

IN ARBITRATION PROCEEDINGS PURSUANT TO THE
COLLECTIVE BARGAINING AGREEMENT BETWEEN THE PARTIES

In the Matter of the Controversy

between

INTERNATIONAL BROTHERHOOD OF ELECTRICAL
WORKERS, AFL-CIO, LOCAL UNION 1245,

Complainant,

and

PACIFIC GAS AND ELECTRIC COMPANY,

Respondent,

Involving discharge of ██████████ W ██████████

CASE NO. 19

OPINION OF THE CHAIRMAN

APPEARANCES:

ON BEHALF OF THE UNION:

JOSEPH R. GRODIN, ESQ., of the law firm of Messrs.
Neyhart & Grodin, 1035 Russ Building, San
Francisco 4, California.

ON BEHALF OF THE COMPANY:

HENRY J. LaPLANTE, ESQ., Pacific Gas and Electric
Company, 245 Market Street, San Francisco 5,
California.

The Parties and the Issue

Pacific Gas and Electric Company (herein called the
"company") and Local Union No. 1245 of International Brotherhood
of Electrical Workers, AFL-CIO, are parties to a collective
bargaining agreement dated September 1, 1952, as amended July 1,
1962.

Pursuant to the collective bargaining agreement the parties have submitted to the Arbitration Board the following issue:

"Should the discharge of Mr. [REDACTED] [REDACTED] W. [REDACTED] Groundman, San Francisco Division, be sustained?"

At a hearing held in San Francisco before the Arbitration Board on April 22, 1963, the parties stipulated that all grievance procedures under the collective bargaining agreement had been complied with or waived and the issue submitted was properly before the Arbitration Board pursuant to the collective bargaining agreement.

Evidence, both oral and documentary, was offered and received before the Arbitration Board and at the conclusion of the hearing the issue was submitted to the Arbitration Board for decision subject to the receipt of the transcript of the proceedings. The Arbitration Board having met and considered the matter, it now stands ready for decision.

The Facts

On October 12, 1962, grievant [REDACTED] W. [REDACTED], a groundman in the employ of the company, was given notice by the company that he was discharged effective October 26, 1962.

The grounds of grievant's discharge were that his work was unsatisfactory and that he was not suitable as a groundman and as a result he was an unsatisfactory employee.

Grievant was first employed by the company on March 27, 1957, as a clerk. On June 1, 1959, he became a laborer and on

August 31, 1959, he became a groundman in the San Jose division. On November 6, 1961, he was transferred to the San Francisco division and promoted to apprentice lineman. On January 2, 1962, he was transferred to Colma, and on August 23, 1962, retransferred to the San Francisco division. On May 3, 1962, he was demoted to groundman and worked in this capacity until his discharge.

A groundman assists the lineman in the overhead line division of the electric department. He works under the supervision of a subforeman or foreman. Upon arrival at a job and after instructions from the foreman on how the job is to be done, the groundman's responsibilities include chocking the wheels of the truck, unloading the materials and tools from the truck, running out the wire and cutting it to approximate lengths as directed, sending materials and tools up the pole to the lineman, and if necessary, placing traffic warning markers in appropriate places. A groundman polices the work area around the pole to keep it neat and clean, cleans up, and puts the tools back in the truck after the job is completed.

In April 1961 while serving as a groundman in the Cupertino operating department grievant was notified in writing by the District Electric Superintendent of his poor attitude and working habits. He was reminded that in 1959 he was warned by the general foreman that his reports were bad and that his general working habits must show improvement. Prior to April 1961 several other progress reports had been received which were unsatisfactory. Grievant was notified and warned by the April 1961 letter that

unless a marked improvement was shown in general attitude within the next 30 days it might be necessary to terminate his employment on the ground that his general aptitude and attitude indicated that grievant had no future in his general line of work.

In June 1961 the District Electric Superintendent in Cupertino notified grievant in writing that the reports on his performance indicated an effort to improve himself and for this reason grievant was to be retained in employment for a further period until September 1, 1961, at which time his progress would be again reviewed. The District Superintendent notified grievant that grievant was not in a line of work where his aptitudes would permit progress satisfactory either to the company or to himself and it was strongly recommended that he attempt to find another field of employment.

