

P.E.R.C. NO. 98-139

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF BURLINGTON,

Respondent,

-and-

Docket No. CO-H-97-220

POLICEMEN'S BENEVOLENT ASSOCIATION,  
LOCAL 249,

Charging Party.

SYNOPSIS

The Public Employment Relations Commission grants the request of the County of Burlington for reconsideration of the decision in P.E.R.C. No. 98-122. In that decision, the Commission had held that the County violated the New Jersey Employer-Employee Relations Act by unilaterally transferring work historically performed by corrections officers represented by Policemen's Benevolent Association, Local 2149 to non-unit employees. The Commission had declined to consider a January 7, 1998 New Jersey Department of Personnel (DOP) letter submitted by the County because it was not included in the record before the Hearing Examiner. The Commission grants reconsideration and finds that the County has not shown that the duties referred to in the DOP letter are the duties transferred from PBA members to civilians and the Commission will not assume that "peripheral duties" referred to by DOP are the duties of money card holder, bail officer and desk officer. The Commission sustains its decision.

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  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

COUNTY OF BURLINGTON,

Respondent,

-and-

Docket No. CO-H-97-220

POLICEMEN'S BENEVOLENT ASSOCIATION,  
LOCAL 249,

Charging Party.

Appearances:

For the Respondent, Office of the County Solicitor, Evan H.C. Crook, County Solicitor (Charles B. Castillo, Assistant County Solicitor, on the brief)

For the Charging Party, Schneider, Goldberger, Cohen, Finn, Solomon, Leder & Montalbano, P.C. (Kevin P. McGovern, on the brief)

DECISION

On April 14, 1998, the County moved for reconsideration of P.E.R.C. No. 98-122, 24 NJPER \_\_\_\_ (¶\_\_\_\_ 1998). It also requested a stay of our order in that case pending our decision on its motion. On April 17, 1998, the Commission Chair granted a stay.

In P.E.R.C. No. 98-122, we held that the County violated the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq., specifically 5.4a(1) and (5),<sup>1/</sup> by unilaterally

---

<sup>1/</sup> These provisions prohibit public employers, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act. (5) Refusing to

transferring work historically performed by corrections officers represented by the PBA ID section to non-unit employees. We ordered the County to restore the status quo and negotiate in good faith with the PBA before transferring ID Section duties to employees outside the PBA's negotiations unit. We declined to consider a January 7, 1998 New Jersey Department of Personnel (DOP) letter submitted by the County because it was not included in the record before the Hearing Examiner. We stated that if the County believed it was legally barred by DOP from complying with our order, it could seek reconsideration or raise this contention when it notified the Chair of the steps it had taken to comply with the order.

The County argues that compliance with our Order would require it to violate DOP's directive that the transferred ID section duties are appropriately performed by Data Control Clerks, Typing and should continue to be removed from corrections officers.<sup>2/</sup> The PBA responds that the County has presented no new information with its motion and has not shown that the duties referred to in the DOP letter are the duties at issue in this case.

---

Footnote Continued From Previous Page

negotiate in good faith with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative.

<sup>2/</sup> For the purpose of its motion, the County acknowledges that, based on the stipulated facts before the Hearing Examiner, the Commission's decision was correct.

N.J.A.C. 19:14-8.4 requires a party to specify the "extraordinary circumstances" warranting reconsideration of a Commission decision. The County's contention that compliance would require it to violate a DOP order is an extraordinary circumstance warranting reconsideration. We grant the motion to consider the DOP letter on which the County relies.

The January 7, 1998 letter from a Human Resource Consultant at DOP states that, based on a job analysis, data control clerks typing at the Burlington County Correctional facility are performing duties that match their title. The letter then states:

Historically, Correction Officers were responsible for reviewing post orders, supervising inmates, performing searches, escorting inmates, responding to incidents, reporting incidents, carrying and utilizing necessary equipment when appropriate, conducting body counts and preparing and submitting reports. In this instance, where the use of the title Correction Officer clearly had been in violation of this principle by performing out-of-title work not directly related to custody and care of inmates, the Department of Personnel maintains that these peripheral support duties appropriately classified as duties under the Data Control Clerk, Typing title continue to be removed from the Correction Officer title responsibilities.

This letter does not mention, or prohibit corrections officers from performing, the ID section duties of money card holder, bail officer and desk officer -- the duties that were transferred from officers in the PBA's negotiations unit to civilians. We will not assume that the "peripheral duties" referred to by DOP are those


of money card holder, bail officer and desk officer. The letter does not so state and the County has submitted no evidence that DOP considered these duties or determined that these duties may not be performed by corrections officers.

Moreover, based on this record, we cannot say that the money card holder, bail officer and desk officer duties are self-evidently duties that must be performed by data control clerks, typing. Under direct supervision, those employees are responsible for monitoring, editing and verifying information processed by a data processing system. A bail officer, for example, handles all bails from start to finish and performs victim witness notification -- duties which do not appear to be data processing functions. Similarly, a money card holder is responsible for maintaining accountability of all inmate funds and a desk officer is responsible for processing paperwork for new inmates. Without more information on the "peripheral duties" which DOP has determined are appropriately removed from Corrections Officers, we cannot say whether some or all of those duties are the bail officer, money holder and desk officer functions which were ordered transferred back to the PBA unit. For these reasons, the DOP letter does not warrant modification of our original decision.

ORDER

The motion for reconsideration is granted. The Decision and Order in P.E.R.C. No. 98-122 is sustained.

BY ORDER OF THE COMMISSION

  
Millicent A. Wasell  
Millicent A. Wasell  
Chair

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

DATED: April 30, 1998  
Trenton, New Jersey  
ISSUED: April 30, 1998