

P.E.R.C. NO. 91-62

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HOLMDEL TOWNSHIP BOARD
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-91-8

HOLMDEL TOWNSHIP
EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commissions declines to restrain binding arbitration of a grievance filed by the Holmdel Township Education Association against the Holmdel Township Board of Education. The grievance contests the non-retention of a basketball and baseball coach. Pursuant to amendments to the New Jersey Employer-Employee Relations Act, effective January 4, 1990, the non-retention of coaches is no longer an issue beyond the scope of mandatory negotiations.

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HOLMDEL TOWNSHIP BOARD
OF EDUCATION,

Petitioner,

-and-

Docket No. SN-91-8

HOLMDEL TOWNSHIP
EDUCATION ASSOCIATION,

Respondent.

Appearances:

For the Petitioner, Reussille, Mausner, Carotenuto,
Bruno & Barger, attorneys (Martin M. Barger, of counsel)

For the Respondent, Klausner & Hunter, attorneys
(Stephen B. Hunter, of counsel)

DECISION AND ORDER

On July 27, 1990, the Holmdel Township Board of Education petitioned for a scope of negotiations determination. The Board seeks a restraint of binding arbitration of a dispute with the Holmdel Township Education Association over the nonretention of a basketball and baseball coach.

The parties have filed briefs and documents. These facts appear.

The Association represents the Board's teachers and certain other employees. The parties entered into a collective negotiations agreement effective July 1, 1988 to June 30, 1990. The agreement's grievance procedure ends in binding arbitration.

Edward Reckage has been employed by the Board as a health and physical education teacher since September 1981. He has been the head basketball coach at Holmdel High School since the 1987-88 school year and the head baseball coach at the High School since the 1984-85 school year.

Prior to May 31, 1990, the Board's superintendent recommended that Reckage not be reappointed to the coaching positions for the 1990-91 school year. The Board approved the recommendation. Had Reckage been reappointed, he would have received approximately \$5016 for the basketball position and approximately \$4212 for the baseball position.

On May 31, 1990, the Association requested arbitration "in the matter of nonretention of Edward Reckage as basketball and baseball coach." The Board opposed arbitration claiming that no grievance had been filed and that the matter is not arbitrable. The Association continued to pursue arbitration and this petition ensued.

The Board claims that the Association did not comply with the initial steps of the grievance procedure. It further claims that the nonretentions reflected a decision to change leadership and were not disciplinary. The Association claims that we have no jurisdiction to determine whether the grievance is procedurally arbitrable. It further claims that the nonretentions were punitive and deprived Reckage of substantial earnings.

At the outset of our analysis, we stress the narrow boundaries of our scope of negotiations jurisdiction. Ridgefield

Park Ed. Ass'n v. Ridgefield Park Bd. of Ed., 78 N.J. 144 (1978),

states:

The Commission is addressing the abstract issue: is the subject matter in dispute within the scope of collective negotiations. Whether that subject is within the arbitration clause of the agreement, whether the facts are as alleged by the grievant, whether the contract provides a defense for the employer's alleged action, or even whether there is a valid arbitration clause in the agreement or any other question which might be raised is not to be determined by the Commission in a scope proceeding. Those are questions appropriate for determination by an arbitrator and/or the courts. [78 N.J. at 154]

We will not restrain binding arbitration unless the issue that the employee organization seeks to arbitrate is beyond the scope of mandatory negotiations. The nonretention of coaches is no longer such an issue. Effective January 4, 1990, the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., was supplemented to include this language:

All aspects of assignments to, retention in, dismissal from, and any terms and conditions of employment concerning extracurricular activities shall be deemed mandatory subjects for collective negotiations...except that the establishment of qualifications for such positions shall not constitute a mandatory subject for negotiations. [N.J.S.A. 34:13A-23]

Since this case does not involve the establishment of qualifications for the coaching positions, we have no basis to restrain arbitration. We express no opinion on whether the nonretention was disciplinary or without just cause; whether the parties' contract affords any rights regarding retention in or dismissal from extracurricular assignments; or whether the Association complied

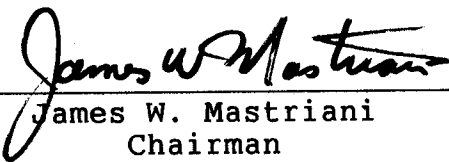
with the preliminary steps of the grievance procedure. These issues are all within the jurisdiction of the arbitrator or the courts.

Ridgefield Park.

ORDER

The request for a restraint of binding arbitration is denied.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Goetting, Johnson, Smith and Wenzler voted in favor of this decision. None opposed. Commissioners Bertolino and Regan abstained from consideration.

DATED: Trenton, New Jersey
January 17, 1991
ISSUED: January 18, 1991