

In the Matter of AMERICAN CYANAMID COMPANY, CALCO CHEMICAL DIVISION, EMPLOYER and DISTRICT 50, UNITED MINE WORKERS OF AMERICA, AMERICAN FEDERATION OF LABOR, PETITIONER

*Case No. 5-R-2561.—Decided April 3, 1947*

*Mr. Henry C. Little*, of New York City, for the Employer.

*Mr. Hugh V. Brown*, of Richmond, Va., for the Petitioner.

*Mr. Leonard J. Mandl*, of counsel to the Board.

## DECISION

AND

## DIRECTION OF ELECTION

Upon a petition duly filed, hearing in this case was held at Lynchburg, Virginia, on November 1, 1946, before Charles B. Slaughter, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in the case, the National Labor Relations Board makes the following:

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE EMPLOYER

American Cyanamid Company, a Maine corporation, is engaged in the business of developing and manufacturing pigments used in dyes and paints, at its Calco Chemical Division plant, located at Piney River, Virginia. During the period from November 1, 1945, to November 1, 1946, the Employer purchased for use at this plant raw materials valued in excess of \$100,000, of which more than 50 percent represented shipments from outside the Commonwealth of Virginia. During the same period, the Employer's sales from this plant amounted to more than \$150,000, of which in excess of 50 percent represented shipments to points outside the Commonwealth.

The Employer admits and we find that it is engaged in commerce within the meaning of the National Labor Relations Act.

#### II. THE ORGANIZATION INVOLVED

The Petitioner is a labor organization affiliated with the American Federation of Labor, claiming to represent employees of the Employer.

## III. THE QUESTION CONCERNING REPRESENTATION

At the hearing it appeared that the Employer refused to recognize the Petitioner as the exclusive bargaining representative of either the clerical or the technical employees of the Employer until the Petitioner has been certified by the Board in appropriate units.

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

## IV. THE APPROPRIATE UNIT

The Petitioner seeks two separate units as follows: (1) all clerical employees, including technical secretary in the research department,<sup>1</sup> stenographer-clerk (personnel department), clerk-typist in the accounting department, assistant purchasing agent, and assistant works accountants, but excluding secretary to the works manager, works accountant, personnel director, assistant personnel directors, storekeeper, production superintendents, maintenance superintendents, assistant maintenance superintendents and other supervisors; (2) all technical employees, including junior research chemists and nurse, but excluding senior research chemists, draftsmen, chemical engineers, metallurgists, technical assistant to the works manager, and supervisors. The Employer apparently does not object to the establishment of a single clerical unit; however, it does object to the creation of a single technical unit. Instead of one technical unit, the Employer urges that two technical units, one limited to employees in the Standards and Analytical Control Laboratories, and the second to employees in the Analytical Research, Application and Research Laboratories, be found appropriate. In addition to the Petitioner's exclusions from its proposed units, the Employer would also exclude the following from all units: junior research chemists, assistant works accountants, assistant purchasing agent, stenographer-clerk in the personnel department, nurse and technical secretary in the research department.

*Units*

*Clerical:* It is the policy of the Board to separate clerical from technical employees where any of the parties requests such separation. Inasmuch as the Petitioner seeks a unit of clerical employees apart from technical employees, we shall include the former in the separate unit.

*Technical:* The Technical employees whom the Petitioner seeks to represent work in five separate laboratories. Two of the laboratories, the Standards Laboratory and the Analytical Control Laboratory, are located in the warehouse building; the other three, the Research

<sup>1</sup> Referred to also as the librarian.

