

D.R. NO. 94-19

STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION  
BEFORE THE DIRECTOR OF REPRESENTATION

In the Matter of

STATE OF NEW JERSEY,  
(DIVISION OF CRIMINAL JUSTICE),

Public Employer,

-and-

Docket No. RO-94-101

N.J. DIVISION OF CRIMINAL JUSTICE  
STATE INVESTIGATORS,

Petitioner.

SYNOPSIS

The Director of Representation dismisses a Petition for Representation for Division of Criminal Justice State Investigators employed by the New Jersey Division of Criminal Justice. N.J.S.A. 52:17B-100 provides that "All unclassified employees of the division shall be deemed confidential employees for the purposes of the 'New Jersey Employer-Employee Relations Act.'"

Accordingly, these employees are confidential by Statute and are not entitled to the protections of the Act.

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Appearances:

For the Public Employer  
David Collins, Office of Employee Relations

For the Petitioner  
Loccke & Correia, attorneys  
(Richard D. Loccke, of counsel)

DECISION

On January 24, 1994, the New Jersey Division of Criminal Justice State Investigators filed a Representation Petition with the Public Employment Relations Commission. The Petitioner seeks to represent "all state investigators within the Division of Criminal Justice who are sworn law enforcement officers employed by the State of New Jersey, Division of Criminal Justice."

The State opposes the Petition, citing N.J.S.A. 52:17B-100

which provides:

All unclassified employees of the division shall be deemed confidential employees for the purposes of the 'New Jersey Employer-Employee Relations Act', P.L. 1941, c. 100(C. 34:13A-1 et seq.)

It argues that confidential employees are not entitled to the protection of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-5.3 et seq. Accordingly, the petition must be dismissed.

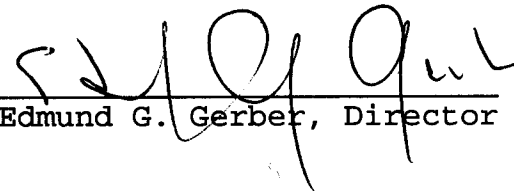
The Association argues that "N.J.S.A. 52:17B-100 is directly opposite the mandate provided in the constitution of the State of New Jersey, Article 1, Section 19.

Persons in public employment shall have the right to organize, present to and make known to the State, or any of its political subdivisions or agencies, their grievances and proposals to representatives of their own choosing."

However, P.E.R.C. as an administrative agency is compelled to presume that the statutes it administers are constitutional and cannot consider the merits of the petitioners constitutional argument.

It is apparent that pursuant to N.J.S.A. 52:17B-100, these employees do not enjoy the protection of the Act and accordingly, the Petition is dismissed.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
Edmund G. Gerber, Director

DATED: March 15, 1994  
Trenton, New Jersey