

P.E.R.C. NO. 2001-11

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF EGG HARBOR CITY,

Petitioner,

-and-

Docket No. SN-2000-38

P.B.A. LOCAL #77,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the City of Egg Harbor City's request for reconsideration of P.E.R.C. No. 2000-98. In that decision, the Commission denied the City's request for a restraint of binding arbitration of a grievance filed by P.B.A. Local #77. The grievance alleged that the City violated the parties' collective negotiations agreement when it changed from steady to rotating shifts. The City also requested a factual hearing. The Commission holds that the City's motion for reconsideration is untimely. The Commission also denies the City's request for an evidentiary hearing as untimely.

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. 2001-12

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF MIDDLESEX,

Respondent,

-and-

Docket No. CO-H-99-360

PBA LOCAL 156,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies the County of Middlesex's request for special permission to appeal a Hearing Examiner's ruling partially denying the County's motion for summary judgment. The County sought summary judgment on a Complaint based on an unfair practice charge filed by PBA Local 156. The charge alleges that the County violated the New Jersey Employer-Employee Relations Act when it allegedly violated its purported promise not to lay off officers during the term of the 1996-1999 contract. That promise was allegedly made in exchange for the PBA's promise to accept lower salary increases than those awarded by an interest arbitrator. The Hearing Examiner granted the County's motion to the extent that parol evidence could not be admitted to alter or impugn the terms of the 1996-1999 memorandum/collective agreement signed by the County and PBA Local 156. He denied the motion to the extent that the Complaint alleges that the County violated the Act by repudiating a promise not to lay off police officers in exchange for concessions on wages during the term of the agreement. Absent extraordinary circumstances, the Commission will not review an interlocutory ruling of a Hearing Examiner. The County may raise its concerns during the course of the hearing and the Commission will review any exceptions to the Hearing Examiner's rulings at the end of the case.

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P.E.R.C. NO. 2001-13

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY  
(DEPARTMENT OF TREASURY),

Respondent,

-and-

Docket No. CO-H-98-338

COMMUNICATIONS WORKERS OF  
AMERICA, LOCAL 1033,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission grants, in part, a motion for dismissal and summary judgment made by the State of New Jersey (Department of Treasury). The State seeks dismissal of allegations in a Complaint based on an unfair practice charge filed by the Communications Workers of America, Local 1033. The charge alleges that the employer violated the New Jersey Employer-Employee Relations Act when it reassigned Melissa Mullin allegedly in retaliation for her pursuing a classification appeal with the Department of Personnel, filing a sex discrimination charge with the Division on Civil Rights, and filing a grievance with her employer. The Commission dismisses the 5.4a(4) and (7) allegations in the Complaint and the allegations that the State violated 5.4a(1) and (3) by harassing and discriminating against Mullin because she filed an appeal with the Department of Personnel and a complaint with the Division of Civil Rights. The Commission declines to dismiss the Complaint to the extent it alleges that Mullin was reassigned rather than promoted because she filed a grievance. The Commission also rejects the State's assertion that the unfair practice charge is moot since Mullin is no longer an employee. The case is remanded to the Hearing Examiner for further proceedings.

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P.E.R.C. NO. 2001-14

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY,  
(DEPARTMENT OF HUMAN SERVICES and  
OFFICE OF EMPLOYEE RELATIONS),

Respondent,

-and-

Docket No. CO-H-98-36

COMMUNICATIONS WORKERS OF  
AMERICA, AFL-CIO,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission dismisses a Complaint against the State of New Jersey (Department of Human Services and Office of Employee Relations). The Complaint was based on an unfair practice charge filed by Communications Workers of America, AFL-CIO. The charge alleges that the State violated the New Jersey Employer-Employee Relations Act when two supervisors allegedly told an employee that she would be reassigned if she did not drop a grievance by 2:00 p.m. that afternoon. Given the Hearing Examiner's findings, the Commission finds no basis for concluding that the Act was violated.

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P.E.R.C. NO. 2001-15

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF ATLANTIC CITY,

Petitioner,

-and-

Docket No. SN-2000-102

I.A.F.F. LOCAL NO. 198,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the City of Atlantic City for a restraint of binding arbitration of a grievance filed by I.A.F.F. Local No. 198. The grievance contests a one-year suspension of a firefighter from serving as an acting captain. The Commission finds that the suspension from working temporarily in a higher position is minor discipline which is subject to binding arbitration. The Commission also concludes that the allegation that the firefighter was bypassed for acting assignments in violation of the parties' agreement is at least permissively negotiable and legally arbitrable.

