

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

JAMES F. GILLEECE, POLICE
SERGEANT (PM2563G), UNION
TOWNSHIP AND ROBERT REISS,
POLICE LIEUTENANT (PM2638G),
UNION TOWNSHIP,

OAL Docket No. CSV-7839-08
Agency Docket Nos. 2008-1759
2008-1761

Appellants.

In the Matter of

UNION TOWNSHIP,

Respondent,

Docket No. CO-2008-062

-and-

PBA LOCAL 69,

Charging Party.

SYNOPSIS

The Civil Service Commission and the Chairman of the New Jersey Public Employment Relations Commission issue a Joint Order consolidating appeals before Civil Service and an unfair practice charge before PERC for hearing before an Administrative Law Judge. The appeals and the charge both contest promotion denials to the ranks of lieutenant and sergeant within the Union Township Police Department. After the ALJ issues a decision to both agencies, PERC will determine whether the Township bypassed appellants in retaliation for protected activity; the Civil Service Commission will then determine whether the Township would have taken the same action even in the absence of protected activity and grant any warranted relief; and if appropriate, the matter will then be returned to PERC for consideration of whether specialized relief is warranted under its Act.

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.

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
AND
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matters of

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Appearances:

For the Respondent, Apruzzese, McDermott, Mastro & Murphy, attorneys (Robert J. Merryman, of counsel)

For the Appellants, Timothy R. Smith and Associates, LLC (Timothy R. Smith, of counsel)

For the Charging Party, Zazzali, Fagella, Nowak, Kleinbaum & Friedman, attorneys (Paul L. Kleinbaum, of counsel)

DECISION

On September 26, 2007, Sergeant Robert Reiss and Police Officer James F. Gilleece ("appellants") filed an appeal with the Civil Service Commission contesting their denial for promotion to

the ranks of lieutenant and sergeant respectfully within the Union Township Police Department. The appellants allege that they were denied promotion due to their union activity in violation of the Civil Service Act, N.J.S.A. 11A:1-1 et seq. The appeals were transmitted to the Office of Administrative Law as a contested case.

On September 13, 2007, PBA Local 69 filed an unfair practice charge against the Township of Union. The charge alleges that Gilleece and Reiss were bypassed for promotion in retaliation for their union activity in violation of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq.

Subsequently, the Township filed a motion for consolidation and predominant interest determination. The Township argued that both actions arise out of the same set of facts and that the Civil Service Commission has the predominant interest. The charging party argued that both agencies should share jurisdiction or, in the alternative, the Public Employment Relations Commission has the predominant interest.

On August 20, 2009, Administrative Law Judge Richard McGill issued an Order of Consolidation and Predominant Interest. He found that both agencies have subject matter jurisdiction over the claim that the Township bypassed the appellants for promotion in retaliation for protected activity and that the agencies can share this jurisdiction.

Having independently evaluated the record and considered the Administrative Law Judge's order and no exceptions having been filed, the Civil Service Commission at its meeting on September 16, 2009 and the Chairman of the Public Employment Relations Commission, acting pursuant to authority delegated to him by the full Commission, adopt the Administrative Law Judge's decision and issue the following:

JOINT ORDER

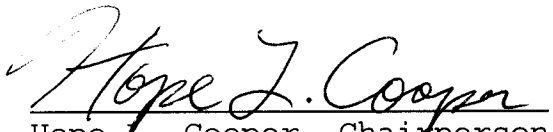
The above matters are consolidated for hearing before the Administrative Law Judge. The Judge will first offer recommended findings of fact and conclusions of law to both the Public Employment Relations Commission and the Civil Service Commission, disposing of all issues in controversy through a single initial decision; and

Upon transmittal of the initial decision to both agencies, the underlying record will be forwarded to the Public Employment Relations Commission to determine whether the Township bypassed appellants in retaliation for protected activity; and

The Public Employment Relations Commission's decision and the complete record will then be sent to the Civil Service Commission which will then determine whether the Township would have taken the same action even in the absence of protected activity and grant any warranted relief; and

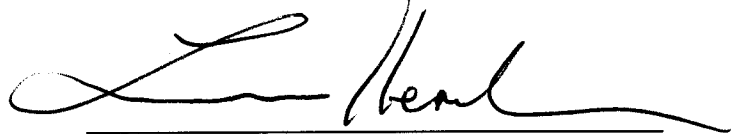
Where appropriate, the matter will be returned to the Public Employment Relations Commission for its consideration of whether specialized relief is warranted under its Act.

DECISION RENDERED BY THE
CHAIRPERSON OF THE CIVIL
SERVICE COMMISSION ON
September 16, 2009



Hope L. Cooper, Chairperson
Civil Service Commission

DECISION RENDERED BY THE
CHAIRMAN OF THE PUBLIC
EMPLOYMENT RELATIONS COMMISSION
September 10, 2009



Lawrence Henderson, Chairman
Public Employment Relations
Commission