

P.E.R.C. NO. 79-76

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

EAST ORANGE BOARD OF EDUCATION,

Petitioner,

Docket No. SN-79-31

-and-

EAST ORANGE EDUCATION ASSOCIATION,

Respondent.

SYNOPSIS

The Commission denies a Motion for Reconsideration filed by the East Orange Education Association with respect to a matter previously decided by the Commission. See P.E.R.C. No. 79-62, NJPER (¶ 1979). The Commission concluded that its determination in this scope of negotiations determination did not turn upon the factual errors which the Association claimed. These matters were not found to be relevant to the negotiability of the disputed matter.

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Appearances:

For the Petitioner, Love & Randall, Esqs.
(Mr. Melvin Randall, of Counsel)

For the Respondent, Rothbard, Harris & Oxfeld, Esqs.
(Mr. Sanford R. Oxfeld, of Counsel)

DECISION ON MOTION FOR RECONSIDERATION

On March 9, 1979, the Public Employment Relations Commission issued a decision, P.E.R.C. No. 79-62, ___ NJPER ___ (¶ ___ 1979) regarding a matter in dispute between the East Orange Board of Education and East Orange Education Association.

By letter dated April 4, 1979, the East Orange Education Association filed a Motion for Reconsideration. Although this motion was not filed within the 15 day period provided by the Commission's rules, the Association urges a relaxation of that period in the interest of justice or to effectuate the purposes of the Act.

The Association asserts that the Commission's decision contains two factual errors. First, in footnote 2 of our decision we made the following statement:

"We note the Board's contention that the abolition of the position of stadium manager resulted from a task force report on extra compensation and that the task force itself came into being as a result of negotiations between the Board and the Association."

The Association asserts that at no time was the task force report on extra compensation agreed to by the Association.

Second, at page 5 of our decision we made the following statement:

"It was not until after the show cause conference was conducted on December 5, 1978, at which time the Board's request for a restraint of arbitration was granted, that the Association amended its grievance to include a violation of Article V, Section G of the contract which prohibits discipline without just cause."

The Association asserts that this statement is not true and that, in fact, the Association asserted just cause prior to the December 5, 1978 meeting referred to above.

The Association states that it is requesting reconsideration in order to provide the Commission with all pertinent facts and in order to ascertain whether these additional facts would have any bearing on our ultimate decision. The Association believes that these facts should dictate a different outcome.

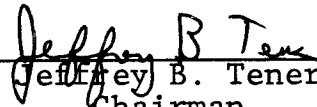
The Board, by letter dated April 10, 1979, urges us to deny the Association's motion, essentially on the ground that the issues raised by the Association are not material to the issue in dispute.

We deny the motion for reconsideration with the following comments. First, as the Association acknowledges, the motion for

reconsideration was untimely filed. Second, we do not believe that the Association has set forth "extraordinary circumstances" to justify granting the motion for reconsideration. Third, the claimed factual errors have no bearing on our decision. Whether and to what extent, if any, the Association acquiesced in the task force report on extra compensation is immaterial. This matter involves a dispute regarding the scope of negotiations and our function is simply to determine whether the disputed matter is or is not within the scope of collective negotiations. For the same reason the time at which the Association first asserted an alleged violation of the "just cause" provision of the contract has no bearing on the negotiability of this matter.

Accordingly, for the reasons set forth above, the Association's motion for reconsideration in this matter is hereby denied.

BY ORDER OF THE COMMISSION



Jeffrey B. Tener
Chairman

Chairman Tener, Commissioners Hartnett and Parcels voted for this decision. Commissioner Graves voted against this decision. Commissioners Hipp and Newbaker abstained.

DATED: Trenton, New Jersey
April 26, 1979
ISSUED: April 27, 1979