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P.E.R.C. NO. 2001-16

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEW JERSEY STATE JUDICIARY  
(ADMINISTRATIVE OFFICE OF  
THE COURTS),

Petitioner,

-and-

Docket No. SN-2000-109

PROBATION ASSOCIATION OF  
NEW JERSEY,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the New Jersey State Judiciary (Administrative Office of the Courts) for a restraint of binding arbitration of grievances filed by the Probation Association of New Jersey. The grievances contest the denial of the requests of two probation officers for reimbursement of leave time they used after workplace injuries. The officers ultimately received workers' compensation settlements. The State asserts that the employees were County employees at the time of their injuries and that, by statute, the County is responsible for any claims. The Commission concludes that the grievances do not involve any statutorily barred claims, specifically workers' compensation claims, and may be submitted to binding arbitration.

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P.E.R.C. NO. 2001-17

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF ORANGE TOWNSHIP,

Respondent,

-and-

Docket No. CO-2000-311

ORANGE POLICE DEPARTMENT SUPERIOR  
OFFICERS ASSOCIATION,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission denies the City of Orange Township's motion for reconsideration of I.R. No. 2000-16. In that decision, a Commission designee restrained the City from unilaterally eliminating the right of employees represented by the Orange Police Department Superior Officers Association to accrue negative sick leave balances pending a final Commission order. Specifically, the City was restrained from recouping sick leave and was ordered to return to the status quo ante by returning any recouped sick leave to affected employees. The Commission concludes that there are no extraordinary circumstances for reconsidering the designee's belief that negotiations were required before such unilateral actions were taken. Accordingly, the City's motion is denied.

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P.E.R.C. NO. 2001-18

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF CAPE MAY,

Petitioner,

-and-

Docket No. SN-2000-99

P.B.A. LOCAL 59 (CAPE MAY),

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the City of Cape May for a restraint of binding arbitration of a grievance filed by P.B.A. Local 59 (Cape May). The grievance alleges that a sergeant was reprimanded without just cause and in violation of the parties' agreement. The Commission concludes that this grievance involves minor discipline and may be submitted to binding arbitration.

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P.E.R.C. NO. 2001-19

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NORTHERN BURLINGTON COUNTY  
REGIONAL BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-2000-97

NORTHERN BURLINGTON COUNTY  
REGIONAL TEACHERS' ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the Northern Burlington County Regional Board of Education for a restraint of binding arbitration of a grievance filed by the Northern Burlington County Regional Teachers' Association. The grievance alleges that the Board violated the parties' collective negotiations agreement when it discontinued dental and prescription drug benefits for certain retired employees. The Commission concludes that arbitration of this grievance is preempted by N.J.S.A. 18A:16-19b which prohibits retirees who take State-paid coverage under the State Health Benefits Program from receiving employer-paid coverage.

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P.E.R.C. NO. 2001-20

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

PASSAIC VALLEY WATER COMMISSION,

Petitioner,

-and-

Docket No. SN-2000-105

TEAMSTERS LOCAL 97 OF NEW JERSEY,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the Passaic Valley Water Commission for a restraint of binding arbitration of a grievance filed by Teamsters Local 97 of New Jersey. The grievance seeks compensation for an employee for having performed the duties of a supervisory position, while the permanent holder of the higher-paying job was absent. The Commission concludes that this grievance involves a claim for compensation while performing the duties of a higher position which is mandatorily negotiable and may be submitted to binding arbitration.

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P.E.R.C. NO. 2001-21

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE-OPERATED SCHOOL DISTRICT  
OF THE CITY OF NEWARK,

Petitioner,

-and-

Docket No. SN-2000-103

CITY ASSOCIATION OF SUPERVISORS  
AND ADMINISTRATORS, AFSA/AFL-CIO,  
LOCAL 20,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the State-Operated School District of the City of Newark for a restraint of binding arbitration of a grievance filed by the City Association of Supervisors and Administrators, AFSA/AFL-CIO, Local 20. The grievance asserts that, pursuant to the parties' agreement, the District owes one day of pay to an employee who retired one day before the end of a pay period. The Commission concludes that the payment is not an unconstitutional gift of public funds and that an arbitrator may determine whether the payment is required under the parties' agreement.

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