

SSEU v. City, 2 OCB 51 (BOC 1968) [Decision No. 51-68 (Cert.)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

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In the Matter of

SOCIAL SERVICE EMPLOYEES UNION

DOCKET NO. R-109-67

-and-

DECISION NO. 51-68

THE CITY OF NEW YORK

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DECISION AND ORDER

Social Service Employees Union, herein called the Union, filed a petition with the New York City Department of Labor for certification as the collective bargaining representative of the Case Aides and Case Aide Trainees employed in the Department of Social Services. The proceeding was transferred to the Board of Certification pursuant to Rule 13.13 of the Consolidated Rules of the Office of Collective Bargaining.

The parties subsequently executed an agreement for determination of the collective bargaining representative of Case Aides by checkoff of dues, and on July 8, 1968, the Board certified the Union as the representative of all Case Aides (Decision No. 37-68). So much of the proceeding as relates to the title of Case Aide Trainee was severed, and a hearing therein was duly held before Richard J. Horrigan, Esq., Trial Examiner, on April 19, May 2 and 3, 1968. Upon consideration of the entire record, the Board renders the following decision.

The basic issue presented is whether Case Aide Trainees are employees of the City within the meaning of the New York City Collective Bargaining Law.

Case Aide Trainees are part of a Federally sponsored and funded "New Careers Program" which is designed to prepare and train low-income adults for career jobs in public service. Case Aide Trainees work 20 hours a week in the New York City Department of Social Services, assisting Caseworkers and performing a variety of tasks. An additional 15 hours a week are spent in schooling provided by the City University of New York. Such education consists, generally, of instruction in English, mathematics, test-taking techniques and basic human relations.

Eligibles for the program must be at least 22 years of age, have a family income below the "poverty line", and be unemployed. The work-training course continues for 6 months, during which time the trainees are paid \$2.00 an hour, including the time spent at school, for a total of \$70.00 a week.

Case Aide Trainees are not subject to the regular personnel routines of the City. They are not required to execute the employment forms required of regular City employees; are not fingerprinted; and do not receive vacation, pension and health insurance benefits.

Although Case Aide Trainees are paid by City check, all expenses of the program, including work experience, education, social security taxes and workmen's compensation insurance, are paid by the Federal government. The funds provided for these purposes may not be mingled with City funds; interest earned thereon belongs to the Federal government, and any surplus funds must be returned to it. The entire program is terminable at the discretion of the Federal government.

Upon satisfactory completion of the training course, trainees are eligible for employment as Case Aides, the entry level position in City service. "Case Aide" is a Civil Service title; "Case Aide Trainee" is not.

CONCLUSION

Clearly, this Federally sponsored training program is a means to employment, not an occupation. Only upon satisfactory completion of the training program is the trainee employed and paid by the City. During the training-education period, the trainee, essentially, is a beneficiary of the Federal program. Although City-administered, the type of relationship involved during that period manifestly is wholly different from the employer-employee relationship contemplated in the New York City Collective Bargaining Law. The relationship between the City and the trainees is entirely preliminary and temporary. The City does not pay the trainees and is in no position to fix or negotiate their compensation until the completion of the training period, and their employment as Case Aides. Accordingly, coverage during this preliminary training period would not effectuate the purposes of the statute.

We find and conclude, therefore, that Case Aide Trainees are not employees of the City within the meaning of the New York City Collective Bargaining Law. Accordingly, we shall dismiss so much of the petition herein as relates to Case Aide Trainees.

O R D E R

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

O R D E R E D, that so much of the petition herein as relates to Case Aide Trainees be, and the same hereby is, dismissed.

DATED: New York, N.Y.

August 19, 1968

ARVID ANDERSON
Chairman

ERIC J. SCHMERTZ
Member

SAUL WALLEN
Member