On August 24, 1961, the District Electric Superintendent again wrote grievant and notified him that he was happy to find that grievant appeared to have made a sincere attempt to improve his working habits and attitude toward his job and that grievant had taken and successfully passed driving tests for operation of light trucks and vehicles. Since this progress had been shown the District Electric Superintendent removed any restriction on grievant's normal advancement.

Grievant was advanced to apprentice lineman in the San Francisco Division on November 6, 1961. Some of the duties of an apprentice lineman are the same as those of a groundman, particularly on a small crew. Between this date and May 1962 he served

under several supervisors. The supervisors did not find his services to be satisfactory because he was not attentive to his duties and he had to be repeatedly told to perform routine duties such as getting materials and tools out of the truck and clean-up work after completion of a job. He had to be warned not to talk so much. He did not keep the work area neat and clean. Grievant appeared to his supervisors to be daydreaming and not to have his mind on his work. Although grievant apparently is not suited as a lineman because he appears to suffer from acrophobia, the criticisms of the supervisors were mainly directed at his work as a groundman. In sum, grievant performed his work when he was under constant and direct supervision but he seemed to be unable to do so without such supervision. His work was unsatisfactory to his supervisors because of apparent unwillingness or inability to keep his mind on the job. It took grievant four or five times longer than an ordinary groundman to do his work. He often stopped work to talk with passers-by. It was necessary to tell him on each job to put out the warning signs and to perform routine tasks.

The company has a system of reports on the performance and progress of classified employees. The "Employee Development Worksheet" covers a number of general requirements including knowledge of work, quantity of work, quality of work, planning and layout and safety habits, as well as personal characteristics, such as ability to learn, initiative, stability of temperament, attitude, oral and written expression, impression on others, leadership and appearance. The work sheet is completed and signed

by the immediate supervisor and reviewed by the next level supervisor. On May 16, 1962, grievant's immediate supervisor prepared an employee development worksheet and rated grievant in the lowest category in all but one of the general requirements and in the middle and lowest category in other characteristics except for his appearance. Grievant's supervisor commented that grievant had a good intellect but no apparent mechanical ability and needed improvement in all manual areas and had no aptitude for this type of work. This supervisor considered grievant well below average as a groundman. He did not finish clean-up work after a job was completed. He appeared to be daydreaming. He did not measure and cut wire to the required lengths. He was instructed how to prepare aluminum sleeves for installation and was unable to do it properly after numerous attempts and ruined a number of the fittings.

The employee worksheet of May 16, 1962, was reviewed with grievant by his immediate supervisor and the next level supervisor on May 18, 1962, and it was pointed out to grievant wherein he failed to meet a satisfactory standard of performance and that unless he showed drastic improvement his employment would be terminated. After this warning there was some improvement in grievant's work but he still did not meet a reasonable standard.

In the first part of October 1962 grievant bid for a job as apprentice lineman. He spoke with the superintendent of the electric overhead department in San Francisco and understood from him that his bid would be given consideration. In October 1962 there was an emergency at a place in San Francisco when two

wires crossed and burned down. When the superintendent of the overhead department arrived on the scene grievant was standing in an open area between two poles looking on and not performing any task. The superintendent of the overhead department inquired of the foreman how grievant was performing and was told "he'll never cut it around here". On that day grievant was given notice of his discharge effective on October 26, 1962. He was told that he was not qualified for the work as groundman, that he had no mechanical ability and was not at ease in this type of work, that he was not qualified to work with the tools of the job, and that he was unable to cooperate because he lacked job knowledge and comprehension. In sum, he was informed he had failed to meet a satisfactory standard of performance. Thereafter, on October 15, 1962, an employee development worksheet was prepared setting forth these comments with respect to grievant's qualifications and job performance. After the notice and up till the time of his leaving the job, grievant appeared to be performing his work although he was somewhat slow.

Other facts are set forth in the Opinion.

