

P.E.R.C. NO. 88-151

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

SOMERSET COUNTY COLLEGE,

Petitioner,

-and-

Docket No. SN-87-72

SOMERSET COUNTY COLLEGE FACULTY
FEDERATION, LOCAL 2375, AFT/AFL-CIO,

Respondent.

SYNOPSIS

The Public Employment Relations Commission declines to restrain arbitration of a grievance filed by the Somerset County College Faculty Federation, Local 2375 against Somerset County College. The grievance asserts that the County violated its collective negotiations agreement when it required an employee to perform laboratory duties during a portion of her workweek known as College hours. The Commission finds that the grievance pertains to the mandatorily negotiable topics of compensation and work hours.

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Appearances:

For the Petitioner, Shanley & Fisher, P.C.
(Ellen O'Connell, of counsel)

For the Respondent, Dwyer & Canellis, Esqs.

DECISION AND ORDER

On May 5, 1987, Somerset County College ("College") filed a Petition for Scope of Negotiations Determination. The College seeks to restrain binding arbitration of a grievance filed by the Somerset County College Faculty Federation, Local 2375, AFT/AFL-CIO ("Federation") on behalf of Dr. Dorothy A. Petrushka. The grievance asserts that the College violated its collective negotiations agreement when it required Petrushka to perform laboratory duties during a portion of her workweek known as College hours, despite an alleged past practice of allowing her to use this time for personal activities and paying her overtime if she was required to work then.

The parties have filed briefs. These facts appear.

The Federation is the majority representative of full-time faculty and teaching and lab assistants. The College and the

Federation are parties to an agreement effective July 1, 1984 to June 30, 1987. The grievance procedure ends in binding arbitration.

Petrushka is a teaching assistant. Article II B provides, in part:

B. Senior Technical and Teaching Assistants -
While the specific duties of these personnel may differ for different departments or divisions, depending upon the purpose and function of the laboratory, their duties generally include the assisting of faculty in teaching laboratory sections and the supervising of staff and student assistants. They are involved in laboratory preparations and maintenance of laboratories. They test experiments and make revisions as required. For academic preparation of laboratories, they shall be allowed a minimum of two (2) and a maximum of four (4) hours as determined by the appropriate academic dean within their 35 hour work week, including a maximum of 25 lab contact hours....

The College allows teaching assistants a three hour period each week, known as college hours, for attending committee meetings, workshops and college functions. Petrushka asserts that past practice allows teaching assistants to use college hours for either college functions or personal activities.

When Petrushka's department chairperson learned that she was leaving the campus on personal business, he distributed a memorandum stating that college hours were not release time. This time could be used to attend college meetings and functions as long as that use did not interfere with assigned duties. Petrushka was instructed to perform physical preparations during her college hours.

The Federation grieved on Petrushka's behalf, alleging that the College had violated contractual provisions protecting against compensation reductions without just cause and arbitrary and discriminatory actions. It specifically alleges a past practice allowed Petrushka to use college hours as free time, unless the College paid her overtime. It asked that the College allow Petrushka to use college hours as she sees fit within the 35 hour workweek.

The College denied the grievance because it believed the contract clearly permitted it to require 35 hours of work per week rather than 32. The Federation demanded arbitration. This petition ensued.

The College contends that the grievance predominantly concerns the non-negotiable issue of workforce deployment and that the requested relief violates public policy against featherbedding. In its reply brief it asserts that the contract permitted it to require Petrushka to perform physical preparations during college hours.

The Federation asserts that this dispute centers on the mandatorily negotiable issues of work hours and compensation and that even if the College may require Petrushka to work during college hours, the issue of increased compensation is arbitrable.

At the outset of our analysis, we stress the narrow boundaries of our scope of negotiations jurisdiction. In Ridgefield Park Ed. Ass'n v. Ridgefield Park Bd. of Ed., 78 N.J. 144 (1978),

the Supreme Court, quoting from Hillside Bd. of Ed., P.E.R.C. No. 76-11, 1 NJPER 55 (1975), stated:

The Commission is addressing the abstract issue: is the subject matter in dispute within the scope of collective negotiations. Whether that subject is within the arbitration clause of the agreement, whether the facts are as alleged by the grievant, whether the contract provides a defense for the employer's alleged action, or even whether there is a valid arbitration clause in the agreement or any other question which might be raised is not to be determined by the Commission in a scope proceeding. Those are questions appropriate for determination by an arbitrator and/or the courts. [78 N.J. at 154]

We thus do not decide the grievance's contractual merits.

Compensation and work hours are mandatorily negotiable.

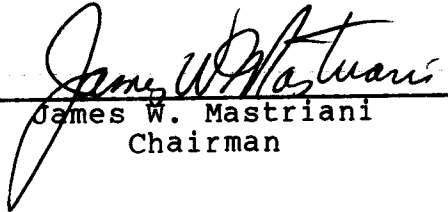
Local 195, IFPTE v. State, 88 N.J. 393 (1982); Woodstown-Pilesgrove Reg. Sch. Dist. Bd. of Ed. v. Woodstown-Pilesgrove Reg. Ed. Ass'n, 81 N.J. 582 (1980); Burlington Cty. Coll. Fac. Ass'n v. Bd. of Trustees, 64 N.J. 10 (1973); New Jersey Sports & Exposition Auth., P.E.R.C. No. 87-143, 13 NJPER 492 (¶18181 1987), aff'd App. Div. Dkt. No. A-4781-86T8 (5/25/88); Montville Tp. Bd. of Ed. and Montville Tp. Ed. Ass'n, P.E.R.C. No. 86-118, 12 NJPER 372 (¶17143 1986), aff'd App. Div Dkt. No. A-4545-85T7 (3/23/87), certif. den. 108 N.J. 208 (1987). The Federation has asserted essentially that Petrushka's workweek is composed of 32 hours and three hours of either release time or paid overtime hours. The College has asserted essentially that it has a contractual right to require her to work 35 hours at her annual pay rate. We do not decide the merits of these claims. We decide only that this grievance centers

on the relationship between amount of pay received and amount of time worked and is thus mandatorily negotiable.

ORDER

The request for a restraint of arbitration is denied.

BY ORDER OF THE COMMISSION



James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Bertolino, Johnson, Reid, Smith and Wenzler voted in favor of this decision. None opposed.

DATED: Trenton, New Jersey
June 23, 1988
ISSUED: June 24, 1988