7. By requiring and coercing employees of Respondent Company to sign authorizations for the deduction of dues and initiation fees as a condition of membership in Respondent Union; requiring, between November 15, 1951, and June 28, 1952, that they become and remain members of said Union; threatening them, during said period, with discharge if they failed to do so; and by the statements of its representatives or officials, detailed herein, Respondent Union has restrained and coerced employees in the exercise of rights guaranteed in Section 7 of the Act, and has thereby engaged in unfair labor practices within the meaning of Section 8 (b) (1) (A) of the Act.

8. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2 (6) and (7) of the Act.

9. Respondent Company has not discriminated in regard to the hire and tenure of employment or the terms and conditions of employment of Vivian Allean Sample, within the meaning of Section 8 (a) (3).

10. Respondent Union has not caused or attempted to cause Respondent Company to discriminate in regard to the hire and tenure of employment of Vivian Allean Sample in violation of Section 8 (a) (3), within the meaning of Section 8 (b) (2) and 8 (b) (1) (A) of the Act.

[Recommendations omitted from publication in this volume.]

CALIFORNIA PORTLAND CEMENT COMPANY *and* UNITED CEMENT, LIME & GYPSUM WORKERS INTERNATIONAL UNION, LOCAL NO. 89. *Case No. 21–CA–1272. March 31, 1953*

Supplemental Decision and Order

On December 29, 1952, the Board issued its Decision and Order in the above-entitled proceeding,[1] finding that the Respondent had violated and was violating Section 8 (a) (5) and (1) of the Act. Thereafter, on February 20, 1953, the Respondent filed a motion for reconsideration, requesting the Board to reconsider its foregoing Decision and Order, that the case be referred to the full Board, and that the complaint be dismissed in its entirety.

Upon the record, the Board[2] makes the following additional findings:

1. The Respondent contends that the charging Union was not in compliance with section 9 (f) and (g) of the Act at the time of the issuance of the complaint on February 1, 1952. It is well established that compliance is a matter for administrative determination and is not an issue litigable by the parties. Moreover, we are administratively satisfied that the Union was in compliance when the complaint was issued.

[1] 101 NLRB No. 232.

[2] Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Herzog and Members Styles and Peterson].

2. The Respondent also contends that the Board's Decision, in requiring it to divulge the classifications and compensation of its salaried employees, is in conflict with the provisions of Section 8 (d) of the Act. The pertinent part of Section 8 (d) is as follows:

> . . . the duties so imposed shall not be construed as requiring either party to discuss or agree to any modification of the terms and conditions contained in the contract for a fixed period, if such modification is to become effective before such terms and conditions can be reopened under the provisions of the contract.

In support of the above contention the Respondent states that the contract has many provisions requiring the Respondent and the Union to furnish each other and to the employees certain information not here in issue and that, by so specifying that certain information should be disclosed, the parties manifested an intention that for the term of the agreement neither party would be obliged to furnish any other information. However, the record shows that the Respondent has on numerous occasions, upon request, provided the Union with information not specified in the contract.

More specifically, the Respondent contends that it is relieved from the obligation to furnish the requested information by article 7 (c) of the contract, which reads:

> The wages specified in this schedule are minimum wages and are not to be construed as preventing the Employer from giving, or the employees from receiving, any additional compensation. *However, the Employer shall immediately notify the Union of any additional increases in the hourly rates.* [Emphasis added.]

The Respondent construes the italicized language to mean that it need notify the Union only of increases in hourly rates and not of the salary increases. Assuming, without deciding, that this is true, it does not follow that the foregoing article precludes the disclosure of *existing* classifications and salaries of its salaried employees, as distinguished from any *increases* in salaries. Accordingly, we find nothing in article 7 (c) or the other provisions cited by the Respondent that precludes the disclosure of the salary data requested by the Union, and we find that to require such disclosure would not constitute a modification of the contract within the meaning of Section 8 (d) of the Act.

3. The Respondent contends, further, that under article 21 of the contract the Union expressly waived its right to request disclosure of salary data. In that article the parties acknowledge that they have "settled all issues between them and all collective bargaining obligations for the term of the contract." However, this article does not purport to relieve the Respondent of the obligation to bargain about grievances arising under the contract, nor does the Respondent impute

that effect to the article. As the disclosure of the salary data sought by the Union is essential to the effective discharge of the Union's responsibility for administering the contract by processing grievances,[3] it follows that the duty to supply such data was not intended to be affected by article 21.

4. The Respondent asserts that its refusal, because of the pendency of the Union's charge before the Board, to consider the Union's grievance concerning an alleged violation of the contract did not violate the Act. In support of this position it contends that (1) the grievance clearly had no merit, as the contract expressly conferred on the Respondent the right to transfer work from one plant to another, and (2) the grievance was not filed in good faith, having been filed on the same day as the Union's charge.

As to (1), that fact, if it be a fact, that the grievance had no merit may have justified rejection of the grievance by the Respondent on its merits, but would not justify the Respondent's refusal to consider it at all. As to (2), we do not agree with the Respondent's contention that the mere fact that the charge was filed on the same day as the grievance establishes that the grievance was filed in bad faith. The fact that the Union continued to press the grievance even after the charge was filed negates any inference that the grievance was not filed in good faith.

In view of the foregoing, and upon the entire record, we find no reason to set aside our original Decision herein, and we will deny the Respondent's motion in all other respects.

Order

IT IS ORDERED that the Respondent's motion for reconsideration be, and it hereby is, denied.

---

[3] The Respondent disputes the Board's finding in its original Decision herein that the disclosure of salary data is needed for the administration of article 9 (a) of the contract relating to temporary transfers. The Respondent contends that the word "wages" in article 9 (a) of the contract does not include "salaries" but refers only to "hourly rates." We do not agree. The salaried employees are in the bargaining unit which is covered by the contract. Elsewhere in the contract the Respondent has used "wages" as including salaries. Thus, the Respondent recognized in negotiations concerning article 7 (c) that the term "wages" as used in the first sentence thereof referred to salaries as well as hourly rates.

Furthermore, the requested salary data is necessary for the proper administration not only of article 9 (a) but also of article 9 (b) of the contract, which prescribes the rate of pay applicable in case of permanent transfers. In its original brief herein, the Respondent indicated that it considered article 9 (b) to apply to salaried employees.

It is well settled that an employer violates Section 8 (a) (5) of the Act when he refuses to furnish to a union information concerning employees' rates of pay and classifications, which are needed by the union to enable it to administer the contract. *General Controls Company*, 88 NLRB 1341; *E. W. Scripps Company*, 94 NLRB 227; *Aluminum Ore Company* v. *N. L. R. B.*, 131 F. 2d 485 (C. A. 7); *J. H. Allison & Company*, 70 NLRB 377, enforced 165 F. 2d 766 (C. A. 6), cert. den. 335 U. S. 814; *Leland-Gifford Company*, 95 NLRB 1306, enforced as modified 200 F. 2d 620 (C. A. 1).