

I.R. NO. 85-8

STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY (CIVIL  
SERVICE COMMISSION),

Respondent,

-and-

DOCKET NO. CO-85-72

COUNCIL OF NEW JERSEY STATE  
COLLEGE LOCALS, AFT/AFL-CIO,

Charging Party.

SYNOPSIS

In an application for interim relief by the Council of New Jersey State College Locals, AFT/AFL-CIO (AFT), a Commission Designee declines to restrain the Civil Service Commission from creating new generic job titles within the State colleges. An employer has a non-negotiable managerial right to establish job descriptions and to require employees to perform additional duties related to their normal duties. Therefore, it cannot be said that the AFT has a substantial likelihood of success in this matter.

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Appearances:

For the Respondent  
Melvin E. Mounts, D.A.G.

For the Charging Party  
Dwyer & Canellis  
(George W. Canellis, Of Counsel)

INTERLOCUTORY DECISION

On September 28, 1984, the Council of New Jersey State College Locals, AFT/AFL-CIO ("AFT") filed an Unfair Practice Charge accompanied by an Order to Show Cause in which it was claimed that the State of New Jersey Civil Service Commission ("Civil Service Commission") was about to commit an unfair practice at its next regularly scheduled meeting. Specifically, the Civil Service Commission was scheduled to approve a regulation creating twenty-six generic titles for the positions located at the State Colleges of the Department of Higher Education. The contract between the State of New Jersey and the AFT provides that the faculty will not be transferred from one job title to another without negotiations between the union and the state. According to the AFT, the Civil Service Commission expressed its approval of the proposed regulation in its agenda wherein it was stated: "a significant factor is that -- since examinations

are not required -- the title specifications can be considerably broader with respect to functional duties and responsibilities."

The AFT alleges that this regulation would constitute an alteration of union job titles without prior negotiations between the union and the state in violation of Article XVI of the agreement. It was alleged that irreparable harm will be suffered by the union's membership if these proposed regulations are approved without prior negotiations between the state and the AFT since AFT members could be transferred into different job classifications and yet not be entitled to be transferred to job titles more accurately representing their employment responsibilities. In light of the application for Interim Relief, the Civil Service Commission voluntarily consented to remove the proposed regulation from its agenda pending the outcome of the instant Interim Relief application. In light of the Civil Service Commission's action, the Order to Show Cause was made returnable November 8, 1984. Upon application of the parties this matter was twice further adjourned. First to November 28 and then to December 3, 1984.

The Charging Party requested a further adjournment from the December 3 date and it was thereupon agreed by all the parties that oral argument would be waived. The parties submitted written briefs which were received by December 13, 1984.

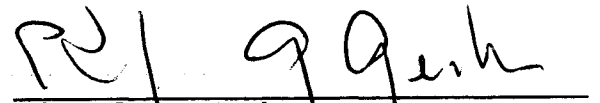
The standards that have been developed by the Public Employment Relations Commission ("Commission") for evaluating the appropriateness of Interim Relief are quite similar to those applied by the Courts when confronted with similar applications. The test is twofold: the Charging Party must demonstrate that it has a substantial likelihood of success on the legal and factual allegations in the final

Commission decision and that the harm alleged is irreparable in nature if the relief requested is not granted. Both standards must be satisfied before the requested relief will be granted. <sup>1/</sup>

The AFT's application for Interim Relief must be denied. I do not believe that it has a substantial likelihood of success in prevailing on its legal allegations before the full Commission. The Commission has consistently held that an employer has a non-negotiable right to establish job descriptions and to require employees to perform additional duties related to their normal duties. See Willingboro Bd. of Ed. and Employees Association of Willingboro, P.E.R.C. No. 85-74, NJPER ( 1984); In re West Deptford Bd. of Ed., P.E.R.C. No. 80-96, 6 NJPER 56 (¶11030 1980); In re Rutgers University, P.E.R.C. No. 84-45, 9 NJPER 663 (¶14287 1983); In re City of Camden, P.E.R.C. No. 83-116, 9 NJPER 163 (¶14077 1983).

The creation of the new generic job titles is so closely related, if not identical, to the establishment of job descriptions that it cannot be said that the AFT has a substantial likelihood of success in arguing this matter before the Commission. Accordingly, the AFT's application for Interim Restraints against the State of New Jersey, Civil Service Commission is hereby denied.

BY ORDER OF THE COMMISSION

  
 Edmund G. Gerber  
 Commission Designee

DATED: January 30, 1985  
 Trenton, New Jersey

<sup>1/</sup> See for example, In re Township of Little Egg Harbor, P.E.R.C. No. 94, 1 NJPER 36 (1975); In re State of New Jersey (Stockton State College), P.E.R.C. No. 76-6, 1 NJPER 41 (1975); and In re Township of Stafford, P.E.R.C. No. 76-9, 1 NJPER 59 (1975).