Opinion

Included within the issue to be decided are several questions: (1) whether the collective bargaining agreement requires that a discharge be for just cause; if so, (2) whether grievant's work was unsatisfactory to the degree that termination was justified under the concept of just cause; and (3) assuming there were sufficient grounds for grievant's discharge, whether the company

had a duty to give grievant a written warning that his position was in jeopardy and sufficient time to improve his work performance.

The first question is discussed in the opinion in Case No. 20 decided this day. Under the collective bargaining agreement between the parties a discharge must be for just cause.¹

Grievant's work performance during a substantial portion of his employment was not in the opinions of his supervisors up to standards and was unsatisfactory. Those opinions are entitled to full consideration and are to be weighed in the light of the grounds on which they are based.

Grievant was apparently capable of performing his work as groundman but he was afflicted with daydreaming and was inattentive to duty. His carelessness and inattention could seriously interfere with safety and be dangerous to those working with him and others. Grievant did show, however, that he was capable of improvement. After the warning letters of April 1961 and June 1961 his work improved to the extent that he received the letter of August 1961 noting his improvement and removing restrictions on his normal advancement. Grievant did advance to apprentice lineman but was unable to perform those duties and accepted

¹It may be noted that the parties stipulated that if the Arbitration Board found the discharge to be improper reinstatement with or without back pay could be ordered. This is not the same as a stipulation that the just cause concept applies although it is part of the concept.

a demotion on May 3, 1962, to groundman.² The fact of his demotion is not considered herein a ground for discharge.

Later in May 1962 grievant was told by his supervisors of the unsatisfactory nature of his work as groundman. The report filed by his immediate supervisor was very unfavorable. The contents of the report which are set forth above were discussed with grievant by his immediate supervisor and the next level supervisor. Grievant was told that there had to be drastic improvement or he would be terminated.

In October the same supervisor observed no improvement in grievant's work. His output was below average; he lacked understanding of the job and needed constant instruction; he was not qualified to work with tools and had no mechanical ability. The opinions of grievant's supervisors and the grounds on which they are based show an employee who did not perform satisfactorily as a groundman in accordance with reasonable standards, who was slow and inattentive, who was unable to perform or uninterested in performing routine tasks, and who after about two and three-quarters years' service as groundman and six months service as an apprentice lineman (part of whose duties are groundman work) was unable to perform groundman's work or was uninterested in doing so. Grievant's work as groundman both before and after the warning of May

²In an arbitration decision dated June 6, 1963, under this collective bargaining agreement it was found that it was a violation of the agreement for the company to refuse to place in the classification of groundman an employee who was not qualified to progress beyond such classification in the normal line of progression from groundman to lineman.

1962 did not meet reasonable standards and grievant's supervisors were justified in their conclusions that his work was unsatisfactory to a degree requiring his discharge.

Grievant was warned in writing in 1961 and his work improved to the extent that the warning was rescinded. He was warned orally in May 1962 and his work improved somewhat for a time but it still fell short of reasonable standards after the warning and to the time of his notice of discharge.

We now turn to the matter of warning.

In cases where an employee is being considered for discharge because his work is unsatisfactory, and where the employee has been employed for a substantial period of time, a warning in a form which will impress upon the employee that his job is in jeopardy has been considered in some arbitration cases as a necessary condition to discharge on this ground.³ The collective bargaining agreement here does not provide for written warning and the company contends that no warning, written or oral, is required where there is cause for the discharge. A warning is not necessary or appropriate in all cases of discharge. However, where a discharge is based on unsatisfactory work or incompetence, some form of warning is usually necessary in order to inform the employee of his deficiencies, to warn him his position is in

³ See: Fontaine Works, 24 LA 555; Chrysler, 23 LA 284; American Metal Products, 22 LA 181; Sears Roebuck, 35 LA 757. These cases, as do most discharge cases, turn on their own facts and the provisions of the particular collective bargaining agreement.

jeopardy, and to give him the opportunity to bring himself to an acceptable standard. Grievant was orally warned in May 1962 of termination unless there was drastic improvement in his work. There was some improvement thereafter but in the judgment of his supervisors this improvement was short-lived and for most of the following five months his work was well below acceptable standards. The warning in this case was adequate, although it may be said at this point that a written warning would have been more satisfactory from the standpoints of both the company and the employee. A written warning eliminates doubt or question concerning the nature of the warning and reasons therefor.

