

OSA v. City, 37 OCB 33 (BCB 1986) [Decision No. B-33-86 (IP)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF COLLECTIVE BARGAINING

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In the Matter of the Improper
Practice Proceeding

-between-

DECISION NO. B-33-86

ORGANIZATION OF STAFF ANALYSTS,

DOCKET NO. BCB-686-84

Petitioner,

-and-

CITY OF NEW YORK,

Respondent.

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DETERMINATION

On October 25, 1984, the Board of Collective Bargaining ("Board") issued its Decision No. B-22-84, in which it dismissed an improper practice petition filed by the Organization of Staff Analysts ("OSA") charging that the City of New York ("City") violated sections 1173-4.2a (1) and (3) of the New York City Collective Bargaining Law ("NYCCBL").¹

¹ Essentially, the petition challenged a proposal by the City's Office of Municipal Labor Relations to reclassify or reassign certain employees in the Staff Analyst Occupational Group during the pendency of a representation proceeding in which the City contended that all of the employees in the subject titles were ineligible for collective bargaining because they are managerial and/or confidential.

Pursuant to section 205.5d of the Taylor Law,² OSA petitioned the State Public Employment Relations Board ("PERB") to review the final order of the Board. By decision dated November 28, 1984, PERB asserted jurisdiction over the matter "for the purpose of considering the substantive determination" of this Board.³

On September 23, 1985, after hearing the arguments of the parties and receiving their written submissions, PERB issued a decision and order remanding to the Board for further proceedings the issue of the City's motivation for re-evaluating, reclassifying and transferring employees in the Staff Analyst series during the course of a representation proceeding pending before the

² Section 205.5(d) of the Taylor Law provides that:

[A] party aggrieved by a final order issued by the board of collective bargaining in an improper practice proceeding may, within ten days after service of the final order, petition the board for review thereof. Within twenty days thereafter, the board, in its discretion may assert jurisdiction to review such final order.... if the board shall choose to review, it may affirm, or reverse in whole or in part, or modify the final order, or remand the matter for further proceedings, or make such order as it may deem appropriate, provided, however, that findings by the board of collective bargaining regarding evidentiary matters and issues of credibility regarding testimony of witnesses shall be final and not subject to board review.

³ 17 PERB §3114 (PERB 1984). PERB declined to review alleged procedural improprieties by the Board.

Board of Certification. In all other respects for review was dismissed.⁴

Thereafter hearings were scheduled consider the issue remand to the Board by PERB. A hearing was held on December 18, 1985 before a Trial Examiner designated by the Office of Collective Bargaining. Further scheduled hearings were cancelled, however, as the parties embarked upon settlement negotiations. Ultimately, the parties reached an agreement and, on March 26, 1986, executed a stipulation of settlement. Thereafter, pursuant to the aforementioned stipulation, OSA withdrew, with prejudice, its underlying improper practice charge.⁵

In order that the record may reflect the fact that the dispute presented for our adjudication in Docket No. BCB-686-84 has been finally resolved by the parties, we note the settlement and withdrawal of all outstanding issues and will direct, accordingly, that the case be marked closed.

DETERMINATION

Pursuant to the powers vested in the Board of Collective Bargaining by the New York City Collective Bargaining

⁴ 18 PERB §3067 (PERB 1985).

⁵ OSA also agreed to, and did, withdraw the improper practice charge it had pending against the New York City Board of Education (PERB Case No. U-7479) which involved essentially the same issues as raised before this Board.

Law, and the improper practice petition underlying our Decision No. B-22-84 having been withdrawn with prejudice based upon a stipulation of settlement of the improper practice charge filed by the organization of Staff Analysts against the City of New York, it is hereby

DIRECTED, that the case docketed as BCB-686-84 and the same hereby is, closed.

DATED: New York, N.Y.
May 29, 1986

ARVID ANDERSON
CHAIRMAN

MILTON FRIEDMAN
MEMBER

DANIEL G. COLLINS
MEMBER

JOHN D. FEERICK
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EDWARD F. GRAY
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