

L.1674, DC37 v. City, 4 OCB 25 (BOC 1969) [Decision No. 25-69 (Cert.)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

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In the Matter of

LOCAL 1674, DISTRICT COUNCIL 37,
AFSCME, AFL-CIO

DECISION NO. 25-69

-and-

DOCKET NO. R-199-66

THE CITY OF NEW YORK

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DECISION AND ORDER

On December 16, 1966. Local 1674, District Council 37, AFSCME, AFL-CIO, herein called Petitioner, filed a petition with the New York City Department of Labor requesting certification as the collective bargaining representative for employees in the title Assistant Park Director, all of whom are employed in the New York City Department of Parks.

The proceeding was transferred to the Board of Certification pursuant to Rule 13.13, of the Consolidated Rules of the Office of Collective Bargaining. By order of the Board, the matter was consolidated, for purposes of hearing, with another proceeding filed by Petitioner involving Supervisors of Menagerie employed in the Department of Parks. In each case the City of New York has alleged that the titles are managerial and not entitled to bargain collectively.

A consolidated hearing was held before Malcolm D. MacDonald, Esquire, Trial Examiner, on October 3 and 4, 1968.

Upon consideration of the entire record herein, the Board renders the following Decision:

I. Managerial Status of Employees

The Respondent contends that the employees here concerned are managerial-executive employees and are therefore not entitled to bargain collectively.

It was conceded in testimony offered by Petitioner that the authority of employees in the title Assistant Park Director extends over relatively large geographical areas and considerable numbers of personnel, both supervisory and non-supervisory. It is clear from the entire record, however, that this authority is limited both in nature and quality.

There are 17 Assistant Park Directors in Respondent's employ. The title is in the competitive class of positions in the Civil Service. All Assistant Park Directors wear uniforms identical with those worn by other Parks Department employees except for the title on the pocket flap of the uniform jacket. They work from 9:00 a.m. to 5:00 p.m. with occasional evening assignments for which they receive compensatory time off; their salary range is from \$11,150 to \$12,690 per year. In the hierarchy of the Department of Parks, this title is at the fifth descending level of supervision.

The duties of Assistant Park Directors are described in the job specification for the title, under the heading "Examples of Typical Tasks", as follows:

"Assists in the planning, organization, and supervision of the operation and maintenance of all park facilities in a borough.

Assigns, instructs, and directs a large group of supervisory and subordinate personnel, including employees engaged in the maintenance of roadways and structures as well as the landscaped areas.

Assembles data and prepares borough-wide reports on accidents, traffic and attendance, personnel, equipment, and budget requirements.

Prepares reports and estimates of supplies and materials.

Is responsible for managing a borough office.

Maintains a schedule of major items of repair and rehabilitation, and coordinates that schedule with other divisions of the department.

Directs special projects such as the synthetic topsoil program.

May be assigned as assistant to a Park Director or as an assistant to the Director of Park Maintenance and Operations."

The testimony of incumbents in the title - some of which was in disagreement with the Job Specifications for the title-establishes that Assistant Park Directors do not make, or assist significantly in the making of, departmental policy; nor do they participate in the planning and organization of the operation and maintenance of park facilities.

Assistant Park Directors are delegated by their respective borough Park Directors to appear, on behalf of the Department, at meetings with community groups, to act as hearing officers in disciplinary proceedings* and to represent the Department at inspections of newly constructed or rehabilitated facilities. In each instance, however, it was clear that the employee so delegated had no authority

*Under §75 of the Civil Service Law, as amended, a disciplinary proceeding may be held before any "person" designated by the body or officer having the power to discipline the employee.

to bind the Department to any given course of action, to make a final decision or to do more than report to higher authority and, where appropriate, to make recommendations which might or might not be accepted.

Assistant Park Directors have no part in the appointment, discharge or promotion of other employees. Their power to transfer other employees is limited to temporary transfers in specific emergency situations. They do not represent the Department of Parks or the City in collective bargaining, in joint labor committees or in grievance procedures.

Accordingly, and upon consideration of the entire record herein, we find and conclude that Assistant Park Directors are not managerial-executive employees and that they are supervisory employees.

II. The Appropriate Unit and Representative Status

Petitioner is the collective bargaining representative, under Certificate 2 NYCDL 38 issued by the New York City Department of Labor, of a unit covering the titles Supervisor of Park Operations and Senior Supervisor of Park Operations. These are supervisory titles in the line of promotion with the title here concerned. The three titles perform related tasks and there is a patent community of interest among them.

Our investigation discloses that a majority of employees in the title of Assistant Park Director have authorized the check-off of dues in favor of Petitioner. We find, therefore, that Petitioner has been designated and selected as their collective bargaining representative by a majority of the said employees.

Accordingly, we will add the title Assistant Park Director to Certification No. 2 NYCDL 38.

O R D E R

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

ORDERED, that Certification No. 2 NYCDL 38 be and the same hereby is, amended to include the title Assistant Park Director.

DATED: New York, N. Y.

April 30 , 1969

ARVID ANDERSON
CHAIRMAN

SAUL WALLEN
MEMBER