

DC37, et. Al v. City, 6 OCB 63 (BOC 1970) [Decision No. 53-70 (Cert.)]

OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION

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In the Matter of

PARKS POLICY COMMITTEE, DISTRICT
COUNCIL 37, AFSCME, AFL-CIO,

DECISION NO. 53-70

Petitioner,

DOCKET NO. RU-112-69

-and-

THE CITY OF NEW YORK,
Respondent.

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

JULIUS TOPOL, ESQ.
by Joan Stern Kiok, Esq.
for Petitioner
PHILIP J. RUFFO, ESQ.
by Gerald Schilian, Esq.
and
Alan Moss, Esq.
for the Employer

DECISION AND ORDER

On May 21, 1969, Parks Policy Committee, District Council 37, AFSCME, AFL-CIO filed a petition with the Office of Collective Bargaining requesting that the title Supervisor of Recreation be added to a unit which it presently represents under Certificate 1 NYCDL No. 11, issued by the New York City Department of Labor, covering "supervisory employees engaged in the essential maintenance and operation functions of the Department of Parks."¹ The City asserts that employees in the petitioned title are

¹ That certificate was amended by Decision No. 26-69 to include Supervisor of Menagerie.

managerial. A hearing was held on January 9, 14, and 29 and February 3, 1970, before Oscar Geltman, Esquire, Trial Examiner. Petitioner and the City appeared and participated. Thereafter, both submitted briefs.

Upon consideration of the entire record herein, and after due deliberation, the Board issues the following Decision and Order:

There are five persons, one in each borough, either in the title of Supervisor of Recreation or acting in that title. Each has the office or departmental title of Borough Supervisor of Recreation. Immediately subordinate to the Supervisors of Recreation are Assistant Supervisors of Recreation, totalling approximately sixty-three for all five boroughs. Their numbers vary from borough to borough, Brooklyn having the largest number and Staten Island the smallest. Under the Assistant Supervisors of Recreation there are Recreation Directors, and under them are employees with the titles of Playground Assistant and Recreation Assistant. During the summer program of almost three and a half months, there are approximately eight hundred Playground Assistants. Thereafter, their number drops to approximately one hundred.

Over the Supervisor of Recreation is a hierarchy which is headed by the Administrator and First Deputy Administrator of the Parks, Recreation and Cultural Affairs Administration (PRCAA).

The Department of Recreation, one of the three departments under PRCAA, is headed by a Commissioner and a Deputy Commissioner, followed by a Director of Recreation who reports directly to both. The next lower title is that

of Assistant Director of Recreation, the incumbent of which presently is the Acting Director of Recreation. He is the immediate superior of the Supervisors of Recreation.

The general statement of the duties and responsibilities of Supervisors of Recreation, set forth in the job specification, states:

"Under direction, with wide latitude for independent action or decision, is responsible for the program of recreational activities within a borough; performs related work."

Examples of typical tasks include the organization-administration and supervision of recreational and leisure-time activities within a borough, in accordance with departmental programs and policies; assisting in the development of operating methods and procedures, the establishment of standards and performances; responsibility for the assignments and work schedules of subordinate personnel; evaluation of programs and recommendations regarding personnel, equipment and facilities.

It was established at the hearing that Supervisors of Recreation do in fact have the duties and responsibilities, and engage in the tasks, described in the job specification.

The role of Supervisors of Recreation was described by the First Deputy Administrator as follows:

"The borough supervisor does not merely implement. He is the chief responsible field chief officer in the borough. He is responsible for the success of all programs taking place within that borough. He participates in discussions on programs, even those which are centrally developed. The discussions initially on a particular program may take place centrally. The original contact with a private industry,

such as CBS or Schaefer Brewery or NBC may take place centrally, but in the formulation and the success of the programs, the borough supervisor as our chief field officer has a considerable role."

Supervisors of Recreation Attend monthly meetings with the Director of Recreation, and sometimes with the Commissioner and others, at which local and city-wide problems are discussed and recommendations are made. The Commissioner of Recreation testified that plans made by the Director of Recreation, based on recommendations and discussions at these meetings, are put into operation unless he himself rejects them.

Supervisors of Recreation also play a significant role in the preparation of the departmental budget. Their budget data and recommendations are compiled at the borough level and sent to the central office. The recommendations are made "on the basis of community needs and program needs." They also effectively recommend the shifting of program funds within the borough.

Recently, and in particular within the past year, Supervisors of Recreation have been required to clear public statements with central headquarters' liaison groups and personnel. For a short period of time they also were required to clear programs with a "Program Director," a "paper" title which subsequently was eliminated. It does not appear that these developments have resulted in any substantial change in the functions, duties and responsibilities of the Supervisors of Recreation.

Supervisors of Recreation do not hire or recommend hiring, although they may recommend rehire of one who worked during a previous season. They may transfer employees within a borough, but not between boroughs. They do not represent management in collective bargaining negotiations, but they or their delegates hold hearings in disciplinary proceedings and make recommendations thereon to the Administrator of PRCAA. They also handle second step grievances, the third step being handled by the Commissioner of Recreation or his designee. In the past year, the Supervisor of Recreation for Manhattan handled four or five disciplinary hearings, and about the same number of grievances.

The salaries of Supervisors of Recreation range from \$12,100 to \$14,275. They wear uniforms and receive compensatory time off for overtime work.

Supervisors of Recreation have received and submitted managerial questionnaires but, according to counsel for the City, no decision has yet been made with respect to their inclusion or exclusion from the City's Managerial Pay Plan.

Conclusion

Supervisors of Recreation, as the record clearly demonstrates, are the chief field officers of the Department of Recreation, each being in charge of the recreational programs in an entire borough. They regularly and significantly participate in the central planning and formulation of department programs and policies, and are responsible for the implementation thereof within their respective boroughs, including effective recommendation of the allocation of funds, the development of operating methods and procedures, and the assignment and transfer of personnel. Although they do not participate in collective bargaining negotiations, they represent management in the processing of second-step grievances, and preside at disciplinary hearings and submit their recommendations to the Administrator.

Upon the entire record herein, we find and conclude that Supervisors of Recreation are management-executives and do not constitute a unit or units appropriate for the purposes of collective bargaining, in fact or within the meaning of the New York City Collective Bargaining Law (Matter of Service Employees International Union, Local 444, AFL-CIO, Decision No. 43-69; Matter of City Employees Union, Local 237, I.B.T., Decision No. 79-68).²

Accordingly, we shall dismiss the petition herein.

² The duties of the seventeen Assistant Park Directors, whom we heretofore found are not managerial-executives, are substantially different from those of Supervisors of Recreation. Assistant Park Directors do not have borough-wide authority, constitute the fifth level of supervision below the Commissioner, and play no significant role in the formulation of department policy or in the planning and organization of the operation and maintenance of park facilities (Decision No. 25-69).

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 herein be, and the same hereby is, dismissed.

DATED: New York, N.Y.

July 21, 1970.

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