Laboratory, the Analytical Research Laboratory and the Application Laboratory are housed in the office building, which is about 100 feet distant from the warehouse. The Standards and Analytical Control Laboratories are engaged in making routine tests of materials at various stages of the production process. Their work is considered to be an integral part of the production operations and they are referred to as production laboratories. The laboratories in the office building, on the other hand, are engaged in various kinds of research and they are known as research laboratories. Each laboratory has its own immediate supervisor although all are under the general supervision of the director of research and development. There is no interchange of employees between the production and research laboratories. The employees in the production laboratories work on a 3-shift, 7-day basis, as do production and maintenance employees; whereas employees in the research laboratories work on a 1-shift, 5-day week schedule. The production and research laboratory employees punch separate time clocks and utilize separate facilities. In view of the foregoing, we are of the opinion that the technical employees in the production and research laboratories, respectively, should constitute separate units.<sup>2</sup>

The Petitioner would include, and the Employer exclude, the following employees:

*Junior Research Chemists:* These employees work in the Research Laboratories. They are required to have a college technical education or its equivalent. After a period of training, which usually takes about 2 years, the junior research chemists are promoted to the position of senior research chemists, a classification which all parties agreed to exclude. It is apparent that the junior research chemists are professional employees. In conformity with our practices, we shall exclude them from both technical units.<sup>3</sup>

*Assistant Works Accountants:* The Employer employs two men in this category—one has charge of general accounting work and the other of cost accounting records and procedures. They both supervise employees, such as clerks and bookkeepers, give efficiency ratings, and effectively recommend the hiring, discharge, and reclassification of subordinates. We find that the assistant works accountants are supervisors within the Board's customary definition. Accordingly, we shall exclude them.

*Assistant Purchasing Agent:* This employee works under the general supervision of the works accountant. He places orders for supplies and materials of all kinds, committing the Employer on contracts involving 95 percent of its purchases. He has one subordinate, concerning whom he has the power effectively to recommend a change in status. We shall exclude this employee as a supervisor.

<sup>2</sup> Cf. *Matter of Aluminum Company of America*, 61 N L R B 1066 *Matter of Curtiss-Wright Corporation*, 63 N L R B 207

<sup>3</sup> *Matter of Peter Cailler Kohler Swiss Chocolates Co., Inc.*, 66 N L R B 257, 260

*Stenographer-Clerk (Personnel Department):* The Employer would exclude this individual as a confidential employee. As secretary to the Personnel Director, her work includes the taking of dictation and the transcribing of letters and memoranda relating to labor relations policies, labor relations materials, and grievance meetings. We find that she is a confidential employee, and we shall exclude her from the unit.

*Nurse:* This employee is in charge of the Employer's medical department. She keeps the medical records of all employees, renders first-aid when needed, takes injured employees to the doctor, keeps records of accidents, and arranges for routing physical examinations of new employees. Inasmuch as her training, skill, duties, and interests differ from those of the clerical and technical employees, we shall exclude her from all units.<sup>4</sup>

*Technical Secretary in the Research Department:* This employee works under the supervision of the director of research and development. Her work is mostly technical in nature, including the handling and abstracting of patents. In view of the technical aspects of her work and her supervision by the director of research and development, we are of the opinion that she has a community of interest with the technical employees in the Research Laboratories. We shall include her in that unit.

Accordingly, we find that the following units at the Employer's Calco Chemical Division, Piney River, Virginia, excluding from each of the units stenographer-clerk (personnel department), secretary to the works manager, technical assistant to the works manager, senior research chemists, junior research chemists, nurse, storekeeper, draftsmen, chemical engineers, metallurgists, works accountant, assistant works accountants, assistant purchasing agent, personnel director, assistant personnel directors, production superintendents, maintenance superintendents, 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, are appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

- (1) All clerical employees.
- (2) All technical employees in the Standards and Analytical Control Laboratories.
- (3) All technical employees in the Analytical Research, Application, and Research Laboratories, including the technical secretary in the research department.

<sup>4</sup> *Matter of American Stove Company*, 70 N. L. R. B. 1059, *Matter of The Electric Controller & Manufacturing Company*, 69 N. L. R. B. 1242, *Matter of The Newark Stove Company*, 70 N. L. R. B. 1232, *Matter of Aluminum Company of America*, 61 N. L. R. B. 1066, 1082.

## DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with American Cyanamid Company, Calco Chemical Division, Piney River, Virginia, 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 Fifth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Sections 203.55 and 203.56, of National Labor Relations Board Rules and Regulations—Series 4, among the employees in each of the units 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 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 those employees 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 District 50, United Mine Workers of America, American Federation of Labor, for the purposes of collective bargaining.

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