

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
County Courthouse, 60 Centre
Street, New York, New York,
on the day of

PRESENT:

HONORABLE ROBERT E. WHITE
JUSTICE

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In the Matter of the Application of

MARINO MAGGUILLI, ALFRED DEFAZIO
and FRANK DESPOSITO,

Petitioners,

For an order pursuant to Article 78
of the CPLR,

-against-

O R D E R
Index No. 19624/84

OFFICE OF COLLECTIVE BARGAINING,
BOARD OF CERTIFICATION,
ARVID ANDERSON, CHAIRMAN,

-and-

CITY OF NEW YORK,

Respondents.

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The petitioners, having commenced this proceeding pursuant to Article 78 of the CPLR to review and set aside the order of the Board of Certification of the New York City Office of Collective Bargaining, in its Decision No. 6-84, dated May 16, 1984, which determined that employees in the title of Superintendent of Water and Sewer Systems are managerial employees; and respondents Office

of Collective Bargaining, Board of Certification, Arvid Anderson, Chairman and the City of New York having moved to dismiss the petition on the grounds of lack of standing and the statute of limitations contained in Civil Service Law Section 213; and said motions having duly come on to be heard before me on the 7th day of September, 1984;

NOW, upon reading and filing the Notice of Petition dated July 24, 1984 and the Petition, verified on July 26, 1984, with exhibits annexed thereto; and upon reading and filing respondent Office of Collective Bargaining's Notice of Motion to Dismiss Petition dated August 22, 1984; the Affidavit of Arvid Anderson sworn to on August 22, 1984, with exhibits annexed thereto; respondent City of New York's Notice of Cross-Motion to Dismiss dated August 23, 1984; and the Affirmations of Robin M. Levine, Esq. dated August 23, 1984 and September 6, 1984, respectively, in support of respondent City of New York's Cross-Motion to Dismiss and in opposition to the Petition; and the petitioners having appeared by their attorney, Paula J. Omansky; respondent Office of Collective Bargaining having appeared by its attorney, Malcolm D. MacDonald (Marjorie A. London, Esq., of Counsel); and respondent City of New York having appeared by its attorney, Frederick A. O. Schwarz, Jr. (Robin M. Levine, Esq., of Counsel); and due deliberation having

been had thereon; and upon the decision of the Court, by the Honorable Robert E. White, dated September 20, 1984;

NOW, upon the motion of Malcolm D. MacDonald, attorney for respondent Office of Collective Bargaining, it is

ORDERED, ADJUDGED AND DECREED that the motion of respondent Office of Collective Bargaining to dismiss the petition is granted; and it is further

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

ORDERED, ADJUDGED AND DECREED that the petitioners' application pursuant to Article 78 of the CPLR is denied, and the petition is in all respects dismissed.

ENTER:

J. S. C.