

I. R. NO. 84-12

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MAINLAND REGIONAL HIGH SCHOOL  
BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-84-111

MAINLAND TEACHERS ASSOCIATION,

Respondent.

SYNOPSIS

The Commission's designee temporarily restrains arbitration where the subject matter of the grievance concerns matters of assignment or reassignment of personnel which are generally managerial prerogatives and non-arbitrable subjects.

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Appearances:

For the Petitioner

Martin R. Pachman, , Esq., P.A.  
(William Wallen, of Counsel)

For the Respondent

Eugene J. Sharp, NJEA UniServ Representative

INTERLOCUTORY DECISION

This matter having been opened to the Public Employment Relations Commission ("Commission") by William Wallen, Esq., attorney for the Petitioner, Mainland Regional High School Board of Education ("Board"), and the Commission's named designee Arnold H. Zudick having reviewed the Scope of Negotiations Petition accompanying the Notice of Motion for Restraint of Arbitration and brief in support thereof submitted on May 21, 1984; and, having reviewed the Respondent, Mainland Teachers Association's ("Association") Brief in Opposition to the Motion submitted on June 7, 1984, the undersigned hereby temporarily restrains arbitration in the matter of the Assignment of Line Duties, before the American Arbitration Association, Docket No. 18-39-0229-84D, which is currently scheduled before Arbitrator James Begin, for July 10, 1984.

Pursuant to Englewood Bd.Ed v. Englewood Teachers Assoc., 135 N.J. Super. 120 (App. Div. 1975), 1 NJPER 34 (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.

The Scope Petition filed by the Board on May 21, 1984, indicates that a grievance filed by the Association has been submitted to binding arbitration raising the question of whether the Board is required by the parties' collective agreement to make assignments of school employees to "line duties" on an "equitable basis." <sup>1/</sup> The Board argued that since the assignment of public employees is a managerial prerogative, the grievance is not arbitrable. The Association argued that the grievance is arbitrable because it is not attempting to prevent the Board from making line duty assignments, rather, it is only seeking to require the Board to equitably distribute the assignments to the affected employees any one of whom would allegedly be qualified.

The actual grievance was filed by the Association on September 28, 1983 and alleged a violation of Article 2, Sec. E, and Article 16, Sec. A, Para. 4 of the parties' collective agreement. <sup>2/</sup>

<sup>1/</sup> According to the Board, line duties are non-educational duties such as monitoring detention hall, cafeteria, hall duty, etc.

<sup>2/</sup> Article 2, Sec. E of the parties' agreement provides that:

E. Except as this Agreement shall hereafter otherwise provide, all terms and conditions of employment applicable on the effective date of this agreement to employees covered by this Agreement as established by the rules, regulations or policies of the Board in force on said date, shall continue to be applicable during the term of this agreement, except that proposed new rules or modifications of existing rules governing working conditions shall be negotiated with the majority representative before they are established.

(continued)

The grievance was denied by the Superintendent on October 3, 1983, and subsequently denied by the Board, and the Association then filed for binding arbitration.

In deciding to restrain the instant arbitration the undersigned is cognizant of the fact that the New Jersey Supreme Court has held that the assignment or reassignment of personnel, particularly from one job assignment to another, is a managerial prerogative. In re IFPTE Local 195 v. State of N.J., 88 N.J. 393, 415-416 (1982); Ridgefield Park Ed. Assn. v. Ridgefield Park Bd.Ed., 78 N.J. 144, 156 (1978), State of N.J. v. State Supervisory Employees Assoc., 78 N.J. 54, 92-96 (1978).

Similarly, the Commission has specifically held that the right to assign teachers to non-teaching duties, and the question of which personnel to assign, are managerial prerogatives. In re Mahwah Bd.Ed., P.E.R.C. No. 83-96, 9 NJPER 94 (¶14051 1983); In re Perth Amboy Bd.Ed., P.E.R.C. No. 82-82, 8 NJPER 573 (¶13264 1982); In re Monroe Twp. Bd.Ed., P.E.R.C. No. 80-146, 6 NJPER 301 (¶11143 1980).

The issue before the undersigned is whether reasonable basis exists to restrain the arbitration. See In re Hope Twp. Bd.Ed., P.E.R.C. No. 79-85, 5 NJPER 203 (¶10116 1979). The undersigned is not here deciding the ultimate arbitrability of the grievance, nor the interpretation of the pertinent clauses in the parties' collective agreement. However, the undersigned believes

2/ (continued) Article 16, Sec. A, para. 4 provides that:

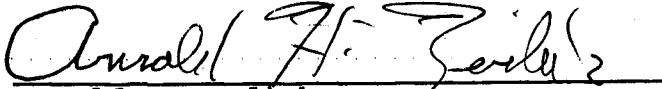
4. Teachers may be assigned a regular line duty and an occasional detention hall duty on an equitable basis. In the event all line duties are covered, and there are excess staff members available, assignments shall be made on the basis of seniority.

that since the instant grievance involves an issue regarding assignments, and since the assignment of personnel is generally a managerial prerogative, reasonable, if not substantial, basis exists to restrain the instant arbitration at this time.

The Association's only support for an equitable distribution of assignments comes from a 1968 Commissioner of Education decision, Smith et al. v. Board of Education of Paramus, 1968 SLD 62. Since that decision issued well before the Supreme Court and the Commission issued their decisions concerning the assignment of personnel, it cannot be relied upon to prevent the restraint of the instant arbitration.

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 Board's Scope Petition. The Commission will then determine whether to permanently restrain the arbitration.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

  
Arnold H. Zudick  
Commission Designee

Dated: June 12, 1984  
Trenton, New Jersey