

L.D. NO. 96-6

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF JERSEY CITY,

Respondent,

-and-

Docket No. CO-L-92-370

JERSEY CITY POLICE OFFICERS BENEVOLENT ASSOCIATION,

Charging Party.

Appearances:

For the Respondent,
Paul W. Mackey, First Assistant Corporation Counsel

For the Employee Representative,
Fast & Tennenbaum, attorneys
(Jacqueline Jassner, of counsel)

DECISION

On May 20, 1992, the Jersey City Police Officers Benevolent Association filed an Unfair Practice Charge against the City of Jersey City. I conducted a conference for this matter on October 23, 1992. Processing of this matter was thereafter held in abeyance while the parties attempted to resolve it. When those efforts were unsuccessful, I conducted a second conference on May 10, 1996, at which the City and the POBA jointly requested that the dispute be decided through the Commission's Litigation Alternative Program.

The parties requested that the LAP decision be based on their prior submissions and information provided at the May 1996 conference. The parties also agreed that this decision is binding and resolves the above-captioned charge, which will be withdrawn upon decision issuance.

Police Officer Russell MacDonald filed a grievance on October 11, 1991. In the text of the grievance, he referred to his superiors in the police department as "political prostitutes". MacDonald was thereafter served with a Preliminary Notice of Disciplinary Action by the City, alleging that he engaged in conduct unbecoming an officer because he "used the grievance process to attack the character and reputation of department members with scurrilous and defamatory language and accusations. He reduced his personal opinions to writing, knowing his grievance would be read by others". A departmental hearing was conducted on April 16, 1992 and MacDonald was notified on May 1, 1992 that he would be penalized by the loss of ten compensatory days.

It is uncontroverted that public employees have the right under the Act to file grievances concerning terms and conditions of employment. However, this right does not include the use of inappropriate language such as the term "political prostitutes" in reference to an employee's superiors. This constitutes an improper use of the grievance procedure. I find the use of this editorial comment especially inappropriate in the face of its use in a police setting. Although public employees maintain the right of free


speech, a police department is a paramilitary organization and as such, has the right to maintain order, discipline and respect for its officers in the chain of command.

Accordingly, I find that some discipline of MacDonald for the use of the term "political prostitutes" in reference to his superiors is justified. However, in light of the fact that MacDonald has not committed further incidents of this nature since the charge was filed in 1992, a reduction of the penalty imposed is warranted.

Therefore, I issue the following ORDER:

Officer Russell MacDonald shall be penalized with the loss of three compensatory days for the use of the term "political prostitutes" in reference to police superior officers in a grievance filed on October 11, 1991.

Officer MacDonald shall be recredited seven compensatory days lost as a result of the above-cited language contained in the October 11, 1991 grievance.



Margaret A. Cotoia
LAP Umpire

DATED: May 20, 1996
Trenton, New Jersey