

I. R. NO. 84-10

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF ESSEX,

Petitioner,

-and-

Docket No. SN-84-106

INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, LOCAL 723,

Respondent.

SYNOPSIS

The Commission's designee temporarily restrains arbitration where the subject matter of the grievance appears to concern matters of departmental reorganization and the transfer and re-assignment of personnel which are managerial prerogatives which are generally non-arbitrable subjects.

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Appearances:

For the Petitioner

David H. Ben-Asher, Essex County Counsel
(Elaine K. Hyman, Assistant County Counsel, of counsel)

For the Respondent

Goldberger & Finn, Esqs.
(Howard Goldberger, of counsel)

INTERLOCUTORY DECISION

This matter having been opened to the Public Employment Relations Commission ("Commission") by Elaine K. Hyman, Esq., Assistant County Counsel for the Petitioner, County of Essex, and the Commission's named designee Arnold H. Zudick having reviewed the Scope of Negotiations Petition accompanying the Order to Show Cause for Restraint of Arbitration and brief in support thereof submitted on May 8, 1984; and having received no formal written response thereto by IBT Local 723, the undersigned hereby temporarily restrains arbitration in the matter of Elizabeth Battle, grievant, before PERC, Docket No. AR-84-234, which is currently scheduled before Arbitrator Robert L. Mitrani, for May 31, 1984.

Pursuant to Englewood Bd.Ed. v. Englewood Teachers Assoc.,

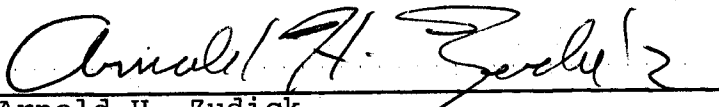
135 N.J. Super. 120 (App. Div. 1975), the Commission has the authority to stay arbitrations in order to prevent unnecessary litigation where it reasonably appears that the subject matter of the Petition may be non-arbitrable.

Based upon the undisputed facts set forth in the Petition and accompanying brief, the instant arbitration should be restrained because it apparently concerns the reassignment of employee Battle from a field office to a food stamp office due to a managerial reorganization of offices and operations.

The Commission has previously restrained similar arbitrations and held that decisions concerning departmental reorganizations, restructuring of programs, and the reassignment of employees are beyond the scope of negotiations. See In re Tenafly Bd.Ed., P.E.R.C. No. 83-123, 9 NJPER 211 (¶14099 1983); In re Cherry Hill Twp. Bd.Ed., P.E.R.C. No. 81-90, 7 NJPER 98 (¶12040 1981); In re Point Pleasant Bd.Ed., P.E.R.C. No. 80-145, 6 NJPER 299 (¶111142 1980); In re E. Orange Bd.Ed., P.E.R.C. No. 79-62, 5 NJPER 190 (¶10107 1979); Union City Bd.Ed. v. Union City Teachers Assn., 145 N.J. Super. 435 (App. Div. 1976), cert. denied 74 N.J. 248 (1977).

The restraint hereby imposed is temporary in nature and in effect only until the full Commission has an opportunity to make a determination on the County's Scope Petition. The Commission will then determine whether to permanently restrain the arbitration.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


Arnold H. Zudick
Commission Designee

Dated: May 15, 1984
Trenton, New Jersey