

P.E.R.C. NO. 96-58

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

LAWRENCE TOWNSHIP,

Petitioner,

-and-

Docket No. SN-96-47

PBA LOCAL 119,

Respondent.

SYNOPSIS

The Public Employment Relations Commission restrains binding arbitration of a grievance filed by PBA Local 119 against Lawrence Township. The grievance contests the suspension of a police officer for allegedly violating three sections of police department regulations. The Commission holds that State v. State Troopers Fraternal Ass'n, 134 N.J. 393 (1993), precludes binding arbitration of any disciplinary disputes involving police officers.

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, Katz & Dougherty, attorneys
(Louis C. Guarino, of counsel)

For the Respondent, Herrigan, Bolan, Manahan & Troxell,
attorneys (Gary F. Troxell, of counsel)

DECISION AND ORDER

On November 20, 1995, Lawrence Township petitioned for a scope of negotiations determination. The Township seeks a restraint of binding arbitration of a grievance filed by PBA Local 119. The grievance contests the suspension of a police officer for allegedly violating three sections of police department regulations.

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

The Township is a Civil Service jurisdiction. The PBA is the majority representative of police officers. The PBA and the Township are parties to a collective negotiations agreement effective from January 1, 1993 through December 31, 1995. The grievance procedure ends in binding arbitration.

On August 7, 1995, Officer Adam Kowalczyk was served with a "Preliminary Notice of Disciplinary Action." The notice alleged that on July 8, 1995, Kowalczyk failed to act professionally in handling a citizen's inquiry about another officer and made improper, unreasonable and discourteous remarks to the citizen. The notice sought to impose a five-day suspension as the penalty and cited three sections of department regulations.

The Township Manager conducted a hearing and issued a report. He concluded that Kowalczyk was guilty of all three counts and imposed a five-day suspension on each count, to be served concurrently.

The PBA grieved the discipline and demanded arbitration. The officer filed an appeal with the Merit System Board. He asserted that the Township manager had increased the penalty from a five-day to a 15-day suspension, thus imposing major discipline and allowing the officer a right to appeal. This petition ensued.

State v. State Troopers Fraternal Ass'n, 134 N.J. 393 (1993), precludes binding arbitration of any disciplinary disputes involving police officers. Regardless of whether Kowalczyk's penalty is major discipline^{1/} or minor discipline, arbitration must be restrained. See, respectively, Mercer Cty., P.E.R.C. No.

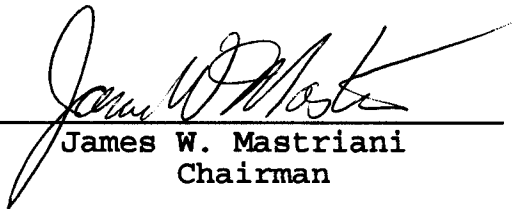
^{1/} We do not know whether the Merit System Board has accepted jurisdiction over the appeal.

92-111, 18 NJPER 268 (¶23114 1992); Hudson Cty., P.E.R.C. No. 95-69, 21 NJPER 153 (¶26092 1995), app. pending App. Div. Dkt. No. A-4698-94T1.

ORDER

The Township's request for a restraint of binding arbitration is granted.

BY ORDER OF THE COMMISSION



James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Boose, Buchanan, Finn, Klagholz, Ricci and Wenzler voted in favor of this decision. None opposed.

DATED: February 29, 1996
Trenton, New Jersey
ISSUED: March 1, 1996