

OFFICE OF COLLECTIVE BARGAINING
BOARD OF COLLECTIVE BARGAINING

In the Matter of

OFFICE OF LABOR RELATIONS

DOCKET NO. BCB-15-68

Petitioner

vs.

DECISION NO. B-5-68

SOCIAL SERVICE EMPLOYEES UNION

Respondent

DECISION AND ORDER

The petition herein challenges the arbitrability of a grievance urged by Respondent. Issue was joined by the service of Respondent's answer. Petitioner filed no reply and its time to do so has expired.

Upon consideration of the pleadings herein, and after due deliberation, the Board of Collective Bargaining issues the following decision:

The grievance which Respondent seeks to arbitrate concerns the alleged denial of a work-study scholarship to Sheldon Blitzstein because of discrimination and for arbitrary and capricious reasons.

Petitioner and Respondent are parties to a collective bargaining agreement which provides in Article XIV:

- "Section I - Definition: A grievance is defined as:
1. A claimed violation, misinterpretation, inequitable application., or non-compliance with the provisions of this contract or of any supplemental agreement.
 2. Claims by an employee or a group of employees or by the Union in his or their or its own behalf, of a violation, misinterpretation or inequitable application of existing policy, orders, rules and regulations, or then existing practice, applicable to the Department of Social Services or its employees or the Union."

Article VI, Section 4a, of the contract states that the Department of Social Services shall provide 350 work-study scholarships. Section 4 then reads, in part, as follows:

- "d. There shall be no discrimination of any type, including age and title, in awarding of work-study scholarships.
- e. Any employee who believes he has been discriminated against or deprived of a scholarship for an arbitrary and capricious reason may utilize the grievance procedures provided herein."

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Article XIV, Section 2, of the agreement provides that Step IV of the grievance procedure shall be "impartial arbitration".

The petition herein alleges that the grievance is not arbitrable because it "does not constitute a violation of the Contract in that the criteria for the selection of scholarship recipients is solely within the purview of management". We do not believe that such contention creates an issue as to arbitrability, particularly, in view of the fact that Respondent does not deny that such "criteria" are one of the exclusive rights of management. The grievance is concerned solely with the alleged arbitrary., capricious and discriminatory application of those "criteria" and the contract between the parties provides that the "inequitable application" of a provision thereof constitutes a grievance. Accordingly, we find and conclude that the grievance is a proper subject for arbitration.

O R D E R

Pursuant to the power vested in the Board of Collective Bargaining by the New York City Collective Bargaining Law, it is hereby

ORDERED, that this proceeding be, and the same hereby is, referred to Walter Eisenberg., the arbitrator designated by the parties in their collective bargaining agreement.

DATED: New York, N.Y.
August 30, 1968

ARVID ANDERSON
CHAIRMAN

ERIC J. SCHMERTZ
MEMBER

EDWARD SILVER
MEMBER

SAUL WALLEN
MEMBER