

P.E.R.C. NO. 93-33

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BOROUGH OF SEASIDE PARK,

Petitioner,

-and-

Docket Nos. SN-92-101
ID-93-1

SEASIDE PARK P.B.A. LOCAL #182,

Respondent.

SYNOPSIS

The Public Employment Relations Commission finds that a successor contract proposal of Seaside Park P.B.A. Local #182 concerning medical benefits for retirees is mandatorily negotiable and economic in nature. Petitions for a scope of negotiations determination and an issue definition determination were filed by the Borough of Seaside Park.

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Appearances:

For the Petitioner, Hierung, Hoffman and Gannon, attorneys
(Thomas G. Gannon, of counsel)

For the Respondent, Klausner, Hunter, Cige & Seid,
attorneys (Stephen B. Hunter, of counsel)

DECISION AND ORDER

On May 8, 1992, the Borough of Seaside Park petitioned for a scope of negotiations determination. The Borough seeks a declaration that a successor contract proposal of Seaside Park P.B.A. Local #182 is not mandatorily negotiable and cannot be submitted to interest arbitration. That proposal concerns medical benefits for employees upon retirement.

On July 21, 1992, the Borough petitioned for an issue definition determination. The Borough seeks a declaration that the medical benefits proposal is economic and must be included in the parties' economic packages for consideration by the interest arbitrator.

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

The PBA represents the Borough's police officers, sergeants, and lieutenants. The parties entered into a collective negotiations agreement effective from January 1, 1989 through December 31, 1990. Article XI is entitled Hospital and Medical Insurance. Section 5 provided:

In the event that the Borough extends to any of its employees medical benefits on retirement, it is agreed that this benefit shall be extended to the members represented by this unit.

During successor contract negotiations, the PBA proposed that the language of Section 5 be deleted and replaced with this language:

Upon retirement from the Borough or after 25 years of service in the New Jersey State Pension System, an [sic] member of this unit shall be continued in the Borough's medical coverage in effect at the time of separation.

After the parties reached impasse, a petition to initiate interest arbitration proceedings was filed.

On March 3, 1992, the interest arbitrator issued an interim award concerning the medical benefits proposal. That award resolved a dispute as to whether the PBA was seeking to create a new benefit or codify an existing benefit. That question turned on whether the Borough had extended medical benefits to other employees and thus had incurred an obligation under the predecessor contract to extend the same benefits to its police officers. The arbitrator concluded that the Borough had already negotiated a commitment to provide medical benefits to public works employees and thus had obligated

itself under the predecessor contract to extend the same benefits to police officers.^{1/}

The Borough then filed this scope petition.^{2/} It contends that the medical benefits provision in the predecessor contract was an illegal parity clause and therefore cannot be relied on to prove that the PBA's successor contract proposal merely codifies an existing benefit. The PBA responds that the predecessor contract provision is not at issue in this proceeding and its successor contract provision is mandatorily negotiable.

When it submitted its final offer, the PBA revised its medical benefit proposal. The final offer states:

Medical - Upon retirement from the Borough in conformance with the N.J. Statutes governing retirement (N.J.S.A. 40A:10-23), a member of this unit shall be continued in the Borough medical coverage in effect at the time of separation. The Borough of Seaside Park will share in the cost of extending the benefits to current employees upon their retirement of up to 50% of the actual cost. The balance of the cost shall be assumed by the employee.

The PBA identified this offer as non-economic. The Borough responded by filing its ID petition. The PBA has since conceded that this offer is economic and we agree.

There is no dispute that the PBA's final offer for the successor contract to take effect on January 1, 1991 is mandatorily

^{1/} The Borough has filed a Complaint in the trial division of the Superior Court seeking to vacate this award.

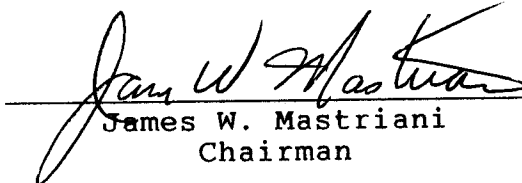
^{2/} A request for an interim restraint of arbitration was denied in a letter noting that the arbitrator may take evidence on the medical benefits issue, but may not decide that issue while the instant proceedings are pending. N.J.A.C. 19:16-5.7(h).

negotiable. We so hold. See, e.g., Bor. of Oradell, P.E.R.C. No. 91-86, 17 NJPER 223 (¶22096 1991). The Borough's assertion that the provision in the predecessor contract was illegal is not a cognizable issue in this proceeding. Our function under N.J.S.A. 34:13A-5.4(d) is to determine whether contract proposals are mandatorily negotiable and whether grievances are legally arbitrable. We have already determined that the PBA's final offer for the successor contract is mandatorily negotiable and the record does not indicate that any grievance seeks payment of benefits allegedly owed under the predecessor contract. Absent a petition seeking a restraint of binding arbitration of a grievance under the predecessor contract, we do not have jurisdiction to consider how the disputed benefit came into being or the validity of the predecessor contract. We note, however, that even if this benefit already exists, the arbitrator must consider the full cost of the current economic proposal.

ORDER

The PBA's final offer on medical benefits for retirees is mandatorily negotiable and economic in nature. The scope of negotiations petition is otherwise dismissed.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Bertolino, Goetting, Grandrimo, Regan, Smith and Wenzler voted in favor of this decision. None opposed.

DATED: October 22, 1992
Trenton, New Jersey
ISSUED: October 23, 1992