

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY  
(DEPARTMENT OF HUMAN SERVICES),

Public Employer,

-and-

DISTRICT 1199J, NATIONAL  
UNION OF HOSPITAL AND HEALTH  
CARE EMPLOYEES, AFSCME, AFL-CIO,

Docket No. RO-94-131

Petitioner,

-and-

COMMUNICATIONS WORKERS OF  
AMERICA, AFL-CIO,

Intervenor.

SYNOPSIS

The Public Employment Relations Commission denies request for review of D.R. No. 95-1, 20 NJPER 308 (¶20154 1994) filed by District 1199J, National Union of Hospital and Health Care Employees, AFSCME, AFL-CIO. In that decision, the Director of Representation held that a negotiations unit of Assistant Directors of Nursing Services I employed by the State of New Jersey in its Department of Human Services was inappropriate in light of State v. Prof. Ass'n of N.J. Dept. of Ed., 64 N.J. 231 (1974), the Act's preference for broad-based negotiations unit, and the existence of other units in which the Assistant Directors could be placed. The Commission finds that no argument has been presented that would warrant deviating from the policies set forth in Prof. Ass'n favoring broad-based units.

P.E.R.C. NO. 95-27

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Appearances:

For the Public Employer, Office of Employee Relations  
(David Collins, Employee Relations Coordinator)

For the Petitioner, Balk, Oxfeld, Mandell & Cohen, attorneys  
(Arnold H. Cohen, of counsel)

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

DECISION AND ORDER

On April 28, 1994, District 1199J, National Union of Hospital and Health Care Employees, AFSCME, AFL-CIO, filed a Petition for Certification to represent a negotiations unit of Assistant Directors of Nursing Services I employed by the State of New Jersey in its Department of Human Services. The petition was accompanied by an adequate showing of interest.

The employer requested that the petition be dismissed. It asserted that the Assistant Directors are managerial executives under N.J.S.A. 34:13A-3(f) and that, if they are not, they should be included either in one of the two existing broad-based units of primary level or higher-level supervisors employed by the State or in a third potential unit of supervisors that may or may not be created after pending litigation is concluded. The employer argues that the proposed unit is too narrow under State v. Professional Ass'n of N.J. Dept. of Ed., 64 N.J. 231 (1974).

District 1199J filed a response. It asserted that the Assistant Directors are not managerial executives and that they have an independent community of interest warranting their placement in a negotiations unit separate from other supervisors.

The Communications Workers of America, AFL-CIO filed an adequate showing of interest and was granted permission to intervene pursuant to N.J.A.C. 19:11-2.7(a). CWA asserted that these employees are not managerial executives and that they are entitled to organize under the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq.

On July 11, 1994, our Director of Representation dismissed the petition. D.R. No. 95-1, 20 NJPER 308 (¶25154 1994). He held that the proposed unit was inappropriate in light of Professional Ass'n, the Act's preference for broad-based negotiations units, and the existence of other units in which the Assistant Directors could be placed. He did not consider whether the Assistant Directors

should be considered managerial executives excluded from the Act's coverage.

On July 22, 1994, District 1199J requested review. It repeats its argument that the Assistant Directors have an independent community of interest warranting their own unit.

N.J.A.C. 19:11-8.2 provides that a request for review will not be granted without "compelling reasons" and without one or more of the following grounds being present:

- That a substantial question of law is raised concerning the interpretation or administration of the act or these rules;

- 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;

- That the conduct of the hearing or any ruling made in connection with the proceeding may have resulted in prejudicial error; and/or


- That there are compelling reasons for reconsideration of an important commission rule or policy.

District 1199J asserts that a substantial question of law exists, but we disagree. No argument has been presented that would warrant deviating from the policy set forth in Professional Ass'n favoring broad-based units. See also In re Matters of State, 114 N.J. 316 (1988).

ORDER

The request for review is denied.

BY ORDER OF THE COMMISSION

  
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James W. Mastriani  
Chairman

Chairman Mastriani, Commissioners Bertolino, Goetting, Klagholz, Ricci, Smith and Wenzler voted in favor of this decision. None opposed.

DATED: September 29, 1994  
Trenton, New Jersey  
ISSUED: September 30, 1994