

OFFICE OF COLLECTIVE BARGAINING  
BOARD OF CERTIFICATION  
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In the Matter of the Petition  
of

COMMUNICATIONS WORKERS OF AMERICA,  
AFL-CIO,

DECISION NO. 5-91  
DOCKET NO. RU-953-86

Petitioner,

-and-

NEW YORK CITY HEALTH AND  
HOSPITALS CORPORATION,

Respondent.

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DECISION AND ORDER

On January 30, 1986, the Communications Workers of America, AFL-CIO (hereinafter "CWA" or "the Union") filed a petition, docketed as RU-953-86, which requested that the titles of Coordinating Manager and Assistant Coordinating Manager in the employment of the New York City Health and Hospitals Corporation (hereinafter "HHC" or "the Corporation") be added to an existing bargaining unit for which CWA is the certified representative.<sup>1</sup>

Initially, this matter was held in abeyance pending settlement of a related improper practice proceeding.<sup>2</sup> Pursuant to a stipulation of settlement, it was agreed that CWA would withdraw its improper practice petition and would pursue its request for certification herein. It further was agreed that HHC would oppose the petition for certification on the ground that the requested titles were managerial and/or confidential and, thus, should be excluded from bargaining. HHC also agreed that, to the extent that the Board of Certification ("the Board") determines that any of the employees in the titles in question are eligible for collective bargaining, the

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<sup>1</sup> Certification No. 41-73 (as amended), covering over nine thousand employees in twenty "administrative and related" titles, including the title of Principal Administrative Associate.

<sup>2</sup> Docket No. BCB-838-85.

Corporation would not oppose their addition to the bargaining unit proposed by the Union.

At a preliminary conference held by the Trial Examiner to whom this matter was assigned, HHC raised certain questions concerning the standard of manageriality to be applied by the Board, and the burden of going forward in the hearings to be held. These questions subsequently were presented in a formal motion filed by HHC on December 10, 1986, to which CWA responded on December 18, 1986. The Board resolved these questions, issuing a determination on March 25, 1987.<sup>3</sup>

Hearings commenced in this case on July 9, 1987. After several days of hearings, the attorneys for the parties wrote to the Trial Examiner on August 28, 1987, to request that further scheduled hearings be cancelled because the parties were engaged in settlement discussions. This request was renewed on many

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<sup>3</sup> Decision No. 5-87.

occasions, as the parties continued their efforts to formulate the basis for a settlement which would be acceptable to each of them, as well as to the Board.

On November 29, 1990, the parties finalized a stipulation of settlement. Consequently, on December 21, 1990, their attorneys wrote to the Trial Examiner to request that the Board consider the stipulation and render a determination adopting the findings agreed to by the parties. The stipulation provides, in pertinent part, as follows:

FIRST: The CWA agrees that it will join with the HHC and the City of New York in requesting a finding by the New York City Office of Collective Bargaining that the HHC title of Coordinating Manager is managerial within the meaning of the Taylor Law and the New York City Collective Bargaining Law.

SECOND: The parties agree that employees in the title of Assistant Coordinating Manager are properly accreted within Certification No. 41-73, as amended, covering various administrative and related titles, including Principal Administrative Associate (PAA).

\* \* \*

(Other provisions of the stipulation evidence findings and procedures to which the parties have agreed, but which do not require or are not appropriate for review and approval by this Board.)

The attorneys for the parties submitted an addendum to their December 21 request, by letter dated January 2, 1991. The addendum clarifies the parties' December 21 request, and asks that this Board issue a decision finding that the title of Coordinating Manager is managerial within the meaning of the law; and that the title of Assistant Coordinating Manager is eligible for bargaining and that it be accreted to Certification No. 41-73, as amended.

The stipulation having been agreed to by the parties thereto, and it appearing to the satisfaction of the Board that the terms of the stipulation are consistent with the record adduced herein and with the rights established under applicable law,

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

ORDERED, that the title of Coordinating Manager in the New York City Health and Hospitals Corporation is designated managerial, and is exempt from collective bargaining, and it is further,

ORDERED, that the title of Assistant Coordinating Manager in the New York City Health and Hospitals Corporation is eligible for collective bargaining and is accreted to Certification No. 41-73 (as amended).

DATED: New York, New York  
February 21, 1991

Malcolm D. MacDonald  
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CHAIRMAN

George Nicolau  
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MEMBER

Daniel G. Collins  
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MEMBER

The titles and title code numbers of the employees affected by this decision are as follows:

Added to Certification No. 41-73, as amended:

Assistant Coordinating Manager	00382C
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Found to be Managerial:

Coordinating Manager

Level A	98011E
Level B	98012H