

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY,

Respondent,

-and-

Docket No. CO-76-102-74

LOCAL 195, I.F.P.T.E. and  
LOCAL 518, S.E.I.U.,

Charging Parties.

SYNOPSIS

In an Unfair Practice proceeding, the Hearing Examiner grants a motion to dismiss the complaint after concluding that the allegations as set forth in the amended charge could not constitute unfair practices within the meaning of the Act.

The Locals had previously filed a complaint in Superior Court against the State which included, inter alia, the allegations contained in the instant charge. The case was transferred to the Appellate Division where the Court granted the State's motion to dismiss on the ground that the Locals had failed to exhaust available administrative remedies.

The Locals contended herein that the State had deprived unit employees of vacation days and mileage reimbursement allowances by improperly interpreting and administering certain statutes which dealt with same. After an exploratory conference was held, the Locals withdrew portions of the original unfair practice charge and a Complaint and Notice of Hearing was issued. The State filed a motion to dismiss complaint on the ground that the Complaint herein failed to state a claim upon which relief could be granted and/or for lack of jurisdiction. The Locals contended that as the State had sought to have the entirety of the Appellate Division case transferred to the Commission, the State should now be estopped from further delaying this proceeding. The Hearing Examiner found that no specific violations of the Act had been alleged. He further concluded that the allegations as set forth in the Amended Charge, if true, could not constitute unfair practices within the meaning of the Act. The Hearing Examiner also found that the State's motion to Dismiss was not inconsistent with its former pleadings in the Appellate Division wherein it had requested a dismissal on the ground of failure to exhaust administrative remedies and that the Motion to Dismiss before the Appellate Division addressed issues not now before the Commission.

The Locals also submitted that since the Appellate Division and the Supreme Court had already determined that the Commission has jurisdiction herein, the Commission could not refuse to decide the instant matter. The Hearing Examiner found that in ruling herein, his treatment of this matter was entirely consistent with the Court's determination that the Commission in the first instance should review all of the Locals' allegations in order to determine which matters were properly within its jurisdiction.

STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY,

Respondent,

-and-

Docket No. CO-76-102-74

LOCAL 195, I.F.P.T.E. and  
LOCAL 518, S.E.I.U.,

Charging Parties.

Appearances:

For the Charging Parties

Rothbard, Harris and Oxfeld, Esqs.  
(Mr. Sanford R. Oxfeld, of Counsel)

For the Respondent

William F. Hyland, Attorney General  
of New Jersey  
(Mr. Guy S. Michael, of Counsel)

HEARING EXAMINER'S RULING ON MOTION TO DISMISS COMPLAINT

An Unfair Practice Charge (the "Charge") was filed with the Public Employment Relations Commission (the "Commission") on October 10, 1975 by Local 195, I.F.P.T.E. and Local 518, S.E.I.U. (the "Locals"). This Charge was amended by a letter dated March 11, 1976 which withdrew the allegations denominated as paragraphs 1.1 through 2.1 of the original Charge but left those allegations that had been designated as paragraphs 3.1 through 4.2. The Locals in its amended charge alleged that the State of New Jersey (the "State") had engaged in unfair practices within the meaning of the New Jersey Employer-Employee Relations Act, as amended, N.J.S.A. 34:13A-1 et seq. (the "Act") in that the State, through its representatives or agents, had deprived individuals employed by the State and included within collective negotiating units represented by the Locals of certain vacation days, and mileage reimbursement allowances by improperly interpreting and administering certain recently amended statutes that dealt, at least in part, with vacation schedules N.J.S.A. 11-14-1- amended by

L. 1974, C. 39, § 1, eff. June 19, 1974<sup>1/</sup> and mileage reimbursement allowances, N.J.S.A. 52:14-17.1 - amended by L. 1974, C. 70, § 1, eff. July 29, 1974<sup>1/</sup>, respectively.<sup>1/</sup>

It appearing that the allegations of the Charge, as amended, if true might constitute unfair practices within the meaning of the Act, a Complaint and Notice of Hearing was issued on March 18, 1976. Prior to the issuance of this Complaint an exploratory conference had been conducted on March 2, 1976, pursuant to N.J.A.C. 19:14-1.6(c), by Carl Kurtzman, Director of Unfair Practice Proceedings and Representation, for the purpose of clarifying the issues and of exploring the possibility of voluntary resolution and settlement. At the conclusion of this exploratory conference the Locals agreed to withdraw two sections of their original Unfair Practice Charge.<sup>2/</sup> As set forth before, the Complaint and Notice of Hearing in the instant matter before the undersigned was issued on March 18, 1976 with regard to the two remaining sections of the original Charge as described hereinbefore.

