



STATE OF NEW JERSEY
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April 18, 2002

MEMORANDUM

TO: Commissioners

FROM: Bob Anderson
General Counsel

RE: Report on Developments in the Counsel's Office Since March 27, 2002

Commission Appeals

Oral argument has been scheduled for May 7, 2002 in Paterson State-Operated School District and Paterson Ed. Ass'n, P.E.R.C. No. 2001-42, 27 NJPER 126 (¶32038 2001). The Commission declined to restrain arbitration of a grievance claiming that a security guard should not have been deprived of overtime work during evening school hours.

The appeal filed in N.J. Transit Bus Operations, Inc. and Amalgamated Transit Union, Local 880 and Carroll, P.E.R.C. No. 2001-48, 27 NJPER 128 (¶32048 2001) will be submitted to the Court on May 15, 2002. The Commission dismissed a Complaint based on Carroll's unfair practice charge alleging that her employer was contractually obligated to reinstate her after she was acquitted of criminal charges and alleging that her majority representative violated its duty of fair representation by not pressing that claim.

The Appellate Division has denied the City's motion for leave to appeal in City of Somers Point and Mainland PBA #77 and April Van Daley, P.E.R.C. No. 2002-45, 28 NJPER 148 (¶33049 2002). The City had sought to have PERC's unfair practice proceedings discontinued given that factually-related claims were before a trial court in a CEPA and discrimination case.

Other Cases

In Herzog v. Fairfield Tp., ___ N.J. Super. ___ (App. Div. 2002), an Appellate Division panel held that “suspensions without pay are precluded for [police] officers charged solely with violations of departmental rules or regulations, except where conduct equivalent to the most serious of crimes involving moral turpitude or dishonesty is supportably alleged.” The Court held that the petitioning police officer was entitled to be paid during his suspension because the charge against him - - reading a confidential internal affairs document and disseminating it to a newspaper - - was not of the prescribed gravity.

Herman v. The Coastal Corp., 348 N.J. Super. 1 (App. Div. 2002), granted summary judgment to a refinery in a sexual discrimination case alleging that females had to work in a hostile environment. The Court found insufficient facts to establish a hostile work environment and held that the plaintiff’s supervisors were not individually liable for allegedly discriminatory conduct. Further, a loss of consortium claim is not cognizable under the Law Against Discrimination.

REA:aat