

P.E.R.C. NO. 2000-99

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NORTH HUDSON REGIONAL FIRE  
AND RESCUE,

Petitioner,

-and-

Docket No. SN-2000-56

NORTH HUDSON FIREFIGHTERS  
ASSOCIATION,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants a motion for reconsideration of P.E.R.C. No. 2000-77 filed by the North Hudson Firefighters Association. In that decision, the Commission restrained binding arbitration of a grievance filed by the Association against the North Hudson Regional Fire and Rescue. The grievance contested the transfer of fire officers from other divisions to fill vacant captain positions in the West New York division and asserted that promotions should have been made for those positions. The Commission concluded that the employer had a non-negotiable right to transfer fire officers under the circumstances presented. Reconsideration is granted to allow the Association to identify any temporary assignments in question and provide pertinent details. The Regional may then seek a restraint of arbitration specifying any governmental policy reasons for the reassignments.

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, Murray, Murray & Corrigan, attorneys  
(Joan M. Damora, on the brief)

For the Respondent, Schneider, Goldberger, Cohen, Finn,  
Solomon, Leder & Montalbano, P.C., attorneys (Bruce D.  
Leder, of counsel and on the brief; Michael W. Roche, on  
the brief)

DECISION

On April 26, 2000, the North Hudson Firefighters Association moved for reconsideration of P.E.R.C. No. 2000-77, 26 NJPER 182 (¶31074 2000). In that decision, we restrained binding arbitration of a grievance filed by the Association against the North Hudson Regional Fire and Rescue. The grievance contested the transfer of fire officers from other divisions to fill vacant captain positions in the West New York division and asserted that promotions should have been made for those positions. We concluded that the employer had a non-negotiable right to transfer fire officers under the circumstances presented.

The Association does not take issue with that part of the decision restraining arbitration over the permanent transfer of Union City fire officers to West New York. Rather the Association contends that we should reconsider our decision as it may relate to temporary assignments of Union City officers rather than West New York firefighters to fill in for absences caused by sick leave and vacations in West New York. The Association contends that temporary assignments are mandatorily negotiable.

The Regional contends that there are no extraordinary circumstances warranting reconsideration. It asserts that the Association now seeks to reframe the argument from one challenging permanent reassignments, as set forth in the grievance, to one challenging temporary reassignments occasioned by sick leave or vacation. The Regional now maintains that as a practice such vacancies are routinely covered by making West New York firefighters acting captains and on the few occasions where decisions were made to detail a fire officer from another city, those decisions were consistent with management's prerogative to ensure safety and efficiency. The Regional argues that this issue is not properly before us and that the Association should be required to present such a grievance to arbitration after which the Regional may elect to file a scope petition.


Our initial decision assumed that the Regional did not change its practice of filling temporary vacancies caused by sick leave and vacation with firefighters serving as acting captains.

It appears now that some temporary reassignments may have been made, but neither party has specified any details concerning those assignments. Under these circumstances, we will grant reconsideration and give the Association ten days to identify any temporary assignments in question and provide pertinent details. Within 14 days of receiving such a submission, the Regional may file a brief seeking a restraint of arbitration and specifying any governmental policy reasons for the reassignments. Additional briefs may be filed pursuant to N.J.A.C. 19:13-3.5. Our order restraining arbitration will stand pending reconsideration.

ORDER

Reconsideration is granted. This case is reopened for proceedings consistent with this opinion.

BY ORDER OF THE COMMISSION

  
Millicent A. Wasell  
Chair

Chair Wasell, Commisioners Buchanan, Madonna, McGlynn, Muscato, Ricci and Sandman voted in favor of this decision. None opposed.

DATED: May 25, 2000  
Trenton, New Jersey  
ISSUED: May 26, 2000