

P.E.R.C. NO. 2004-53

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF TRENTON,

Petitioner,

-and-

Docket No. SN-2004-25

P.B.A. LOCAL NO. 11
(SUPERIOR OFFICERS ASSOCIATION),

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the City of Trenton for a restraint of binding arbitration of a grievance filed by P.B.A. Local No. 11 (Superior Officers Association). The grievance contests the transfer of a police lieutenant. The Commission holds that the discipline amendment authorizes agreements to arbitrate minor disciplinary disputes, but that authorization does not extend to reassignments or transfers of police officers. Police officers who believe that they have been unjustly reassigned or transferred as a form of discipline must file a Superior Court action in lieu of prerogative writ.

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, Laufer, Knapp, Torzewski & Dalena,
LLC, attorneys (Stephen Trimboli, on the brief)

For the Respondent, Wills, O'Neill & Mellk, attorneys
(G. Robert Wills, on the brief)

DECISION

On November 12, 2003, the City of Trenton petitioned for a scope of negotiations determination. The City seeks a restraint of binding arbitration of a grievance filed by P.B.A. Local No. 11 (Superior Officers Association). The grievance contests the transfer of Lieutenant Thomas Murphy.

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

The SOA represents all police sergeants, lieutenants, captains, and deputy chiefs. The parties' collective negotiations agreement is effective from July 1, 2000 through

December 31, 2005. The grievance procedure ends in binding arbitration.

Section IV of the parties' agreement is entitled Employee Rights. Section 4.02 covers an officer's right to engage in political activity when not on duty and sets forth the standards that apply when an officer is being investigated.

On June 22, 2003, Thomas Murphy was transferred from the Patrol Bureau, Conditions Lieutenant, to the Services Bureau, Detention Lieutenant. An SOA grievance alleged that the transfer was made without charges or a hearing and without just cause in violation of section 4.02. The grievance also stated that the transfer or reassignment is the fifth level of discipline followed by suspension without pay, loss of promotional opportunity, demotion, and discharge from employment.

The employer denied the grievance, the SOA demanded arbitration, and this petition ensued.^{1/}

We today decided this issue in another scope of negotiations petition involving these same parties. City of Trenton, P.E.R.C. No. 2004-52, 30 NJPER __ (¶____ 2004). As we stated there, police officers who believe that they have been unjustly reassigned or transferred as a form of discipline must file a Superior Court action in lieu of prerogative writ. We grant the

^{1/} Neither party addresses the procedural claims raised in the grievance and demand for arbitration.

City's request for a restraint of binding arbitration over the contention that the transfer was made without just cause.

ORDER

The request of the City of Trenton for a restraint of binding arbitration over the contention that Lieutenant Thomas Murphy was transferred without just cause is granted.

BY ORDER OF THE COMMISSION

A handwritten signature in black ink, appearing to read "L Henderson", written over a horizontal line.

Lawrence Henderson
Chairman

Chairman Henderson, Commissioners Buchanan, DiNardo and Mastriani voted in favor of this decision. None opposed. Commissioner Sandman abstained from consideration. Commissioner Katz was not present.

DATED: February 26, 2004
Trenton, New Jersey
ISSUED: February 27, 2004