

P.E.R.C. NO. 2001-35

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF SOUTH BRUNSWICK,

Petitioner,

-and-

Docket No. SN-2001-2

P.B.A. LOCAL 166,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the Township of South Brunswick for a restraint of binding arbitration of a grievance filed by P.B.A. Local 166. The grievance asserts that portions of a modified (light) duty policy violate the parties' agreement. Arbitration is restrained to the extent the PBA's grievance challenges the employer's right to select its own physician to determine whether an employee is fit for duty or eligible for workers' compensation. The request is also granted to the extent the PBA's grievance challenges the employer's right to decide whether a particular police officer is fit to carry a firearm or drive a vehicle. The request for a restraint of binding arbitration is otherwise denied.

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.

P.E.R.C. NO. 2001-36

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

TOWNSHIP OF PLAINSBORO,

Petitioner,

-and-

Docket No. SN-2001-6

P.B.A. LOCAL 319,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants, in part, the request of the Township of Plainsboro for a restraint of binding arbitration of two grievances filed by P.B.A. Local 319. The grievances allege that the Township violated the parties' contract when its police chief did not consider seniority in making acting assignments to lieutenant and sergeant. The request is granted to the extent the grievance challenges the police chief's substantive determination on the relative qualifications of officers eligible for the acting assignments. The request is denied to the extent the grievance claims that the employer breached the contract by not reviewing the grievants' qualifications before making those acting assignments. The Commission retains jurisdiction. If the arbitrator determines that the parties' contract permits arbitration of permissively negotiable subjects and if the arbitrator rules in the grievants' favor on such a subject, the Commission will determine whether the issues considered by the arbitrator are permissively negotiable.

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P.E.R.C. NO. 2001-37

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF NEWARK,

Petitioner,

-and-

Docket No. SN-2001-12

NEWARK FIRE OFFICERS UNION,  
LOCAL 1860, IAFF, LOCAL 1860,

Respondent.

SYNOPSIS

The Public Employment Relations Commission finds that two grievances filed by the Newark Fire Officers Union, Local 1860, IAFF, Local 1860 are at least permissively negotiable. The first grievance alleges that the employer violated the parties' collective negotiations agreement when it transferred 12 captains and one battalion chief without consulting with the union. The second grievance alleges that the employer violated the agreement when it transferred three battalion chiefs and one captain for disciplinary reasons without charges being filed or giving them any opportunity to defend themselves. An arbitrator found that the City violated the agreement by not discussing the transfers with the Union before making them. The arbitrator also found that the transfers were made for disciplinary reasons and that the City violated the agreement by failing to bring charges for the offenses that prompted the transfers. The Commission concludes that requiring consultation with the union before effectuating a transfer does not, in general, interfere with governmental policymaking determinations and that nothing in this record suggests that consultation about these transfers would have created any policymaking concerns. The Commission also concludes that, absent any argument that bringing formal charges before invoking a disciplinary transfer would substantially limit governmental policymaking, that aspect of the arbitration award is legally arbitrable.

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P.E.R.C. NO. 2001-34

STATE OF NEW JERSEY  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

NORTH BERGEN MUNICIPAL  
UTILITIES AUTHORITY,

Petitioner,

-and-

Docket No. SN-2001-13

UTILITY WORKERS UNION OF AMERICA,  
LOCAL 534-B, AFL-CIO,

Respondent.

SYNOPSIS

The Public Employment Relations Commission grants the request of the North Bergen Municipal Utilities Authority for a restraint of binding arbitration. The Authority seeks to restrain the Utility Workers Union of America, Local 534-B, AFL-CIO from arbitrating the discharge of Nicholas Vamvakidis. An appeal of the discharge has been filed with the Merit System Board. Civil Service statutes provide a right to appeal major disciplinary actions to the Merit System Board. N.J.S.A. 34:13A-5.3 provides that binding arbitration may not replace any alternate statutory appeal procedure. The Commission therefore restrains arbitration.

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