

D.R. NO. 87-8

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

In the Matter of

TOWNSHIP OF WINSLOW,

Public Employer,

-and-

DOCKET NO. RO-87-17

SUPERIOR OFFICERS OF WINSLOW  
TOWNSHIP POLICE DEPARTMENT,

Petitioner.

SYNOPSIS

The Director of Representation directs an election in a unit consisting of police lieutenants and captains employed by the Township of Winslow. While the Township alleged that police lieutenants and captains were managerial executives within the meaning of the New Jersey Employer-Employee Relations Act, it submitted no material in substantiation of its claim. Concluding that the petitioned-for employees constitute a prima facie appropriate unit, the Director orders an election.

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Appearances:

For the Public Employer  
Ronald C. Nunnenkamp, Twp. Clerk/Administrator

For the Petitioner  
Michael Bartuccio, Representative

DECISION AND DIRECTION OF ELECTION

On August 4, 1986, a Petition for Certification of Public Employee Representative was filed with the Public Employment Relations Commission ("Commission") by the Superior Officers of Winslow Township Police Department ("Petitioner") seeking to represent a collective negotiations unit consisting of all lieutenants and captains of the Winslow Township Police Department. The Petition is supported by an adequate showing of interest. The employees sought in the Petition have never been previously organized and there is no contract to bar an election. The composition of the negotiations unit sought in the Petition is prima facie appropriate.

On September 4, 1986, an informal investigatory conference was convened by a Commission staff attorney in order to determine the relevant facts. See, N.J.A.C. 19:11-2.2 and N.J.A.C. 19:11-2.6. The disposition of this matter is properly based on our administrative investigation. We have not found any substantial and material factual disputes which may more appropriately be resolved through an evidentiary hearing.

The Petitioner requests that the instant petition be processed and an election be conducted without delay.

The Township of Winslow ("Township") contends that under the particular organizational structure of the Township's police department, employees serving in lieutenant and captain titles are managerial executives within the meaning of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. ("Act"). However, at the time of the conference, the Township did not support its claim with evidentiary materials. The Petitioner argues that lieutenants and captains are not managerial executives within the meaning of the Act.

The Township also indicates that a petition had recently been filed with the Department of Civil Service seeking to cover the Township under Civil Service law, rules and regulations. In light of the filing of the Civil Service petition, the Township questions the propriety of continuing to process the instant Petition for Certification.

In correspondence dated September 11, 1986, we advised the Township that on the basis of the information before us, it appears that a valid question concerning representation exists and, consequently, the conduct of a secret ballot election among the petitioned-for employees is appropriate. We provided the Township with an opportunity to submit relevant documentary materials and additional argument in support of its positions that (1) employees serving in the titles of lieutenant and captain are managerial executives, and (2) the filing of the petition with the Department of Civil Service to cover the Township under Civil Service law should halt further processing of the Petition for Certification during the pendency of the Civil Service matter. The Township has failed to respond to our letter and has made no additional submission in support of the contentions expressed during the informal investigatory conference. While the Township has refused to consent to an election, it has set forth no facts indicating that the petitioned-for unit is in any manner inappropriate or that an election should not be conducted. Thus, there appears to be no basis to deny the petitioned-for employees the representational rights guaranteed to them by subsection 5.3 of the Act. See, Borough of Point Pleasant Beach, D.R. No. 87-4, 12 NJPER \_\_\_\_\_ (¶ 1986); Township of Washington, D.R. No. 86-15, 12 NJPER 226 (¶ 17093 1986); Borough of Interlaken, D.R. No. 86-9, 12 NJPER 57 (¶ 17022 1985); Borough of Haddonfield, D.R. No. 83-13, 8 NJPER 588 (¶ 13273 1982).

Accordingly, pursuant to N.J.A.C. 19:11-2.6(b)(3), we direct that a mail ballot election be conducted in a unit comprised as follows: included - police employees serving in the titles of lieutenant and captain employed in the police department of the Township of Winslow; excluded - all managerial executives and confidential employees within the meaning of the Act, all non-police employees, and all non-supervisory employees, including the Chief of Police, Executive Officer, sergeants, detectives, and patrolmen.

Those eligible to vote are the employees set forth above who were employed during the payroll period immediately preceding the date of this decision, including employees who did not work during that period because they were out ill, on vacation, temporarily laid off, or in military service. Employees who resigned or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date are ineligible to vote.

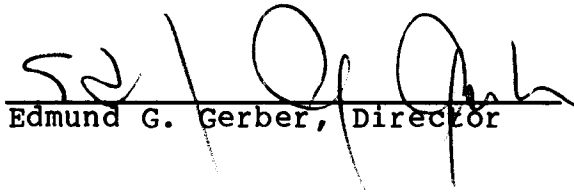
We direct the Township to simultaneously file with us and with the Petitioner, an eligibility list consisting of an alphabetical listing of the names of all eligible voters together with their last known mailing addresses and job titles, pursuant to N.J.A.C. 19:11-9.6. The Township shall also file with us an accompanying proof of service. We must receive the eligibility list no later than ten (10) days prior to the date of the mailing of the ballots. We shall not grant an extension of time within which to file the eligibility list except in extraordinary circumstances.

Ballots shall be mailed by the Commission to the eligible voters on October 23, 1986. Ballots must be received by the Commission by 9 a.m. on November 6, 1986. Ballots shall be counted by the Commission at 9:30 a.m. on November 6, 1986.

Those eligible to vote shall vote on whether they wish to be represented for the purpose of collective negotiations by the Superior Officers of Winslow Township Police Department, or no employee organization.

The exclusive representative, if any, shall be determined by the majority of valid ballots cast by the employees voting in the election. The election shall be conducted in accordance with the Commission's rules.

BY ORDER OF THE DIRECTOR  
OF REPRESENTATION

  
Edmund G. Gerber, Director

DATED: September 30, 1986  
Trenton, New Jersey