



STATE OF NEW JERSEY
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October 23, 2000

MEMORANDUM

TO: Commissioners
FROM: Bob Anderson
RE: Developments in the Counsel's Office Since September 28, 2000

Commission Cases

The Supreme Court has affirmed *Middletown Tp. and Middletown PBA Local 124*, P.E.R.C. No. 98-77, 24 *NJPER* 28 (¶29016 1998), aff'd 25 *NJPER* 357 (¶30151 App. Div. 1999), aff'd ___ *N.J.* ___ (2000). The Commission held that the employer was required to negotiate before changing a practice of placing newly hired police officers on step three of the salary guide if they had police academy training and at least one year of experience in a municipal police department. The Appellate Division and the Supreme Court both agreed, accepting the reasons set forth in the Commission's decision. Copies of the Commission, Appellate Division, and Supreme Court opinions are attached.

In *Jackson Tp. Bd. of Ed. v. Jackson Tp. Ed. Ass'n*, ___ *N.J. Super.* ___ (App. Div. 2000), an Appellate Division panel questioned the wisdom and propriety of PERC's participating in appeals and referred that question to the Supreme Court's Civil Practice Committee. On October 2, 2000, the committee met and rejected the panel's position (copy of Committee letter attached). The General Counsel's office will continue to participate in appeals involving public interest issues.

In *Pascack Valley Reg. H.S. Dist. Bd. of Ed. and Pascack Valley Reg. Support Staff*, P.E.R.C. No. 99-104, 25 *NJPER* 295 (¶30124 1999), the Board has withdrawn its appeal. The parties have come to a settlement.

Commission Regulations

2.

The regulations governing mediation, fact-finding, and grievance arbitration, *N.J.A.C. 19:12-1.1 et seq.*, must be readopted by July 12, 2001. The regulations governing interest arbitration, *N.J.A.C. 19:16-1.1 et seq.*, must be readopted by July 15, 2001. The Commission staff will begin reviewing these regulations to see if amendments should be proposed.

Other Cases

The Appellate Division has rejected a school board's contention that a grievance challenging a coaching nonreappointment was not contractually arbitrable. *Jackson Tp. Bd. of Ed. v. Jackson Ed. Ass'n*, App. Div. Dkt. No. A-417-99T1 (9/29/00). The parties' contract contained a just cause clause, but that clause did not mention coaching nonreappointments.

The Supreme Court has granted certification in *State of New Jersey (Dept. of Corrections) v. Local 195, IFPTE*, App. Div. Dkt. No. A-6309-98T1 (6/18/00). The issue is whether an arbitrator had contractual authority and legal power to order the employer to pay overtime compensation to employees improperly denied overtime opportunities. The Court invoked the common law "no work-no pay" rule. CWA will file an amicus curiae brief.

Other Developments

N.J.S.A. 11A:6-10 allows members of various police and fire employee organizations to receive paid leaves of absence to attend State and national conventions. The Legislature has amended this statute, effective September 21, 2000, to apply to members of superior officer organizations and the International Association of Women Police as well.