A pre-hearing conference with regard to this matter was conducted by the undersigned on April 5, 1976 at which time the State announced its intention to file a Motion to Dismiss Complaint, pursuant to N.J.A.C. 19:14-4.1, et seq., in the near future. This ruling deals with the Motion

<sup>1/</sup> More specifically, the Locals asserted that the actions of the State violated N.J.S.A. 34:13A-5.4(a)(1)(2)(3)(5) and (7).

These subsections prohibit employers, their representatives or agents from "(1) Interfering with, restraining or coercing employees in the exercise of rights guaranteed to them by this Act...(2) Dominating or or interfering with the formation, existence or administration of any employee organization...(3) Discriminating in regard to hire or tenure of employment on any term or condition of employment to encourage or discourage employees in the exercise of the rights guaranteed to them by this Act...(5) Refusing to negotiate in good faith with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit or refusing to process grievances presented by the majority representative...(and)(7) Violating any of the rules and regulations established by the Commission."

<sup>2/</sup> The two sections withdrawn from the original Charge referred to allegations that the State had both unilaterally implemented certain salary increases with regard to employees represented by the Locals and had unilaterally removed certain job titles from the negotiating units represented by the Locals. Further references to these contentions will be made where necessary in subsequent sections of this ruling.

to Dismiss Complaint filed by the State on April 7, 1976 along with an Affidavit of Mailing, a Brief in Support of the Motion to Dismiss Complaint, and additional supportive documentation. This Motion was filed in lieu of an answer to the Complaint issued in this matter. The Locals in a letter dated April 12, 1976 filed a statement in opposition to the State's motion.

In accordance with N.J.A.C. 19:14-4.4 the Commission's named designee, Jeffrey B. Tener, Executive Director of the Commission, in a letter dated April 19, 1976, referred this Motion to Dismiss to this Hearing Examiner. The undersigned, in a letter dated April 21, 1976, requested the following:

The parties are requested to submit any supplemental positional statements, exhibits or other documents with regard to this Motion to Dismiss Complaint, if so desired, to the undersigned by Monday, May 3, 1976. The parties are specifically requested to submit to the undersigned any additional relevant documentation that was proffered during the pendency of the related civil action involving Local 195 and Local 518 and the State of New Jersey that was referred to by both parties in their prior submissions concerning this Motion to Dismiss Complaint.

The Locals and the State thereafter submitted additional documentation in letters dated April 27, 1976 and April 28, 1976, respectively, to support their respective contentions and to further illuminate the procedural history of the matters at issue in the amended charge.

#### PROCEDURAL BACKGROUND

The Locals in October of 1974 filed a complaint in the Superior Court, Chancery Division, Essex County against the State and certain State officials. In part the Locals alleged in this complaint that the State, through its agents and representatives, had deprived employees represented by the Locals of vacation days provided by N.J.S.A. 11:14-1 and mileage reimbursement allowances provided by N.J.S.A. 52:14-17 --- the two issues now before the undersigned that comprise the amended Charge. This complaint further sought to enjoin the payment of a 6% salary increase, authorized by the General Appropriations Act, effective July 1, 1974 [Laws of 1974, C. 58], to members of the units of state employees represented by the Locals until the satisfactory completion of collective negotiations

between the State and the Locals. This complaint additionally alleged that the State had, without negotiations, unilaterally removed certain job titles from negotiating units represented by the Locals and transferred these titles to units not so represented. The latter two issues, concerning the 6% salary increase and the transfer of job titles, were excised from the original Charge filed by the Locals in accordance with the agreement reached at the aforementioned exploratory conference held on March 2, 1976.

On October 25, 1974 the State moved to transfer the above Chancery matter to the Appellate Division of the Superior Court and on February 11, 1975 a consent order was entered by the Honorable Irwin I. Kimmelman transferring this suit to the Appellate Division.

