

I.R. NO. 92-18

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NEWARK BOARD OF EDUCATION,

Petitioner,

-and-

Docket No. SN-92-80

OFFICE AND PROFESSIONAL EMPLOYEES  
INTERNATIONAL UNION,

Respondent.

SYNOPSIS

A Commission Designee declines to restrain an arbitration concerning the alleged failure of the Newark Board of Education to follow contractual procedures for promotion. OPEIU, Local 32 originally filed a grievance seeking to arbitrate the Newark Board of Education's decision concerning a promotion. The Union now concedes that promotional decisions are not negotiable. Accordingly, the arbitration will only concern the Board's alleged failure to follow the contract's procedure for promotion. This matter appears to be arbitrable.

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Appearances:

For the Petitioner  
Marvin L. Comick, General Counsel  
(Carolyn Ryan Reed, of counsel)

For the Respondent  
Courter, Kobert, Laufer, Purcell & Cohen, attorneys  
(Fredrick M. Knapp, of counsel)

INTERLOCUTORY DECISION

On March 19, 1992, Newark Board of Education filed an Application for Interim Relief with the Public Employment Relations Commission requesting a restraint of an arbitrator's decision in a matter brought by OPEIU, Local 32, AFL-CIO. The arbitration concerned the filling of a position, Assistant Chief Accountant, of the Board.

The City claimed the Union is seeking to arbitrate its decision concerning a promotion but such a decision is not arbitrable. It is a managerial prerogative.

The Union admits that the original grievance did make such a request but states that the issue before the arbitrator was limited to the alleged failure of the Board to follow the contract's procedure for promotion.

The grievance was brought on behalf of Mr. Andrew Ciriaco. Mr. Ciriaco was not appointed to the position although he applied for it. Mr. Ciriaco contends that the Board did not follow the contractual provisions for filling this position and did not provide Mr. Ciriaco a statement as to why he was not promoted, pursuant to the contract.

The Application to restrain the arbitrator's decision is denied. The issues now before the arbitrator appear to be arbitrable. The Commission will not restrain an arbitration decision on the mere speculation that an arbitrator might exceed his or her authority.

The Scope of Negotiation Petition in this matter will go forward to the Commission.

  
Edmund G. Genber  
Commission Designee

DATED: Trenton, New Jersey  
April 30, 1992