P.E.R.C. NO. 80-119

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

WEEHAWKEN EDUCATION ASSOCIATION

Petitioner,

Docket No. SN-80-37

-and-

WEEHAWKEN BOARD OF EDUCATION,

Respondent.

SYNOPSIS

The Commission denied a motion for reconsideration filed by the Association in a scope of negotiations proceeding. The motion addresses the propriety of the award of the arbitrator rather than the negotiability of the disputed issue. The Commission notes the review of arbitration awards is available pursuant to N.J.S.A. 2A:24-1 et seq.

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Appearances:
For the Petitioner, Goldberg & Simon, Esqs.
(Louis P. Bucceri, of Counsel)

For the Respondent, Krieger & Chodash, Esqs.
(Harold Krieger, of Counsel and Richard Kay, on the Brief)

DECISION ON MOTION FOR RECONSIDERATION

The Weehawken Education Association moves that we reconsider that portion of our decision of January 18, 1980[1/] which concerned whether an arbitration award issued by Joseph P. Doyle was made upon a mandatorily negotiable term and condition of employment.[2/] In support of its motion, filed with us February 13, 1980, the Association has filed a memorandum of law and three certifications from teachers employed by the Weehawken Board of Education and represented by the Association. The Board filed a response to the motion on March 6, 1980 and the Association replied thereto on March 12, 1980.

In our decision, we determined that workload increases which were the direct result of a reduction by the Board in the number

1/ P.E.R.C. No. 80-91, ___ NJPER ___ (¶____ 1980).
2/ The decision was rendered upon two scope of negotiations petitions, Docket Nos. SN-80-36 and SN-80-37. The Association's motion is directed only to SN-80-37.

of special teachers (Art, Music, etc.) and the frequency of special classes were non-negotiable, since they stemmed directly from a reduction in force.

The Association, in its motion, asserts that the workload increases we found non-negotiable did not in fact stem from such a reduction. The certifications attribute the workload increase to other causes.

In rendering our scope decision we did not make any independent factual findings. Our statement concerning the source of the workload increases was drawn directly from the portion of Arbitrator Doyle's award which set forth the facts. We thus perceive the Association's submission as an attempt to have us correct what the Association apparently believes is a mistake of fact in the arbitrator's award. We do not believe that modifying the factual findings of an arbitration award is an appropriate exercise of our scope of negotiations jurisdiction. Hence, the motion for reconsideration is denied.[3/] The procedural arguments made by the Board are accordingly moot.

BY ORDER OF THE COMMISSION

Jeffrey B. Tener
Chairman

Chairman Tener, Commissioners Hartnett and Parcells voted for this decision. None opposed. Commissioners Graves, Hipp and Newbaker abstained.

DATED: Trenton, New Jersey
April 3, 1980
ISSUED: April 7, 1980

3/ Review of an arbitration award is available pursuant to N.J.S.A. 2A:24-1 et seq.. As is set forth in our prior decision, this case came to us from the Superior Court where the awards were being reviewed pursuant to the above cited statute. Thus, the Association had or still has an opportunity to convince the court that the arbitrator's factual findings should be modified.