On May 7, 1975 the Locals served notice that they were applying by notice in the Appellate Division for (1) an order directing that an administrative record be supplemented by the taking of testimony for the purpose of establishing the facts relating to the allegations made by the Locals or, alternatively, by discovery and (2) to add a fifth count to the original complaint demanding that the State provide prescription drug benefits [pursuant to N.J.S.A. 52:14-17.29] to employees of the units represented by the Locals. Thereafter, in partial response to this motion, the State on May 28, 1975 filed a motion to dismiss the appeal before the Appellate Division on the basis that the Locals had failed to exhaust available administrative remedies before the Public Employment Relations Commission with regard to that aspect of the original complaint concerning the "restoration of employees and job titles to appropriate negotiating units" and also with regard to the additional count concerning prescription drug benefits that the Locals sought to add to their original complaint.

On July 8, 1975 the Appellate Division granted the State's Motion to Dismiss by citing the following language: "Appeal is premature. Application should be made in the first instance for relief to the Public Employment Relations Commission."

On July 14, 1975 the Locals filed a motion to vacate the order entered July 8, 1975 dismissing the appeal. The Locals, in part, questioned the action of the Appellate Division, Part I in granting the State's motion two days before the Locals were required to file their brief in response to the State's Motion to Dismiss as per the Order signed by the Honorable Herman D. Michels giving the Locals until July 10, 1975 to file their brief. On September 26, 1975 the Appellate Division entered an order that denied the Locals' motion to vacate the order of dismissal entered on July 8, 1975.

The Locals then filed the original unfair practice charge, referred to earlier, with the Commission. Said charge was docketed by the Commission on October 10, 1975.

On October 15, 1975 the Locals filed an application for certification to the Supreme Court of New Jersey to review the Order entered on September 26, 1975 by the Appellate Division that denied the Local's motion to vacate the Order of Dismissal entered on July 8, 1975. Thereafter the State filed its brief in opposition to the Local's Petition for Certification. The Locals then submitted a letter, dated November 25, 1975, in lieu of a formal reply brief, with regard to its Petition for Certification. The Locals in a letter dated December 15, 1975 also requested that the Commission hold the outstanding unfair practice charge that had been docketed on October 10, 1976 in abeyance pending a final determination on the pending civil action before the Supreme Court. The Supreme Court on January 29, 1976 then denied the Locals' Petition for Certification.

The Commission thereupon resumed the processing of the matter now before the undersigned. The chronology of events occurring after January 29, 1976 has been referred to earlier.

#### MAIN ISSUES

Whether the State's Motion to Dismiss Complaint, predicated on its assertion that the Locals' Charge, as amended, does not refer to any facts that may possibly constitute unfair practices within the meaning of the Act, should be granted?

#### POSITION OF THE STATE ON THE MOTION TO DISMISS

The State maintained that an order should be issued dismissing the complaint in this instant matter for failure to state a claim upon which relief can be granted and/or for lack of jurisdiction. The State contended that the allegations referred to within the Amended Charge even if true could not constitute unfair practices on the part of the State as defined by the Act.

The State asserted that the Locals were merely alleging that certain State officers had improperly administered or interpreted State Statutes dealing, in part, with length of vacations (N.J.S.A. 11:14-1) and mileage reimbursement allowances (N.J.S.A. 52:14-17.1) that had been amended on June 19, 1974 and July 29, 1974, respectively. The State argued that the

Locals' allegations were "devoid of any claim regarding any interference or ~~denial~~ of employee rights as guaranteed them under the [Act]... (and that)...there is an absence of any claim of avoidance of any of the employer's obligations to negotiate in good faith." The State stated that the allegations referred to in the Amended Charge concerned a simple request for the review of the actions of State administrative officers and concluded that the Locals had to look to Rule 2:2-3(a)(2) of the Rules Governing Appellate Practice for appropriate relief.

The State admitted that initially it might appear that the State was acting in a circuitous manner in arguing in support of the appropriateness of a judicial forum in light of the final decision in the related civil proceeding involving the State and the Locals that an appeal was premature and that application should be made in the first instance for relief to the Commission. The State however emphasized that upon further examination it was evident that its present position was fully consistent with both the State's position in the related judicial proceedings and the judicial actions taken concerning these proceedings.

The State asserted that its Motion to Dismiss for Failure to Exhaust Administrative Remedies very clearly referred only to aspects of the Locals' suit that are not now before the Commission. The specific portions of the appeal referred to in this motion concerned (1) allegations concerning the restoration of employees and job titles to units represented by the Locals and (2) the additional count proposed by the Locals concerning the implementation of prescription drug benefits. The State therefore maintained that since it had never argued that the issues presented in the instant Charge were appropriate matters for Commission consideration it was "thus, not inconsistent to presently urge judicial review of the allegations contained herein, since such allegations are separate and distinct from those previously argued to be [within the Commission's jurisdiction]."

