





neglect of duty, conduct unbecoming a State employee, inhibiting the effective operation of State service, and failure to follow proper procedures. Glover, a Civil Service employee, requested a hearing before the Merit System Board and the matter was transmitted to the Office of Administrative Law for determination as a contested case.

In addition, Glover's majority representative, the Communications Workers of America, AFL-CIO, filed an unfair practice charge with the Public Employment Relations Commission. The charge alleges that Glover had been illegally suspended and terminated in retaliation for his efforts as CWA's chief shop steward to represent a senior clerk in a work-related dispute between that employee and his supervisor. In its Answer, the employer asserts that Glover's efforts exceeded the proper role of a shop steward and therefore were not protected by the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. The employer also alleges that the suspension and termination were motivated and warranted by other events in addition to Glover's efforts to represent the senior clerk.

Administrative Law Judge Joseph Lavery issued an Order consolidating these matters, directing that an Administrative Law Judge hear the consolidated case, finding that neither the Merit System Board nor the Public Employment Relations Commission has the predominant interest, and directing that the matter first be considered by the Merit System Board and then by the Commission. CWA has filed exceptions and supplemental exceptions asserting that a Commission Hearing Examiner should be appointed as a Special Administrative Law Judge to hear the case and that, consistent with

settled precedent, the case should first be considered by the Commission and then by the Merit System Board. The employer has filed a reply and a supplemental reply to the exceptions and has also filed cross-exceptions asserting that the Merit System Board has the predominant interest and should consider the case first.

Having independently evaluated the record and considered the Administrative Law Judge's order, the Merit System Board at its meeting on July 25, 1995 and the Chairman of the Public Employment Relations Commission, acting pursuant to authority delegated to him by the full Commission, on August 7, 1995 made the following determination in this matter.

ORDER


The above matters are consolidated for hearing before an Administrative Law Judge. The Administrative Law Judge will first offer recommended findings of fact and conclusions of law to both the Public Employment Relations Commission and the Merit System Board, disposing of all issues in controversy through a single initial decision under N.J.S.A. 1:1-18.3 and consistent with N.J.A.C. 1:1-17.8(a); and

Upon transmittal of the initial decision to both agencies, the underlying record will be forwarded to the Commission to determine whether Glover engaged in activity protected under the New Jersey Employer-Employee Relations Act and whether that activity, if protected, was a substantial or motivating factor in his suspension and termination; and

The Commission's decision and the complete record will then be sent to the Merit System Board which will then determine whether Glover's suspension and termination were for legitimate business reasons and were otherwise warranted under Merit System law; and

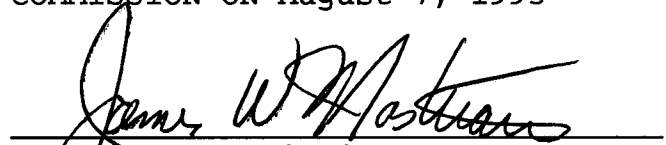
Where appropriate, the matter will be returned to the Commission for its consideration of whether specialized relief is warranted under its Act.

DECISION RENDERED BY THE  
MERIT SYSTEM BOARD ON  
July 25, 1995

  
Linda M. Anselmini  
Commissioner

DATED: Trenton, New Jersey  
July 25, 1995

DECISION RENDERED BY THE CHAIRMAN  
OF THE PUBLIC EMPLOYMENT RELATIONS  
COMMISSION ON August 7, 1995

  
James W. Mastriani  
Chairman

DATED: Trenton, New Jersey  
August 7, 1995