

P.E.R.C. NO. 95-86

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY,

Public Employer,

-and-

Docket Nos. RO-95-77 and
RO-95-98

COMMUNICATIONS WORKERS OF AMERICA,
AFL-CIO,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission denies a Request for Review of a decision of the Director of Representation dismissing representation petitions filed by the Communications Workers of America, AFL-CIO. The petitions sought to add titles to CWA's negotiations unit of higher-level supervisors employed by the State of New Jersey. The Commission finds that the Director did not exceed his power by finding untimely authorization cards signed over eighteen months before the petitions were filed.

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, Weissman & Mintz, attorneys
(Steven P. Weissman, of counsel)

DECISION AND ORDER

On October 28, 1994, the Communications Workers of America filed two representation petitions. The petitions sought to add the titles of chief investigator and assistant chief investigator to CWA's negotiations unit of higher-level supervisors employed by the State of New Jersey. These petitions were part of a series of 69 petitions seeking to add different titles to that unit.

On October 31, 1994, the Administrator of Representation advised CWA that the showings of interest supporting these petitions and several other petitions appeared to be insufficient to warrant processing the petitions because the authorization cards submitted were stale or too few in number. The Administrator informed CWA that the open period for filing representation petitions would end on November 2, 1994.

On November 1 and 2, CWA submitted more cards.

On November 4, the Administrator wrote CWA a letter advising it that the showings of interest for these two petitions were still deficient. He stated that the showings were "stale" under N.J.A.C. 19:10-1.1, that is they relied on authorization cards signed and dated more than 6 months before the petitions were filed. He advised CWA that if it did not file sufficient showings by the close of business on November 7, its petitions would be immediately dismissed.

On November 9, the Director of Representation dismissed these petitions and 20 other petitions. He stated that CWA had not submitted the required showings of interest.

On November 18, 1994, CWA requested review of the Director's dismissal of the instant two petitions. Asserting that its petitions are part of a continuous attempt to represent chief and assistant chief investigators, it argues that showings of interest submitted to support an April 1993 petition should remain valid.^{1/}

^{1/} The April 1993 petition was ultimately dismissed as untimely under the contract bar rule. State of New Jersey (Dept. of Public Advocate), P.E.R.C. No. 94-89, 20 NJPER 184 (¶25083 1994). Before that petition was dismissed, CWA filed a second representation petition in December 1993. That petition seeks to create a negotiations unit of third-level supervisors and to include the titles of chief and assistant chief investigators as well as several other titles in that unit. The second petition is still pending. Hearings are being conducted on the employer's position that these employees are managerial executives not entitled to any representational rights under the Act.

N.J.A.C. 19:11-8.2 sets forth the grounds for granting a request for review. That regulation provides:

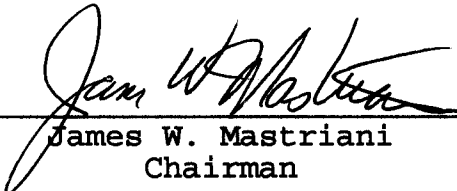
- (a) The commission will grant a request for review only where compelling reasons exist therefor. Accordingly, a request for review may be granted only upon one or more of the following grounds:
1. That a substantial question of law is raised concerning the interpretation or administration of the act or these rules;
 2. That the director of representation's decision on a substantial factual issue is clearly erroneous on the record and such error prejudicially affects the rights of the party seeking review;
 3. That the conduct of the hearing or any ruling made in connection with the proceeding may have resulted in prejudicial error; and/or
 4. That there are compelling reasons for reconsideration of an important commission rule or policy.

Applying these standards, we deny review. Under N.J.A.C. 19:11-2.1, the Director of Representation is in charge of determining the adequacy of a showing of interest. The Director did not exceed his power by finding untimely authorization cards signed over 18 months before the instant petitions were filed.

ORDER

The request for review is denied.

BY ORDER OF THE COMMISSION



James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Boose, Buchanan, Finn and Klagholz voted in favor of this decision. None opposed. Commissioners Ricci and Wenzler were not present.

DATED: April 10, 1995
Trenton, New Jersey
ISSUED: April 11, 1995