

P.E.R.C. NO. 97-94

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF HOBOKEN,

Petitioner,

-and-

Docket No. SN-97-27

HOBOKEN POLICEMEN'S BENEVOLENT  
ASSOCIATION, LOCAL NO. 2,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the request of the City of Hoboken for a restraint of binding arbitration of a grievance filed by the Hoboken Policemen's Benevolent Association, Local 2. The grievance contests a police officer's three-day suspension. The Commission finds that a recent amendment to N.J.S.A. 34:13A-5.3 provides specifically for binding arbitration of minor discipline for all public employees except State troopers.

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, Murray, Murray & Corrigan, attorneys  
(Linda Sabat, of counsel)

For the Respondent, Fox and Fox, attorneys  
(Dennis J. Alessi, of counsel)

DECISION AND ORDER

On September 27, 1996, the City of Hoboken petitioned for a scope of negotiations determination. The City seeks a restraint of binding arbitration of a grievance filed by Hoboken Policemen's Benevolent Association, Local No. 2. The grievance contests a three-day suspension without pay of police officer George Fonseca.

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

The PBA represents all police officers within the Hoboken police division, excluding superior officers. The parties entered into a collective negotiations agreement effective from January 1, 1991 through December 31, 1996. The grievance procedure ends in binding arbitration.

On May 13, 1996, police officer George Fonseca was served with a preliminary notice of disciplinary action. On July 11, 1996, a disciplinary hearing was conducted. Fonseca was given a three-day suspension.

On July 26, 1996, Local No. 2 appealed the suspension under the parties' grievance procedure and filed a demand for arbitration. This petition ensued.

Our jurisdiction is narrow. Ridgefield Park Ed. Ass'n v. Ridgefield Park Bd. of Ed., 78 N.J. 144, 154 (1978), states:

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.

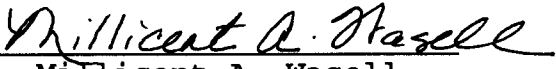
Thus, we do not consider the contractual arbitrability or merits of the grievance.

P.L. 1996, c. 115, effective January 9, 1997, amended N.J.S.A. 34:13A-5.3 to provide specifically for binding arbitration of minor discipline for all public employees except State troopers. In City of East Orange, P.E.R.C. No. 97-85, 23 NJPER \_\_\_\_ (¶\_\_\_\_ 1997), we held that the new amendment applied to a pending dispute. East Orange controls and we therefore decline to restrain binding arbitration.

ORDER

The request of the City of Hoboken for a restraint of binding arbitration is denied.

BY ORDER OF THE COMMISSION

  
\_\_\_\_\_  
Millicent A. Wasell  
Chair

Chair Wasell, Commissioners Boose, Buchanan, Finn, Klagholz, Ricci and Wenzler voted in favor of this decision. None opposed.

DATED: February 27, 1997  
Trenton, New Jersey  
ISSUED: February 28, 1997