

In the Matter of COLUMBIA STEEL & SHAFTING COMPANY AND EDGAR T. WARD'S SONS COMPANY and UNITED STEELWORKERS OF AMERICA, C. I. O.

Case No. 6-R-1019.—Decided January 31, 1945

Reed, Smith, Shaw & McClay, by Mr. Seward H. French, Jr., of Pittsburgh, Pa., for the Companies.

Messrs. Philip M. Curran and Thomas J. Burke, of Pittsburgh, Pa., for the Union.

Mr. Bernard Goldberg, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Columbia Steel & Shafting Company and Edgar T. Ward's Sons Company, Carnegie, Pennsylvania, herein called the Companies, the National Labor Relations Board provided for an appropriate hearing upon due notice before Allen Sinsheimer, Jr., Trial Examiner. Said hearing was held at Carnegie, Pennsylvania, on December 4, 6, 8, and 9, 1944. The Companies and the Union appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an opportunity to file briefs with the Board. The Companies' request for oral argument is hereby denied.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANIES

Columbia Steel & Shafting Company, a Pennsylvania corporation having its only plant at Carnegie, Pennsylvania, is engaged in the
60 N. L. R. B., No. 62.

manufacture of cold finished steel bars. During the 12-month period preceding December 1944, Columbia used in its manufacturing operations raw materials valued in excess of \$6,500,000, of which approximately 75 percent was shipped to the Company's plant from points outside the Commonwealth of Pennsylvania. During the same period Columbia sold cold finished steel bars valued in excess of \$9,750,000, of which about 80 percent was transported without the Commonwealth of Pennsylvania.

Edgar T. Ward's Sons Company, a Massachusetts corporation, is a subsidiary of Columbia Steel & Shafting Company and its operations are controlled by the latter. Ward's is engaged in the sale and distribution of cold finished steel bars and a variety of other steel products. It conducts warehouse operations and maintains branches in eight States. This proceeding is concerned only with the branch at Carnegie, Pennsylvania, which, during the past year, used raw materials valued in excess of \$300,000, of which approximately 95 percent was received from shippers located outside the Commonwealth of Pennsylvania. During the same period, Ward's sold and distributed from its Carnegie branch, various steel products amounting in value to about \$450,000, of which approximately 25 percent was shipped to points outside the Commonwealth.

The Companies admit, for the purpose of this proceeding only, that they are engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Steelworkers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Companies have refused to grant recognition to the Union as the exclusive bargaining representative of any of their office and clerical employees until the Union has been certified by the Board in an appropriate unit.

A statement of the Regional Director, introduced into evidence at the hearing indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.¹

We find that a question affecting commerce has arisen concerning the representation of employees of the Companies, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

¹ The Regional Director reported that the Union submitted 83 authorization cards; that the names of 76 persons appearing on the cards were listed on the pay-roll lists submitted by the Companies, which contained the names of 102 employees in the Union's alleged appropriate unit; and that the cards were all dated in 1944, except 11, which were undated.

IV. THE APPROPRIATE UNIT

All parties agree generally that a single unit comprising all office, clerical and cafeteria employees, janitors and nurses, employed by the Companies at the Carnegie plant and offices, but excluding confidential employees, metallurgists, guards and supervisory employees would be appropriate.² They are in disagreement, however, with respect to the disposition of certain categories of employees discussed hereinafter.

Alleged confidential employees

Secretaries to heads of departments: The Companies urge the exclusion of all secretaries to department heads on the ground that they are confidential employees; the Union contends that they should be included. Columbia has a personnel department which is used, however, only for the hiring of production and maintenance employees. With respect to office employees, each individual department determines its own personnel needs, does its own hiring and discharging, and maintains its own personnel records. The secretaries to the various department heads perform the usual duties of secretaries and either through access to the personnel files or dictation given by the department heads, acquire knowledge of confidential matters concerning labor relations. We shall, therefore, in accord with our policy in the matter, exclude the secretaries from the unit.³

Pay-roll clerk at Ward's (Rosemary Branding): This employee is responsible for all phases of pay-roll accounting at Ward's. Because she has knowledge of the salaries of all employees, including those of executives on the confidential pay roll, the Companies contend that she is a confidential employee and should be excluded from the unit. However, knowledge of confidential pay-roll information is not sufficient in and of itself to bring an employee within the classification of a confidential employee as that term is used by the Board. We find the pay-roll clerk is not a confidential employee and we shall include her in the unit.⁴

Alleged supervisory employees of Columbia whom the Companies would exclude and the Union include

Supervisor of billing department (Hugh Wightman): This employee is in charge of three billing clerks. About 50 percent of his time is spent in supervision, which includes planning, laying out, and

² The offices of both Columbia and Ward's are in the same or adjacent buildings, there is constant communication between the Companies, and the same general facilities are used by the employees of both Companies.

³ *Matter of Electric Boat Company*, 57 N. L. R. B. 1348; *Matter of General Cable Corporation*, 57 N. L. R. B. 1651, and cases cited therein.

⁴ *Matter of Micamold Radio Corporation*, 58 N. L. R. B. 888; *Matter of Utah Copper Company*, 57 N. L. R. B. 58

distributing work to his subordinates. It is indisputable that he has the power, which he has heretofore exercised effectively to recommend the hiring, discharge, and disciplining of employees under his supervision. We find the supervisor of the billing department to be a supervisory employee; we shall exclude him from the unit.

