

At a Special Term, Part I of the  
Supreme Court of the State of  
New York, held in and for the  
County of New York at the Courthouse  
thereof, 60 Centre Street, New York  
New York on the day of  
June, 1983.

P R E S E N T :

HONORABLE ROBERT E. WHITE,

Justice.

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In the Matter of the Application of

JOHN J. BARRY, as President of the  
CAPTAINS' ENDOWMENT ASSOCIATION  
OF THE POLICE DEPARTMENT OF THE  
CITY OF NEW YORK,

Petitioner,

For a Judgment pursuant to Article 78  
of the CPLR,

-against-

ORDER/JUDGEMENT  
Index No. 7090/83

THE CITY OF NEW YORK, OFFICE OF  
COLLECTIVE BARGAINING - BOARD OF  
CERTIFICATION,

Respondent.

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Petitioner Captain's Endowment Association having  
commenced this proceeding pursuant to Article 78 of the Civil  
Practice Law and Rules ("C.P.L.R.") to review an interim decision  
of the respondent Board of Certification, office of Collective  
Bargaining which denied petitioner's motion to dismiss respondent  
the City of New York's application for a designation of  
manageriality of certain titles held by members of the Captains'  
Endowment Association;

respondents the office of Collective Bargaining and the City of New York having cross-moved to dismiss the petition as a matter of law;

NOW, upon reading and filing the notice of petition dated February 9, 1983; the petition verified on February 9, 1983; the reply affidavit of John P. Schofield, sworn to on April 21, 1983; respondent Office of Collective Bargaining's notice of motion to dismiss the petition dated March 15, 1983; the affidavit of Arvid Anderson in support of respondent Office of Collective Bargaining's motion to dismiss the petition, sworn to on March 15, 1983; respondent the City of New York's notice of cross-motion to dismiss the petition dated March 18, 1983; the affirmation of Adam D. Goodfarb in support of respondent the City of New York's cross-motion to dismiss the petition, dated March 18, 1983; the decision of the Court, by the Honorable ROBERT E. WHITE, dated May 9, 1983; petitioner having appeared by his attorney JOHN P. SCHOFIELD; respondent Office of Collective Bargaining having appeared by its attorney MALCOLM D. MacDONALD (Miriam M. Lipton, Esq., of Counsel); and respondent the City of New York having appeared by its attorney FREDERICK A. O. SCHWARZ, JR., (Adam D. Goodfarb, Esq., of Counsel); and upon all the papers and proceedings had herein;

ORDERED, ADJUDGED AND DECREED that the motion of respondent office of Collective Bargaining to dismiss the petition is granted;

ORDERED, ADJUDGED AND DECREED that respondent the City of New York's cross-motion to dismiss the petition is granted;

ORDERED, ADJUDGED AND DECREED that petitioner's application pursuant to Article 78 of the C.P.L.R. is denied and the petition is dismissed without prejudice to renewal upon completion of respondent Office of Collective Bargaining's hearing and determination of the City of New York's application for a designation of manageriality of certain titles held by members of the Captains' Endowment Association.

E N T E R :

J. S. C.