

Westinghouse Electric Corporation and International Association of Machinists and Aerospace Workers, AFL-CIO,¹ and Lima Westinghouse Salaried Employees Association affiliated with the Federation of Westinghouse Independent Salaried Unions.² Case 8-UC-27

August 13, 1968

DECISION AND ORDER

BY MEMBERS FANNING, JENKINS, AND ZAGORIA

Upon a petition of Machinists for clarification of unit, duly filed on February 6, 1968, under Section 9(b) of the National Labor Relations Act, as amended, a hearing was held on March 5, 6, 28, and 29, 1968, before Hearing Officer Richard A. Du Rose. On May 17, 1968, the Regional Director for Region 8 issued an order transferring the case to the Board. Thereafter, briefs were filed by the Employer and the Petitioner.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its powers in connection with this case to a three-member panel.

The Board has reviewed the Hearing Officer's rulings made at the hearing and finds that they are free from prejudicial error. The rulings are hereby affirmed.

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein
2. The Petitioner and the Intervenor are both labor organizations within the meaning of the Act, and both claim to represent certain employees of the Employer.
3. In this clarification proceeding we are asked to determine whether three employees, who have been promoted to the newly created position of manufacturing laboratory technician, remain within the toolroom unit represented by the Machinists.

The certified unit in which the above clarification is sought consists of:

All employees in Department 59, commonly known as the tool room of Employer's Lima, Ohio, plant, including inspectors and tool crib attendants working in Department 59, who appear on the Employer's payroll for the period

ending September 21, 1952, but excluding office clerical employees, professional employees, guards, and supervisors, as defined in the Act.³

At the time of the above certification (November 3, 1952), department 59 was under the Small Motors Division (SMD) of Westinghouse. SMD's business operations consisted primarily of two phases, the manufacturing of fractional horsepower motors for various appliances and electrical generating equipment for aircraft. By 1955 both phases had expanded considerably and Westinghouse decided to departmentalize each activity. The new departments were known as the aircraft equipment department and the industrial motor department. Each department had an individual manager who reported to the vice president and general manager of SMD. Department 59 acted as the toolmaking facility for both the aircraft equipment department and the industrial motor department. The record is not clear as to where department 59 was assigned between 1955 and 1958. However, in 1958 the Employer assigned department 59 (the toolroom) to the aircraft equipment department. In 1962, the two departments became separate divisions, the Aerospace Electrical Division (AED) and the Small Motors Division. Under this divisionalization SMD and AED are completely separate entities under the Employer's organizational structure and report through different channels of authority to top management.

As a result of the 1962 divisionalization AED took over the physical premises of the Wapak Road location—the Employer's main plant in Lima. SMD leased from AED the main floor manufacturing facility. However, SMD's entire headquarters, including its manufacturing laboratory (to which the three employees involved in the instant proceeding are assigned) moved to a separate location in Lima.

The AED employees in department 59 are paid on the basis of their labor grade number, a designation agreed on between the Petitioner and the Employer. The highest grade is labor grade 16 which applies to journeyman tool and gauge makers. SMD has used labor grade 16 tool and gauge makers in its manufacturing laboratory for a number of years. Since 1958, when department 59 was assigned to AED, SMD has purchased their services from AED.

In January 1968, SMD moved its entire headquarters including its manufacturing laboratory to a new location in Lima. At this time there were three department 59 employees working in the manufacturing laboratory on a purchased basis. These three

¹ Herein called Machinists or Petitioner

² Herein called Association or Intervenor. The Association was allowed

to intervene on the basis of its contract which covers salaried and technical employees of the Employer

³ Case 8-RC-1721 (not printed in NLRB volumes)

employees were reassigned as salaried manufacturing laboratory technicians to the new laboratory.

The primary function of SMD's manufacturing laboratory is in the area of long-range planning and development of new SMD products and manufacturing techniques. In addition, the laboratory also provides technical direction to SMD's production employees at the Lima plant and three other SMD production locations.

The Petitioner contends that, since it has always represented department 59 employees who have been either temporarily or permanently assigned to work in SMD's manufacturing laboratory, it should be allowed to continue to represent the three department 59 employees assigned to work in the manufacturing laboratory.

The Employer contends that the three employees who were formerly department 59 employees have been reassigned to work in the manufacturing laboratory, not as department 59 employees rented from AED, but for the first time as salaried employees of SMD in the newly created position of manufacturing laboratory technician. Furthermore, the Employer claims that the duties of the employees involved have been, or will be, upgraded and that this fact further differentiates them from department 59 employees.

The three employees who have assumed the newly created position of manufacturing laboratory technician had been department 59 employees assigned to the SMD manufacturing laboratory. One of the three has worked in the manufacturing laboratory since 1954 and the other two since 1965. However, as manufacturing laboratory technicians, the responsibilities of these three employees have been significantly expanded. The duties of the manufacturing laboratory technicians include: the authority to purchase parts and tools from either AED or outside suppliers; the authority to negotiate with outside suppliers and department 59 for the supply of parts and tools, the solving of machine design problems; participation with other laboratory employees in conceptual discussions of new products; and teaching production employees the use of various production machines.

Some of the foregoing duties performed by the manufacturing laboratory technicians represent differences in degree rather than in kind from the duties previously performed by the department 59 employees assigned to the manufacturing laboratory. Nevertheless, the creation of the manufacturing

laboratory technician position, with its expanded responsibilities, further differentiates the technicians, who primarily perform work of a developmental nature, from the journeyman toolmakers in department 59, whose functions are primarily of a toolmaking nature and who work on existing machinery or products.

The Intervenor represents, with certain exclusions not pertinent herein, all salaried and technical employees at the Employer's Lima plant. Among the employees it represents are salaried and technical employees working in SMD's manufacturing laboratory. The Intervenor also represents other SMD technical employees with skill classifications lower than the manufacturing laboratory technicians.

Department 59 toolmakers are paid on an hourly basis whereas the manufacturing laboratory technicians are salaried. As noted above, the function of the technicians is primarily in the area of conceptual manufacturing development. They are required to use independent judgment to a far greater degree than the department 59 employees. Their present skills are technical in nature, and their on-the-job training will result in the development of further specialized knowledge. The change in the Employer's administrative structure has completely separated the technicians from the department 59 employees. Furthermore, in their new position, these employees are supervised by technical employees and, in fact, the technician position was first offered to the technical employees represented by the Intervenor on the basis of competitive bidding.

We find, on the record as a whole, that the manufacturing laboratory technicians are technical employees and, therefore, the three employees involved herein are no longer in department 59. Their duties, functions, and interests are not such as to ally them with the toolmaker unit represented by the Petitioner. Accordingly, as the Petitioner seeks to include the manufacturing laboratory technicians within the department 59 toolmaker unit for which it is certified, we shall dismiss the petition for unit clarification filed herein.

ORDER

It is hereby ordered that the petition be, and it hereby is, dismissed.