

P.E.R.C. NO. 99-61

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

STATE OF NEW JERSEY
(DIVISION OF STATE POLICE),

Petitioner,

-and-

Docket No. SN-99-8

STATE TROOPERS FRATERNAL
ASSOCIATION OF NEW JERSEY,

Respondent.

SYNOPSIS

The Public Employment Relations Commission denies the State Troopers Fraternal Association of New Jersey's motion for reconsideration of P.E.R.C. No. 99-38, 24 NJPER 518 (129241 1998). In that decision, the Commission granted the request of the State of New Jersey (Division of State Police) for a restraint of binding arbitration of a grievance seeking back pay and retroactive benefits for a State trooper who was restored to good standing after disciplinary charges were dismissed. The Commission finds that the STFA has not specified any extraordinary circumstances warranting reconsideration of its ruling that this dispute is controlled by judicial and legislative developments.

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, Peter Verniero, Attorney General
(William P. Flahive, Deputy Attorney General, on the
brief)

For the Respondent, Loccke & Correia, P.A., attorneys
(Richard D. Loccke, of counsel; Joseph Licata, on the
brief)

DECISION

On November 5, 1998, the State Troopers Fraternal Association of New Jersey moved for reconsideration of P.E.R.C. No. 99-38, 24 NJPER 518 (¶29241 1998). In that decision, we restrained binding arbitration of a grievance seeking back pay and retroactive benefits for a State trooper who was restored to good standing after disciplinary charges were dismissed. The STFA argues that we did not apply the negotiability balancing test set forth in Local 195, IFPTE, 88 N.J. 363, 404-405 (1982); the law we relied upon is inapplicable to this dispute; and a proper application of the balancing test should have resulted in allowing the grievance to proceed to arbitration.

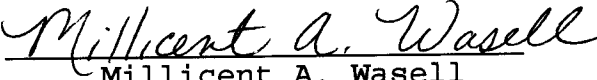
On November 23, 1998, the employer filed a response opposing reconsideration. It argues that the STFA merely disagrees with our analysis and has not specified any extraordinary circumstances warranting reconsideration as required by N.J.A.C. 19:14-8.4 and N.J.A.C. 19:13-3.11. On the merits, the employer argues that we focussed on the second and third parts of the balancing test and held that the courts and Legislature have recognized that State trooper regulations and disciplinary matters are not negotiable.

The Supreme Court has held that State troopers are outside N.J.S.A. 34:13A-5.3's provisions authorizing negotiations over disciplinary disputes and review procedures. State Troopers Fraternal Ass'n v. State, 134 N.J. 393 (1993). The Legislature's 1996 amendment to section 5.3 did not change that holding and specifically excluded troopers from the statutory provisions applicable to other employees. Cf. Oches v. Middletown Tp. Police Dept., 155 N.J. 1 (1998) (disciplinary review procedures negotiated under section 5.3 may include reimbursement of counsel fees for officers who have disciplinary charges dismissed or resolved in their favor). The STFA has not specified any extraordinary circumstances warranting reconsideration of our ruling that this dispute is controlled by those judicial and legislative developments.

ORDER

Reconsideration is denied.

BY ORDER OF THE COMMISSION


Millicent A. Wasell
Millicent A. Wasell
Chair

Chair Wasell, Commissioners Boose, Finn and Ricci voted in favor of this decision. Commissioner Buchanan voted against this decision.

DATED: January 28, 1999
Trenton, New Jersey
ISSUED: January 29, 1999