Head of photostat department (Joseph Dykta): This employee divides his time between his duties as plant timekeeper and head of the photostat department, which consists of himself and two assistants. In the photostat department, he lays out and assigns work, and in general spends most of his time in the department in a purely supervisory capacity. The record is clear that he has made recommendations which have been almost invariably followed by his superiors for the hiring, transfer, and discharge of employees working in the photostat department. We find that the head of the photostat is a supervisory employee and we shall, therefore, exclude him from the unit.

Plant engineer (Thomas Smith): The plant engineer works under the general supervision of the assistant to the president in charge of engineering and is assisted in his work by a draftsman. Although without an engineering degree, he has attended an engineering college and taken night and correspondence courses in engineering. In addition, he has had a considerable amount of practical engineering training in previous jobs. He has charge of the power facilities in the plant and performs consultant functions in connection with the placing of machinery. At the present time about 75 percent of his time is being spent in supervising the work of outside contractors. Although the Companies based their objection to the inclusion of the plant engineer on his alleged supervisory status, which we do not here decide, we are of the opinion that as a recognized technical employee his interests differ from those of the office and clerical employees included in the unit, and we shall exclude him therefrom.⁵

Production engineer (William Chalmers): The production engineering department was created about a year ago to determine cost standards and to devise ways and means of reducing costs. The man in charge of the department, the production engineer, attended an engineering college for 4 years, specializing in machine design, although he did not receive a degree, and for about 7 years served Columbia as plant engineer, from which post he was transferred to his present position. Since his training and present duties are clearly those of an engineer, we shall, without deciding his alleged supervisory status, exclude him from the unit.⁶

Schedule clerk in production and service department (Joseph Diebold): The schedule clerk is assisted in his duties by four or five part-

⁵ *Matter of Micamold Radio Corporation, supra, Matter of Spicer Manufacturing Corporation, 55 N. L. R. B. 1491; Matter of Olver Farm Equipment Company, 53 N. L. R. B. 1078*

⁶ See footnote 5, *supra*.

time and full-time clerical helpers. The work is so routinized that he is required to devote only 10 percent of his time to supervising the work of his subordinates. Although he directs the work of his assistants, we are satisfied that he is not a supervisor within the Board's definition. Actual supervision of the aforesaid clerical helpers rests with the manager and assistant manager of the department. Thus, hirings of employees expected to work under the schedule clerk have been consummated by the manager and assistant manager without the knowledge or previous recommendation of the schedule clerk; and the single instance of discharge cited was made by the manager on the basis of his own investigation and knowledge. We find that the schedule clerk is not a supervisory employee and we shall include him in the unit.

Chief clerk of order department (John Pletincks): There are about four employees in the order department under the supervision of the chief clerk. The latter spends about 25 percent of his time in supervision and the balance in detail work. During his tenure as chief clerk he has been asked by his superiors on several occasions to recommend persons to fill vacancies in his department, and in most instances these recommendations have been acted on favorably. Recently he recommended the discharge of one of his subordinates, whose work and attitude he did not consider satisfactory. Although effect was not given immediately to his recommendation because of manpower shortage, the employee was discharged as soon as business conditions permitted. We are of the opinion, and we find, that the chief clerk is a supervisory employee within the Board's definition; we shall exclude him from the unit.

Alleged supervisory employees of Ward's whom the Companies would-exclude and the Union include

Order department supervisor (Paul T. Burfoot): This employee is in charge of the office staff of about four persons in the office of the Pittsburgh branch warehouse. He has the power effectively to recommend a change in the status of his subordinates, and while a recent recommendation for discharge was not followed by the branch manager because of the difficulty in securing a replacement, the latter agreed that under normal conditions the discharge would have been effected. In normal times the warehouse manager spends most of his time in outside work, at which time the order department supervisor is left in full charge. We find that the order department supervisor is a supervisory employee as defined by the Board, and we shall exclude him from the unit.

Supervisor of accounts payable (John Somerton): There are two clerks in the accounts payable department who are in the charge of a departmental supervisor. In addition to supervising the work of these two clerks, the supervisor has been spending a substantial part of his time learning to perform general ledger accounting under the direction of the auditor. Although the secretary of Ward's, his superior, testified that he would give great weight to the recommendations of the supervisor, the record reveals that the secretary exercises his admittedly supervisory authority with little, if any, regard for the opinions of the supervisor of the accounts payable department. On the basis of the record, we are not persuaded that this employee is a supervisory employee within the Board's customary definition, and we shall, therefore, include him in the unit.

Supervisor of accounts receivable (M. J. Durkin): At the present time, there is, in addition to the supervisor, one other employee in the accounts receivable department. Previously, another employee had spent part of her time in the department. Despite the assertions of the secretary, it appears, as in the case of the supervisor of the accounts payable department, discussed above, that the only real supervisory authority within the Board's definition with respect to the employees in the accounts receivable department is exercised by the secretary and not by the supervisor of that department. We are satisfied that this employee is not a supervisory employee and we shall include him in the unit.

We find that all office, clerical, and cafeteria employees, janitors, and nurses employed by the Companies at the Carnegie, Pennsylvania, plant and offices, including pay-roll clerk, schedule clerk, and accounts receivable and payable supervisors at Ward's, but excluding secretaries to heads of departments,⁷ supervisor of billing department, head of photostat department, plant engineer, production engineer, chief clerk of order department, order department supervisor at Ward's, metallurgists, guards, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the pay-

⁷ LaVerne Ritchie, Margaret Binder, Carole Naleppa, Mary Krafchyshyn, Janet Hawk, Eleanor Drake, Mary Brennan, Irene Ferguson, Martha McGrew.

roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 3, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Columbia Steel & Shafting Company and Edgar T. Ward's Sons Company, Carnegie, Pennsylvania, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Sixth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during the said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding any who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by United Steelworkers of America, C. I. O.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Election.