Moreover, the State set forth that the state judiciary had held that, under certain circumstances, the determination of the jurisdiction of a particular administrative agency should be, in the first instance, a matter for the agency to decide. The State argued that the ruling in the related judicial matter could therefore be reasonably read "to contemplate a review by the Commission of the case as an integrated whole to ascertain

those matters properly within its jurisdiction and those properly to be excluded." The State pointed out that since the court's ruling, certain sections of the Locals' case had been withdrawn. The State submitted that what remained before the Commission in the Amended Charge was properly excludable and dismissable as being outside the Commission's jurisdiction.

#### POSITION OF THE LOCALS ON THE MOTION TO DISMISS

The Locals maintained that the State's motion should not be granted for two reasons.

The Locals first stated that the Appellate Division had directed this matter to the Commission and the Supreme Court had denied certification of this case despite the Locals' argument that since two of the counts were in the nature of a declaratory judgment, the Commission would have no jurisdiction. The Locals concluded that since both the Appellate Division and the New Jersey Supreme Court had determined that the Commission had jurisdiction the Commission could not logically refuse to decide the instant matter.

Secondly, the Locals asserted that as the State was the party who by motion sought to have the entirety of the Appellate Division case transferred to the Commission the State "should now be estopped from further prolonging this already overly prolonged litigation." The Locals added that the State's Motion to Dismiss for Failure to Exhaust Available Administrative Remedies "in no way separated the first two counts of the within cause of action from the second two counts [dealing with all the allegations now contained within the Amended Charge]."

#### DISCUSSION AND ANALYSIS

After careful consideration of the foregoing and all the apposite positional statements, briefs and additional supportive documentation submitted by the parties the undersigned concludes that the allegations as set forth in the Amended Charge if true could not constitute unfair practices on the part of the State within the meaning of the Act. The undersigned therefore concludes that the State's Motion to Dismiss Complaint [in its entirety] should be granted for the reasons to be referred to hereinafter.

An analysis of all the allegations contained within the Locals' Amended Charge and an examination of counts three and four of the original



complaint filed in the related judicial proceeding involving the State and the Locals <sup>3/</sup> reveals that the Locals are questioning the State's interpretation and administration of two state statutes concerning, in part, the length of vacations for State employees (N.J.S.A. 11:14-1) and mileage reimbursement allowances for affected State employees (N.J.S.A. 52:14-17.1).

The statute that refers to the length of vacations was amended in 1974 and appears as follows:

11:14-1 Holidays; hours of work; length of vacation; absence on militia duty

The chief examiner and secretary shall, after consultation with the heads of departments and their principal assistants, prepare, and after approval by the commission, administer regulations regarding holidays, hours of work, attendance and annual sick and special leaves of absence with or without pay or with reduced pay for permanent employees in the classified service; provided, however, that every permanent employee in the classified service shall be granted at least the following annual leave for vacation purposes with pay in and for each calendar year, except as otherwise herein provided: ~~Up to 1 year of service, 1 working day's vacation for each month of service; after 1 year and up to 10 years of service, 12 working days' vacation after 10 years and up to 20 years of service 15 working days' vacation; and after 20 years of service 20 working days' vacation.~~ Up to 1 year of service, 1 working day's vacation for each month of service; after 1 year and up to 5 years of service, 12 working days' vacation; after 5 years and up to 12 years of service, 15 working days' vacation; after 12 years and up to 20 years of service, 20 working days' vacation; over 20 years, 25 working days' vacation. Where in any calendar year the vacation or any part thereof is not granted by reason of pressure of State business such vacation periods or parts thereof not granted shall accumulate and shall be granted during the next succeeding calendar year only. In determining all vacation leave, the years of service of such employees prior and subsequent to the adoption of this act shall be used.

An employee who is a member of the National Guard or Naval Militia of this State or of the military or naval forces of the United States required to undergo field training therein, shall be entitled to additional leave of absence with pay for the period of such field training.

Amended by L.1974, c. 30, § 1, eff. June 19, 1974.

[ 1974 Amendments are indicated by underline, deletions by strikeouts ]

<sup>3/</sup> Counts three and four refer to the vacation and mileage reimbursement issues that comprise the Amended Charge.

