

SANITATION MEDICAL OFFICERS ASSN. V. CITY, 8 OCB 25 (BOC 1971)
[Decision No. 25-71 (Cert.)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

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In the Matter of

DECISION NO. 25-71

SANITATION MEDICAL OFFICERS ASSN.

-and-

DOCKET NO. RU-164-70

THE CITY OF NEW YORK

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

William Goffen, Esq.
for Sanitation Medical Officers
Association

William Everett Glass, Esq.
for Doctors Association of
the City of New York

Mark Grossman, Assistant Counsel
for the Office of Labor Relations

DECISION AND ORDER

On February 2, 1970, Sanitation Medical officers Association filed its petition requesting certification as the exclusive collective bargaining representative of a unit of Medical Officers (Department of Sanitation). Thereafter, Petitioner, as an alternative, stated that it would accept the inclusion of the title in a unit consisting of Sanitation Officers.

The position of the Office of Labor Relations, as it was ultimately stated, is that the Medical Officers (Department of Sanitation) should be in a City-wide unit of all Medical Officers in non-uniformed services.

The Doctors Association of the City of New York intervened to oppose the requested unit, but subsequently withdrew its objection to the unit requested by petitioner.

Upon consideration of its investigation herein, and after due deliberation, the Board renders the following decision:

I. Undisputed Matters

It is undisputed, and we find and conclude, that Petitioner is a public employee organization in fact and within the meaning of the New York City Collective Bargaining Law,

II. The Appropriate Unit

The duties of a Medical Officer (Department of Sanitation) are to "examine, diagnose and pass upon the physical condition of, and provide emergency medical treatment for employees of the Sanitation Department." The title "Chief Medical Officer (Department of Sanitation)," for which there is no present incumbent, calls for the performance of similar functions and is a supervisory title, Medical Officers in the Department of Sanitation are Civil Service employees subject to the Career and Salary Plan. Being subject to the Career and Salary Plan, they are not members of the Uniformed Sanitation Service. Both titles (Medical Officer and Chief Medical Officer), are classified in a sub-group of the Medical and Hospital Administrative Occupational Group called "Physicians (except in Department of Health)." The sub-group contains fourteen other titles and consists of medical doctors in various related titles employed in four City agencies.

Petitioner points out that Police Surgeons and Fire Medical Officers are included in units with officers of their respective services. However, Petitioner overlooks a significant distinction; namely, that Police and Fire Department doctors, unlike Medical Officers (Sanitation Department) are members of the uniformed services.

The instant case is analagous to the recent case of Uniformed Fire Officers Association, Local 854, IAFF, AFL-CIO, Decision No. 20-71, in which the Board found that Chaplains in the Fire Department should not be added to a unit of Fire Officers for the reason that Chaplains were not classified as part of the Uniformed Fire Service. In this connection, the Board pointed out that "the scope of collective bargaining for Chaplains is limited by §5a(2), (3) and (5) of Executive Order 52, whereas collective bargaining for employees in the Fire Service is governed by §5a(4) thereof." Similarly, in the instant case, the scope of bargaining for Medical Officers is limited by §5a(2), (3) and (5) which is applicable to employees subject to the Career and Salary Plan, while collective bargaining for members of the Uniformed Sanitation Service is governed by §5a(4) which is applicable to employees in the uniformed forces.

In addition, the Medical Officers are non-supervisory, professional employees, whereas the Sanitation Officers, to whom Petitioner has asked that Medical Officers be joined, are supervisory, non-professional members of the Uniformed Sanitation Service. The NYCCBL prohibits a mixed unit of supervisory and non-supervisory employees and professional employees with non-professional employees unless there is compliance with §1173-3.0.1. (Matter of Local Union No. 3, IBEW, Decision No. 98-70; Matter of Local No. 1485 and Local No. 1509, District Council 37, AFSCME, AFL-CIO, Decision No. 1-68).

The case involving the Chaplains in the Fire Department (cited supra), is further illustrative of the Board's policy to find appropriate City-wide units of employees with the same community of interests, thereby enhancing the viability of the bargaining process.

The Board reiterated its established policy that units limited to one department are no longer appropriate. (Matter of New York City Local 246, SEIU, Decision No. 45-69). Manifestly, a unit limited to Medical Officers (Department of Sanitation), would lead to fragmentation and, thus, tend to discourage the establishment of a comprehensive unit of medical doctors employed by the same employer, the City.

We find that both alternative units requested by Petitioner are inappropriate and we shall dismiss the petition herein.

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

O R D E R E D that the petition filed herein by Sanitation Medical Officers Association be, and the same hereby is, dismissed.

DATED: New York, N.Y.

March 29, 1971.

ARVID ANDERSON
C h a i r m a n

ERIC J. SCHMERTZ
M e m b e r

WALTER L. EISENBERG
M e m b e r