

L.D. NO. 92-5

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION  
LITIGATION ALTERNATIVE PROGRAM

In the Matter of

NORTH JERSEY DISTRICT WATER SUPPLY COMMISSION,

Public Employer,

-and-

Docket No. RO-92-133

LOCAL 97, INTERNATIONAL BROTHERHOOD OF TEAMSTERS,

Employee Representative,

and-

PROFESSIONAL EMPLOYEES OF THE NORTH JERSEY  
DISTRICT WATER SUPPLY COMMISSION,

Petitioners.

DECISION

On January 21, 1992, the Professional Employees ("Petitioners") of the North Jersey Water Supply Commission ("WSC") filed a Representation Petition requesting to be removed from the negotiations unit of employees represented by Local 97, International Brotherhood of Teamsters ("Local 97").

Based upon the statutory requirements of N.J.S.A. 34:13A-5.3 and 6 that professional employees may only be included in a bargaining unit with non-professionanal employees if they chose to do so, the WSC and Local 97 agreed to remove professional employees from this unit. All parties agreed that certain employees carrying chemical, biological and computer titles meet the defininition of professional employee as set forth in N.J.A.C. 19:11-1.1, and were accordingly removed from the unit. The parties disagreed about

whether the laboratory technician is a professional employee within the meaning of the Act. The parties agreed that the issue concerning the laboratory technician's professional status be submitted to the Commission's Litigation Alternative Program. The parties have agreed that this decision is binding and resolves the issue of the laboratory technician's professional status.

Based upon the information presented at the February 25 conference and the materials supplied by the WSC, I find as follows:

N.J.A.C. 19:10-1.1 defines professional employee as:

any employee whose work is predominantly intellectual and varied in character, involves the consistent exercise of discretion and judgment, and requires knowledge of an advanced nature in the field of physical, biological, or social sciences, or in the field of learning. The Commission will also consider whether the work is of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time. The term shall also include any employee who has acquired knowledge of an advanced nature in one of the fields described above, and who is performing related work under the supervision of a professional person to qualify to become a professional employee as defined herein. The term shall include, but not be limited to attorneys, nurses, engineers, architects, teachers and the various types of physical, chemical and biological scientists.

The Water Commission has advised me that the employee, Patricia Costelli, was to be promoted on March 20 to Senior Laboratory Technician. Accordingly, it submitted a job description for both laboratory technician titles. Neither the petitioners nor Local 97 submitted a reply.

According to the job descriptions, the Senior Laboratory Technician is required to possess a bachelor's degree in a laboratory science or have at least six years experience in water treatment plant experience. The Laboratory Technician is required to have an associates degree in laboratory science, or the equivalent in experience. The duties of both technician positions involve the performance of bacteriological testing and analysis of the facilities' raw and treated water. The positions' duties are predominantly intellectual, not routine or clerical; they involve more than recording data and maintaining equipment. They involve a fairly sophisticated degree of knowledge in chemical procedures.

Accordingly, I find that the laboratory technician and senior laboratory technician are professional employees within the meaning of the Act. They are hereby excluded from the collective negotiations unit of employees represented by Local 97.

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Susan Osborn, LAP Hearing Officer  
Public Employment Relations Commission

DATED: April 15, 1992