The Locals contend that the State through its administrative officers improperly interpreted this statute by giving the amendments prospective effect only and not "retrospective" effect from the beginning of the appropriate calendar year.

The statute that refers to mileage reimbursement allowances was also amended in 1974 and appears as follows:

52:14-17.1 Mileage reimbursement allowances

All mileage in lieu of actual expenses of transportation allowed an officer or employee of the State traveling by his own automobile on official business away from his designated post of duty or official station shall be at the rate of ~~\$0.10~~ \$0.14 per mile.

Amended by L.1974, c. 70, § 1, eff. July 29, 1974.

[1974 Amendments are indicated by underline, deletions by ~~strikeouts~~]

The Locals maintain that this statute, as amended, because of the clear meaning of the phrase "[a]ll mileage", mandates that all eligible State employees are entitled to payment for the actual number of miles traveled in their own cars on official business from their designated post of duty or official station and their return thereto. The Locals argue that the State has improperly interpreted this statute also by refusing to approve payment for miles traveled on official business within certain county borderlines and other arbitrarily fixed boundaries in accordance apparently with "past practices" instituted within certain State departments and divisions.<sup>4/</sup>

It is evident to the undersigned that on the basis of all the submissions no specific violations of the New Jersey Employer-Employee Relations Act have been alleged by the Locals. For example, there are no allegations made in the Charge that the actions of the State in administering the two statutes at issue in any way resulted in changes in the status quo [with regard to terms and conditions of employment] concerning the departmental procedures utilized in the past in the payment of mileage reimbursement allowances or in the computation of available vacation days in accordance

<sup>4/</sup> The State appears to rely on the phraseology "[a]ll mileage...allowed" in support of its contention that the change in rate of reimbursement did not effect any changes in particular departmental practices concerning reimbursable mileage.

with applicable statutory amendments. The Locals also did not establish that any demands were made to State representatives to negotiate about these particular issues and/or their impact. Although the Locals referred to alleged violations of N.J.S.A. 34:13A-5.4(a)(1)(2)(3)(5) and (7) in their original Charge it is not at all apparent that these violations were intended to refer to the remaining allegations that comprise the Amended Charge.

An analysis of the State's submissions with reference to the related judicial proceedings does much to substantiate its position that it has always recognized that the Commission did not possess jurisdiction to rule upon those aspects of the original charge that referred to the "length of vacation" and "mileage reimbursement" statutes. The exact wording of the State's Motion to Dismiss for Failure to Exhaust Available Administrative Remedies filed on May 28, 1976 is as follows:

PLEASE TAKE NOTICE that the undersigned, attorney for respondents, moves the Superior Court, Appellate Division, for an order to dismiss portions of the within appeal on the basis that there has been a failure to exhaust available administrative remedies.

In support of ~~the~~ within motion, the undersigned will rely upon the attached brief and affidavit. (emphasis mine)

An examination of the State's brief establishes that "exhaustion of administrative remedies" was urged with regard to only two specific allegations concerning the unit placement of particular job titles and prescription drug benefits - two issues that are not before the undersigned. It would therefore appear that the State is not now taking a position that is inconsistent with its earlier pleadings in asserting at this time that questions concerning the administration of statutes are appropriately a matter for judicial review only and that the instant complaint be dismissed.<sup>5/</sup>

<sup>5/</sup> The undersigned does note that the State in its Brief in Opposition to the Locals' Petition for Certification does not question the Appellate Division's determination that all matters in the Complaint filed by the Locals were subsumed within its Order. The State also attempts to justify in that Brief in a somewhat confused fashion why Commission administrative remedies should be exhausted with regard to the "vacation days" and "mileage allowance" issues.

In light of the entire record it is the undersigned's finding that the State in its formal pleadings conceded that the judiciary had jurisdiction to rule upon the matters alleged concerning the vacation and mileage issues. Therefore the State's motion before the undersigned does not conflict with the State's prior contentions.

Most importantly, the positional statements of the Locals themselves clearly establish their belief that the Commission does not possess the authority to rule upon the proper interpretation of the two statutes at issue.

