

P.E.R.C. NO. 2022-20

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TRENTON BOARD OF EDUCATION,

Respondent,

-and-

Docket No. CO-2014-028

TRENTON EDUCATIONAL SECRETARIES
ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission grants in part, and denies in part, the Board's exceptions to a Hearing Examiner's recommended decision and order finding that the Board violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., specifically subsections 5.4a(1) and (3), by abolishing a TESA unit secretary position in the superintendent's office and replacing it with another confidential secretary position in retaliation for TESA's exercise of its contractual seniority recall rights to fill the opening. The Commission affirms the Hearing Examiner's findings that the Board's action was retaliation for protected activity in violation of the Act and that reinstatement of a TESA unit secretary position is an appropriate remedy. However, given the superintendent's testimony that there is currently only one confidential secretary in the superintendent's office, the Commission modifies the remedy to provide that if and when the Board re-establishes an additional secretary in the superintendent's office, it must allow TESA to fill the position by exercising its contractual seniority recall rights.

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. 2022-21

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

SALEM COUNTY SHERIFF'S DEPARTMENT
(CORRECTIONS),

Petitioner,

-and-

Docket No. SN-2022-005

PBA LOCAL 400,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Salem County Sheriff's Department (Corrections) for a restraint of binding arbitration of a grievance filed by PBA Local 400 asserting that a corrections officer (CO) was denied a bid request to work on a shift (the B shift), in violation of the grievant's seniority rights under the parties' collective negotiations agreement (CNA). The shift bid denial came in the context of the grievant's return to work following a disciplinary suspension on charges that he made racist remarks to another CO on the B shift, which were sustained in a final agency decision. The victim requested that the grievant not be assigned to her shift upon his return to work. The Commission finds that under the specific facts of this case, allowing the grievant's attempted exercise of his contractual seniority rights in shift selection to go to arbitration would compromise the County's managerial prerogative to determine that keeping the grievant and the victim on separate shifts, after the incidents of verbal harassment and the grievant's return to work, would best effectuate the operations of its facility and staff; subject to reevaluation of the separation at a timing of the County's discretion.

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P.E.R.C. NO. 2022-22

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

SALEM COUNTY SHERIFF'S DEPARTMENT
(CORRECTIONS),

Petitioner,

-and-

Docket No. SN-2022-006

PBA LOCAL 400,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies, in part, the request of the Salem County Sheriff's Department (Corrections) for a restraint of binding arbitration of a grievance filed by PBA Local 400 asserting that the County violated the parties' collective negotiations agreement (CNA) when a Sergeant entered a "Training/Mentoring" entry in a software system for the entire B shift due to an unsubstantiated claim of officers who used foul language and otherwise disrespected inmates during the booking process. The Commission finds that the disputed entries are more in the nature of a written reprimand for past conduct and may be appealed through arbitration as a form of minor discipline, as they discuss "officers possibly having inappropriate communications between themselves and also between them and inmates," and state that "[o]fficers cannot play loud music, use profanity and be disrespectfull [sic]." The Commission finds that such language is indicative of an intent to criticize the officers based upon a determination that the inappropriate conduct "possibly" occurred. But the Commission further finds that the question of who an employer designates to make a disciplinary determination is not mandatorily negotiable, therefore it restrains arbitration to the extent that the grievance seeks to compel the County to conduct an internal affairs investigation of the incident that prompted the disputed entries.

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P.E.R.C. NO. 2022-23

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF BERGENFIELD,

Respondent,

-and-

Docket No. IA-2021-016

PBA LOCAL 309,

Appellant.

SYNOPSIS

The Public Employment Relations Commission vacates and remands an interest arbitration award to the arbitrator for submission of additional evidence on the issues of healthcare contributions and revised final offers. The PBA appealed from the award asserting, among other things, that the arbitrator improperly considered the issue of healthcare contributions that the PBA did not identify in its petition as an issue in dispute, but that the Borough submitted in its final offer. The Commission finds that the issue of healthcare contributions (deducted from employee wages) is sufficiently connected to the issue of "wages" listed in the PBA's petition and therefore the arbitrator did not abuse his discretion by considering it. However, the Commission finds that the arbitrator improperly waited until his award to decide on the PBA's objection to the Borough's healthcare contributions proposal. The Commission declines to decide on the PBA's other objections to the award prior to reviewing the arbitrator's remand award following submission of additional evidence on the issue of healthcare contributions and revised final offers.

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