymous activities, all of which caused him to recommend to Management in February that grievant be reinstated and given another chance. Without that recommendation by the Company's expert on the subject, this would be only one more example in the long run of discharges in which the evidence showed that Management had done its best with the grievant over a long period, so that there would be no reasonable basis for belief that he had yet realized the seriousness of his alcoholism problems.

There, was some jockeying here on whether or not Bean really had made a recommendation of reinstatement or just a progress report, but Bean said he recommended reinstatement, and the clear thrust of the Step 4 Minutes and the Company brief agree with that.

Thus, the problem presented is that in the case of a discharged employee who had an awful absenteeism record stemming from alcoholism and who has had past unfinished, or at least unsuccessful, attempts at rehabilitation, the Counselor of the Company's Program for the Problem Drinker who worked with and counseled grievant over a four-month post-discharge period concluded that grievant's progress with rehabilitation was so regular, so disciplined, and so encouraging in stopping his drinking and in reducing his overweight condition, that he could recommend that he be reinstated to employment and given another chance again to become a satisfactory and productive worker. The Company stresses that was an exercise of staff advice and not of line authority, and that is accurate.

But it was also the staff advice of the Company person most expert on the subject of alcoholism and supposedly best able to assess the sincerity and effectiveness for the future of grievant's rehabilitation efforts. Moreover, it was rejected, not because it was thought to be an inaccurate assessment of grievant's condition, sincerity or probable future behavior, but entirely aside from factors peculiar to grievant and because of conjectural fears of what effect his reinstatement might have on other alcoholic employees in the department.

It cannot be said, of course, that consideration of such interests was improper for the line authority responsible for employee discipline, but in the peculiar circumstances of this case, it does appear to sacrifice what the Company's expert on the subject had assessed as a specific, sincere and genuine rehabilitation effort to an unfocused conjecture about the possibility of other alcoholic employees seeing grievant's reinstatement as a relaxation of enforcement of rules against offenses stemming from alcoholism. But, if grievant's rehabilitation efforts were genuine, as Bean found they were, then other alcoholics could take no relaxation message from grievant's situation unless they, too, could convince Bean that their rehabilitation also was genuine. That is, the Union seems to be right here in stressing that this is the first case in the parties' experience that the Company's Counselor of its Program for the Problem Drinker had worked with an employee and concluded and recommended to the Supervisor responsible for employee discipline that an alcoholic employee discharged for excessive absenteeism had engaged in post-discharge rehabilitation efforts that were so regular, disciplined and sincere that, if reinstated, his attendance probably would be satisfactorily regular, and that he should have another chance.

Bean apparently has recommended for and against reinstatement of discharged alcoholics in the past, and he said some of both recommendations had been heeded and others not. He could name none of the unheeded favorable recommendations, however, but let that be put aside for present purposes. All other examples of Bean's favorable recommendations were by telephone or were in cases where the line authority already was considering reinstatement and had asked Bean only what his assessment of the situation was. Here, and what is so special about this case, is that Bean first spoke about his recommendation about grievant to the Arbitration Coordinator, who then suggested a face-to-face meeting with Walton, the Assistant Superintendent responsible by delegation for employee discipline in the department. The three

met, and Bean explained his work with grievant, his opinion that grievant was succeeding in his rehabilitation, and recommended that he be reinstated and given another chance. That direct recommendation of reinstatement never had been made at that level before. To reject it because of assumed fears of its effect on other unnamed employees in allegedly the same general condition, does appear in the circumstances of this case to abuse Management's Article 3 and Article 14, Section 8 discretion, if such a finding be necessary. The more direct way to state that conclusion is to say that in light of this record there was not cause for continuing the discharge of grievant who, in the opinion of the Company's alcoholism expert, had engaged in such effective rehabilitation efforts after the discharge that he should be reinstated.

Management stresses the language of the second sentence of Article 14, Section 8, and contends that that section cannot change a discharge that was for cause into one without cause. That may be, but it is unnecessary so to decide here. It is enough to hold that in the face of contract language agreeing that alcoholism a treatable condition and in the presence of a recommendation by the Company's expert on alcoholism that grievant's condition is sufficiently treated that he should be reinstated, there no longer was cause for continuing the discharge. This is not a holding that Article 14, Section 8, standing alone, has turned a with-cause discharge into one without cause. What is decided here is that the combination of the first sentence of 14-8 and Beans recommendation, viewed together, meant that cause no longer existed for discharge of an alcoholic grievant whose offenses had been confined to inability to be at work.

It is equally clear, however, as everybody involved recognized, that grievant properly was suspended and, therefore, that he shall be reinstated to active employment but without back pay. The evidence is not sufficient to warrant a finding that Bean promised to get grievant's job back for him.

It is necessary to add further conditions to grievant's reinstatement. The parties agree that the Arbitrator has adequate authority under the Agreement to modify the discipline imposed. Reinstatement of alcoholic grievants is not likely to result in effective and lasting post-reinstatement employment if it is not tied inseparably to necessity for the employee to continue regular attendance in treatment and counseling programs, with frequent reports to Management and the Union proving that he is doing so, plus regular meetings with a named representative of each party to verify that grievant is not drinking alcohol.

Accordingly grievant shall be reinstated, with seniority intact, but without back pay, only if he agrees in writing to the following conditions. He shall not drink alcohol. He shall take part in the Company Program for the Problem Drinker, and in addition he shall attend that number of Alcoholics Anonymous meetings each week as is recommended by that agency but no fewer than once each week, and he shall consent to weekly written certification by Alcoholics Anonymous representatives that he has done so, and only serious illness or other emergency conditions will excuse his not doing so. He shall report to any place the parties agree upon once each week for discussion with, and examination by, a named representative of each party who may be a physician or technically trained person and who may test for presence of alcohol in grievant's blood by drawn sample or by breath or urine analysis, so that they may be assured that he is not drinking alcohol. He shall not develop an absenteeism or tardiness rate, aside from absences for which he has reported off in advance and which are excused by a physician for reasons other than consumption of alcohol, higher than the department average for any rolling, 30-day period. Grievant shall remain subject to all the above conditions for a term of one year from his reinstatement.

Grievant must realize that, should there be any substantial breach of any of these conditions, he will have subjected himself to loss of his employment.

AWARD

The grievance is sustained to the extent and under the conditions stated in [the last four] paragraphs of the accompanying Opinion.