In a letter, dated October 8, 1975, that accompanied the original Charge, the Locals referred to the fact that most of the acts complained of occurred on July 3, 1974, more than six months prior to the effective date of Chapter 123, P.L. 1974 that in part supplemented the Act by granting to the Commission the exclusive power to prevent enumerated "unfair practices."<sup>6/</sup> After referring to the chronology of events concerning the relevant judicial proceeding the attorney for the Locals wrote [with regard to all the issues in the original Charge] "Frankly, I don't see how you have jurisdiction and will so argue at the Conciliatory Conference." In the Locals' Petition for Certification it was contended in greater detail [once again with regard to all the issues in the original Charge] that because of the timing of the acts complained of the Commission possessed no jurisdiction to rule upon the matters at issue. In the Locals' letter memorandum in response to the State's Brief in Opposition to the Petition for Certification the Locals unequivocally maintained that the Commission lacked jurisdiction to rule upon Counts Three and Four of its original complaint [that dealt with the vacation and mileage issues before the undersigned] since these counts were declaratory in nature, had no relation whatsoever to P.E.R.C., and involved the traditional power of an equity court to construe a contract or a statute [citing Rule 4:42-3 of the Court Rules entitled Declaratory Judgment]. The Attorney for the Locals, in a letter dated April 12, 1976, again referred to the fact that the Locals had consistently maintained in all apposite judicial actions that the particular issues before the undersigned were in the nature of a declaratory judgment and that the Commission had no jurisdiction over these matters.

The undersigned has already discussed and rejected the Locals' contention that the State had previously taken a completely inconsistent position concerning the Commission's jurisdiction in its pleadings before the

<sup>6/</sup> N.J.S.A. 34:13A-5.4 in part provides that "no complaint shall issue based upon any unfair practice occurring more than 6 months prior to the filing of the charge unless the person aggrieved thereby was prevented from filing such charge in which event the 6 months period shall be computed from the date he was no longer so prevented.

judiciary. It is necessary now to refer to the additional arguments raised by the Locals in their statement in opposition to the State's Motion to Dismiss Complaint.

The Locals take the position that the Appellate Division and the Supreme Court have definitively ruled that the Commission possesses the exclusive jurisdiction to rule substantively upon the allegations contained within the Amended Charge. Therefore the Locals question how the Commission can now "refuse to decide this matter." It is the undersigned's determination that on the contrary the courts have in this matter held, in accordance with common judicial practice, that the Commission, in the first instance, should review all of the Locals' allegations in order to determine which matters were properly within its jurisdiction. Deference has thus been accorded to the Commission's experience and expertise in the field of public sector labor relations. It is the undersigned's conclusion therefore that the ruling in this matter on the two issues that now remain before the Commission is entirely consistent with the decision of the courts in the related civil proceeding.

The Locals also at least implicitly argue that the Commission should in any event exert jurisdiction in this case in order not to further prolong "overly prolonged litigation." It is the undersigned's conclusion that to exert jurisdiction over issues that both the Locals and the State have consistently maintained are not appropriately before the Commission would be counter-productive and would unnecessarily prolong litigation over the issues of statutory construction and interpretation.<sup>7/</sup>

Lastly, the undersigned would like to note that the Commission's decision to issue a Complaint on the amended Charge was based solely on the allegations contained within the Charge. The undersigned in ruling on the State's Motion to Dismiss has carefully considered many other documents that

---

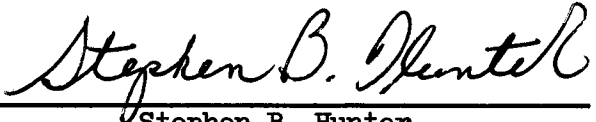
<sup>7/</sup> The undersigned would like to note that the Commission has attempted to expedite matters concerning this instant proceeding. An exploratory conference was conducted shortly after the Locals informed the Commission that their original Charge should no longer be held in abeyance as per the Locals' earlier request since their Petition for Certification had been denied by the Supreme Court. As stated before several aspects of the original Charge were withdrawn at this conference. The undersigned has also attempted to expedite matters by issuing a ruling on the State's motion within two weeks after all briefs and supportive documentation were received.

have served to clarify the essence of the issues in dispute. Therefore the decision in this case should not be interpreted as being in conflict with any prior Commission actions in this case.

In conclusion, the undersigned finds that the State's Motion to Dismiss Complaint should be granted for the reasons set forth in this ruling.

ORDER

Accordingly, for the reasons set forth above, IT IS HEREBY ORDERED that the charge in this matter be dismissed in its entirety.

  
\_\_\_\_\_  
Stephen B. Hunter  
Hearing Examiner

Dated: Trenton, New Jersey  
May 13, 1976