

I.R. NO. 97-18

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of  
BOROUGH OF BOGOTA,

Respondent,

-and-

Docket No. CO-97-276

BOGOTA PBA LOCAL 86,

Charging Party.

SYNOPSIS

A Commission Designee restrains the Borough of Bogota from hiring civilian dispatchers to take over the dispatching duties currently performed by police officers. There is no evidence that the Borough intends to reorganize the Borough's work force to insure the efficient delivery of governmental services. Rather, the Borough simply intends to transfer unit work to civilian employees. The parties are engaged in interest arbitration and the Act provides that during interest arbitration, terms and conditions of employment are not to be changed. Accordingly, the restraint was entered into.

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Appearances:

For the Respondent,  
Dorf & Dorf, attorneys  
(Gerald L. Dorf, of counsel  
Sandro Polledri, on the brief)

For the Charging Parties,  
Loccke & Correia, attorneys  
(Joseph Licata, of counsel)

INTERLOCUTORY DECISION

On February 19, 1997, Bogota PBA Local 86 filed an unfair practice with the Public Employment Relations Commission alleging that the Borough of Bogota committed an unfair practice within the meaning of N.J.S.A. 34:13A-5.4(a)(1), (3), (5) and (7).<sup>1/</sup> It was

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<sup>1/</sup> These subsections prohibit public employers, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act. (3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage employees in the exercise of the rights guaranteed to them by this act. (5) Refusing to negotiate in good faith with a

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specifically alleged that since 1978, uniformed police officers have exclusively performed dispatch functions for the police, fire and rescue services provided by the Borough of Bogota.

The most recent collective negotiations agreement between the parties expired on December 31, 1995 and the parties are currently in interest arbitration for a successor agreement.

In January 1997, the Borough adopted Ordinance No. 1144 calling for a civilian dispatch position and on February 6, 1997 the Borough sent job applications for this position to all dispatch applicants.

The unfair practice charge was accompanied by an order to show cause which was executed and a hearing was conducted on April 1, 1997. The parties submitted briefs and exhibits and argued orally.

To obtain interim relief, the moving party must demonstrate both that it has a substantial likelihood of prevailing in a final Commission decision on its legal and factual allegations and that irreparable harm will occur if the requested relief is not granted. Further, the public interest must not be injured by an interim relief order and the relative hardship to the parties in granting or

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1/ Footnote Continued From Previous Page

majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative. (7) Violating any of the rules and regulations established by the commission."

denying relief must be considered. Crowe v. De Gioia, 90 N.J. 126, 132-134 (1982); Whitmyer Bros., Inc. v. Doyle, 58 N.J. 25, 35 (1971); State of New Jersey (Stockton State College), P.E.R.C. No. 76-6, 1 NJPER 41 (1975); Little Egg Harbor Tp., P.E.R.C. No. 94, 1 NJPER 37 (1975).

The Borough does not dispute the factual allegation of the unfair practice charge. It states that it intends to hire three full-time dispatchers and six part-time dispatchers to perform dispatch service. It has implemented a broad-based program to improve the delivery of public services, increase operational and administrative efficiency and reduce the cost of municipal government. For example, in 1994, the Borough privatized certain functions performed by the Department of Public Works and entered into contracts privatizing the pickup and removal of solid waste and recycling material. In all, the Borough has reduced the number of its employees in public works from 18 to 9. The Borough further reduced the position of borough administrator from full-time to part-time and has consolidated the planning board and the board of adjustment. The Borough has continued to reduce other municipal positions. It claims that the transferring of dispatch work to civilians will reduce the overall cost of this function.

Transferring of unit work is mandatorily negotiable. However, when there is a reorganization of functions, transfer of unit work is a managerial prerogative and non-negotiable. See City of Jersey City, P.E.R.C. No. 96-89, 22 NJPER 251 (¶27131 1996).

Here, there is no attempt to reorganize the City's work force to insure the efficient delivery of governmental services.

Rather, the Borough has begun a simple transfer of unit work to employees who can be hired at a lower cost. Transfers of unit work purely to effect economic savings is not a reorganization. Jersey City. The City is required to negotiate with the PBA before it can take such unilateral action. Moreover, the announcement of such an intended action constitutes an unfair practice. Township of Riverside, P.E.R.C. No. 95-7, 20 NJPER 325 (¶25167 1994).


Accordingly, the PBA has demonstrated a substantial likelihood of success in this matter. Further, a unilateral change of a term and condition of employment during the pendency of interest arbitration constitutes a violation of N.J.S.A. 34:13A-21.

During the pendency of proceedings before the arbitrator, existing wages, hours and other conditions of employment shall not be changed by action of either party without the consent of the other, any change in or of the public employer or employee representative notwithstanding; but a party may so consent without prejudice to his rights or position under this supplementary act.

Accordingly, the harm here is irreparable.

Therefore, it is hereby ORDERED that the Township is restrained from implementing the hiring of civilian dispatchers pending negotiations with PBA Local 86 concerning the transfer of dispatch work to civilian dispatch employees.

This is an interim order only. This matter will go forward to a full plenary hearing.

  
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Edmund G. Gerber  
Commission Designee

DATED: April 9, 1997  
Trenton, New Jersey