

P.E.R.C. NO. 2021-13

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY,

Respondent,

-and-

Docket No. DA-2020-003

PAUL FISCHER,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission dismisses Fischer's application for appointment of a special disciplinary arbitrator under P.L. 2009, c. 16 to review his termination from the Rutgers University Police Department. Pursuant to the recently published Appellate Division decision in In re DiGuglielmo, 2020 N.J. Super. LEXIS 219 (App. Div. 2020), the Commission finds that Fischer is ineligible for Special Disciplinary Arbitration under N.J.S.A. 40A:14-209 and -210 because that process is an alternative to de novo Superior Court review under N.J.S.A. 40A:14-150, which specifically applies only to non-Civil Service municipal police officers. As Rutgers is not a municipality, the Commission finds that Fischer was not statutorily eligible for Special Disciplinary Arbitration. The Commission also finds, based on DiGuglielmo's interpretation of N.J.S.A. 40A:14-209 and -210, that Fischer is ineligible for Special Disciplinary Arbitration because he was on paid administrative leave rather than an unpaid suspension pending his termination.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.

P.E.R.C. NO. 2021-14

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF SPRINGFIELD,

Petitioner,

-and-

Docket No. SN-2020-014

PBA LOCAL 76A (SUPERIORS),

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Township of Springfield for a restraint of binding arbitration of a grievance filed by the Springfield Superior Officers Association, PBA Local 76A, alleging that the Township violated the parties' collective negotiations agreement (CNA), past practice and applicable law by requiring two officers to contribute towards health insurance premiums after retirement. The Commission finds the officers were not exempt from the contribution requirements of P.L. 2011, c. 78 (Chapter 78) because neither had 20 or more years of creditable service as of the effective date of Chapter 78, and both retired while the CNA in which the parties reached full implementation of Chapter 78's contribution requirements was still in effect. The subject of retiree health benefit premium contributions was not mandatorily negotiable until the next collective negotiation agreement to be executed after full implementation.

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P.E.R.C. NO. 2021-15

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MONMOUTH COUNTY,

Respondent,

-and-

Docket No. CO-2020-304

COMMUNICATIONS WORKERS OF
AMERICA, AFL-CIO,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies the County of Monmouth's motion for reconsideration of a Commission Designee's partial grant of interim relief to the Communications Workers of America, AFL-CIO, pending a final decision on its unfair practice charge that the County violated the New Jersey Employer-Employee Relations Act by unilaterally establishing policies requiring unit employees, who were potentially exposed to COVID-19 or recently traveled to states with significant community spread of the disease, to report to work during their quarantine period; and temporarily restraining the County from requiring employees to report to work during their quarantine period because the County previously determined it was feasible to allow those positions to work from home. The County repeated arguments it made to the Designee, and failed to explain specifically how its interests in providing essential services would be thwarted by the Designee's grant of partial interim relief, in the absence of evidence in the record showing why compliance with the Designee's order was not feasible. The Commission finds the County failed to establish extraordinary circumstances warranting reconsideration, and presented no compelling reason to disturb the Designee's decision.

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P.E.R.C. NO. 2021-16

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEPTUNE TOWNSHIP,

Petitioner,

-and-

Docket No. SN-2021-005

AFSCME COUNCIL 63,
LOCAL 2792,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the Township's request for a restraint of binding arbitration of Local 2792's grievance contesting the Township's failure to promote the applicant with the most seniority to the Sanitation Foreman position. The Commission finds that the Township retains the non-arbitrable right to determine, based on a comparison of applicant qualifications to the promotional criteria, that a less senior employee is the most qualified employee despite a seniority preference clause. Accordingly, where the Township certified to the specific qualifications of the selected employee that were superior to the other applicants, including the grievant, the Commission restrains arbitration.

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P.E.R.C. NO. 2021-17

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEW JERSEY TURNPIKE AUTHORITY,

Petitioner,

-and-

Docket No. SN-2020-046

IFPTE LOCAL 193C,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the Authority's request for a restraint of binding arbitration of Local 193C's grievance contesting the transfers of four Maintenance Supervisors to different maintenance districts during an investigation. The Commission holds that where qualifications are not at issue, a union may arbitrate an involuntary transfer between work sites based on an alleged seniority preference procedure. Finding that Local 193C seeks to arbitrate over alleged procedural violations concerning seniority preference and how far away employees may be involuntarily transferred, and that the Authority has not demonstrated a particularized governmental policy reason for transferring the grievants to the specific districts they were transferred to, the Commission declines to restrain arbitration.

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P.E.R.C. NO. 2021-18

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

STATE OF NEW JERSEY
(DEPARTMENT OF CORRECTIONS),

Petitioner,

-and-

Docket No. SN-2020-038

NEW JERSEY SUPERIOR OFFICERS
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the State's motion for reconsideration of a Commission decision, P.E.R.C. No. 2021-3, denying the State's request to restrain binding arbitration of a grievance filed by the NJSOA. The grievance alleged that the State violated the parties' collective negotiations agreement by requiring the grievant to pay the same health insurance premium contribution while out on Workers' Compensation as when he was receiving his full salary. On reconsideration, the State asserts that even if the statutes enacting P.L. 2011, c. 78 (Chapter 78) that it cited in its original arguments do not preempt negotiations, that N.J.S.A. 52:14-17.28b, enacted as part of P.L. 2020, c. 2, prohibits health insurance premium contributions of less than 1.5% of base salary. The State also repeats its arguments asserting how to define base salary for purposes of health insurance premium contributions. The Commission, while finding no extraordinary circumstances warranting reconsideration of its original decision that Chapter 78 no longer preempts health insurance premium contributions, nonetheless clarifies its original decision to note that N.J.S.A. 52:14-17.28b preempts contributions of less than 1.5% base salary. However, the Commission does not find that the State proffered any statutes or regulations that expressly, specifically, and comprehensively define the term "base salary" for purposes of that 1.5% minimum contribution. Accordingly, the Commission finds that the arbitrator may consider the appropriate health insurance premium contribution while the grievant was on Workers' Compensation.

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