The company gave a written warning to grievant in 1961. It does not necessarily follow that grievant was entitled to rely on the letters of 1961 to the extent of disregarding the warning of his supervisors in May 1962 because it was not in writing. He understood in May 1962 that he was being told that he was doing a very poor job. This, alone, should have been a warning to him that his job was in jeopardy. Moreover, although he denies a warning of termination, the weight of the evidence is that he was warned of termination at that time. The failure to give grievant a written warning does not render the company's action in discharging grievant under the circumstances of this case so procedurally defective that grievant should be excused from his unsatisfactory work which continued over a substantial period of time for which no excuse appears.

The warning to grievant in 1961 was rescinded and is not

ground for the decision in this case. Presumably he performed capably after the warning to the extent that he was promoted to apprentice lineman in November 1961. His demotion was due to his acrophobia, no fault of grievant. When he resumed the position of groundman he should have been experienced and proficient in the duties of a position at which he had worked for a substantial period. He was not. The impact of a written warning may have been greater on grievant's attitude, although such an effect is questionable under the circumstances here present. A written warning could hardly have caused improvement in his mechanical skills, understanding, and general proficiency on the job. These skills and capacities should have been acquired and brought to an acceptable standard long before May 1962.

Grievant's work as groundman was unsatisfactory to an extent justifying discharge and under the facts of this proceeding he was adequately warned. There was just cause for his discharge.

Accordingly, the discharge of grievant should be sustained.

Dated: June 12, 1963.



Chairman, Arbitration Board

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Complainant,

and

PACIFIC GAS AND ELECTRIC COMPANY,

Respondent,

Involving discharge of ██████████ W ██████████.

CASE NO. 19

AWARD OF THE ARBITRATION BOARD

THE ARBITRATION BOARD:

ROBERT E. BURNS, ESQ., Attorney at Law, 155 Montgomery Street, San Francisco 4, California; the Chairman appointed by the parties.

L. V. "BUD" BROWN, Senior Industrial Relations Representative, Pacific Gas and Electric Company, 245 Market Street, San Francisco, California; Board Member appointed by the Company.

FRED L. NETTELL, Division Electric Superintendent, Sacramento Division, Pacific Gas and Electric Company, 1100 "K" Street, Sacramento, California; Board Member appointed by the Company.

RONALD FIELDS, Review Committee Member, Local 1245; Board Member appointed by the Union.

FRANK QUADROS, Business Representative, Local 1245, 1918 Grove Street, Oakland 12, California; Board Member appointed by the Union.

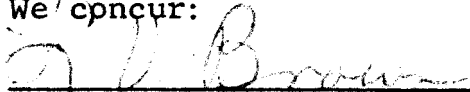
Pursuant to the collective bargaining agreement between Pacific Gas and Electric Company and Local Union No. 1245, International Brotherhood of Electrical Workers, Affiliated with American Federation of Labor - Congress of Industrial Organizations, made and entered September 1, 1952, as amended July 1, 1962, the submission agreement and the stipulations of the parties, and the evidence, both oral and documentary, adduced at the hearing held before the Arbitration Board in San Francisco on April 22, 1963, the parties having filed herein memoranda, the Arbitration Board makes the following award in arbitration Case No. 19:

The discharge of Mr. ██████████ W███████, groundman, San Francisco Division, should be sustained.

Dated: June 12, 1963.


Chairman, Arbitration Board

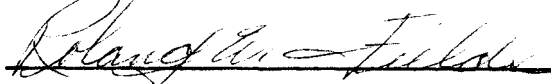
We concur:

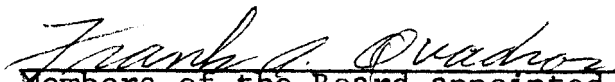




Members of the Board appointed by
Pacific Gas and Electric Company

We dissent:





Members of the Board appointed by
Local Union No. 1245