

P.E.R.C. NO. 95-81

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of
COUNTY OF WARREN,

Petitioner,

-and-

Docket No. SN-95-65

PBA LOCAL 302,

Respondent.

SYNOPSIS

The Public Employment Relations Commission restrains binding arbitration of a grievance filed by PBA Local 302 against the County of Warren. The grievance asserts that the County violated the parties' collective negotiations agreement when it discharged a provisional corrections officer. The Commission holds that State v. State Troopers Fraternal Ass'n, 134 N.J. 393 (1993) has precluded binding arbitration of a grievance contesting the termination of a corrections officer holding a provisional Civil Service appointment.

This synopsis is not part of the Commission decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commission.

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Appearances:

For the Petitioner, David A. Wallace, attorney

For the Respondent, Schneider, Goldberger, Cohen, Finn,
Solomon, Leder & Montalbano, attorneys
(Jacqueline Jassner, of counsel)

DECISION AND ORDER

On January 17, 1995, the County of Warren petitioned for a scope of negotiations determination. The County seeks a restraint of binding arbitration of a grievance filed by PBA Local 302. The grievance asserts that the County violated the parties' collective negotiations agreement when it discharged a provisional corrections officer.

The parties have filed exhibits and briefs. These facts appear.

The County is a Civil Service employer. The parties entered into a collective negotiations agreement with a grievance procedure ending in binding arbitration of contractual disputes.

The agreement grants the employer the right to demote, suspend, discharge or otherwise take disciplinary action against employees consistent with Civil Service law.

Deborah Ellison was a corrections officer holding a provisional appointment. On September 22, 1993, the warden of the Warren County Correctional Center discharged her on the grounds that she had not taken an announced Civil Service examination for her position and that she had been insubordinate.

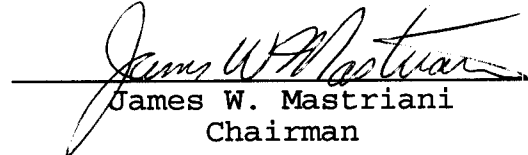
Local 302 filed a grievance claiming that Ellison had been discharged without sufficient cause. The grievance was denied and Local 302 demanded arbitration. At the arbitration hearing, the County argued that the grievance was not arbitrable under State v. State Troopers Fraternal Ass'n, 134 N.J. 393 (1993), and the arbitrator determined that the Commission should resolve that issue before he considered the grievance. This petition ensued.

In Union Cty., P.E.R.C. No. 95-43, 21 NJPER ____ (1____ 1995), app. pending App. Div. Dkt. No. A-____, we held that State Troopers precluded arbitration of a grievance contesting the termination of a corrections officer holding a provisional Civil Service appointment. Applying that case to these facts, we restrain arbitration.

ORDER

The request of the County of Warren for a restraint of binding arbitration is granted.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Boose, Klagholz, Ricci and Wenzler voted in favor of this decision. Commissioners Buchanan and Finn voted against this decision.

DATED: March 24, 1995
Trenton, New Jersey
ISSUED: March 27, 1995