

Prob. & Parole Off.Ass'n v. City & NYS Jud'l Conf., 7 OCB 6 (BCB 1971) [Decision No. B-6-71 (IP)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF COLLECTIVE BARGAINING

In the Matter of

PROBATION AND PAROLE OFFICERS
ASSOCIATION OF GREATER NEW YORK,
Petitioner

DECISION NO. B-6-71

DOCKET NO. BCB-65-70

-and-

THE CITY OF NEW YORK AND THE ADMINI-
STRATIVE BOARD OF THE NEW YORK STATE
JUDICIAL CONFERENCE,
Respondents

A P P E A R A N C E S :

John Eliot Sands, Counsel
Office of Labor Relations

Morris Weissberg, Attorney for
Probation and Parole Officers Assn.
of Greater New York

Gerald P. Morton, President
Probation and Parole Officers Assn.

John Sheehan, Esq.
Administrative Board of the
New York State Judicial Conference

DECISION AND ORDER

The alleged petition of the Probation and Parole Officers Association Respondent the Taylor Law of the State New York (Article 14, Civil Service Law) in 1968 and 1969 in that they refused to bargain with the Association.

Respondents answered the petition, generally denying same, and then moved to dismiss-the-petition on the ground that the petition-is not the petition of the Association but instead, the petition of an individual, that the petition is signed by an individual and not by the appropriate officer of the Association; and that the verification of the petition is made by a person in his capacity as an individual and not by an appropriate officer of the Association (Rule, 7 4).

Subsequent to service of the answer and the motion papers, the Association had an opportunity to, and did, serve and file an unverified reply to such answer (Rule 7.8). It did not serve and file an answering affidavit to the motion. The facts set forth in the motion papers were not denied or explained in any manner by the Association.

A hearing in the proceeding was held on December 9, 1970, and February 17, 1971 before Richard J. Horrigan, Esq., Trial Examiner.

At the hearing, the City renewed its motion to dismiss the petition on the basis of the facts set forth in the above motion papers. Though the opportunity was presented, the Association did not deny or explain the allegations made in the motion papers.

The facts alleged in the City's motion to dismiss the petition are true and they are not denied by the Association. The instant petition is the petition of a person in his capacity as an individual and not one made by a public employee organization as, required by Rule 7.2 of the Consolidated Rules of the Office of Collective Bargaining. Lacking any authorization or ratification for instituting the instant proceeding by the Association, no alternative exists but to dismiss the petition. Accordingly, we will grant the City's motion,

O R D E R

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

ORDERED, that the motion made herein by the City of New York to dismiss the petition be, and the same hereby is, granted.

DATED: New York, N.Y.
 March 16, 1971

ARVID ANDERSON
C h a i r m a n

WALTER L. EISENBERG
M e m b e r

ERIC J. SCHMERTZ
M e m b e r

TIMOTHY W. COSTELLO
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