

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: NOVEMBER 6, 1978

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PATROLMEN'S BENEVOLENT
ASS'N,

Petitioner,

Index No. 13079/78

-against-

ANDERSON,

Respondent.

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Oral Decision of Kirshenbaum, J:

At the outset the Court would Like to acknowledge the diligent and dedicated efforts of counsel for the parties. You have exhibited a zealous and professional representation on behalf of your respective clients.

Now turning to the matter at hand, following my examination and consideration of all these papers recently submitted to me on this expedited application, and after listening to extensive and highly competent oral argument it is the opinion of this Court that this application by the City of New York, pursuant to CPLR §7510 for a judgement confirming the Decision and Order of the Board of Collective Bargaining dated August 23, 1977, which affirmed the Report and Recommendations of the Impasse Panel dated June 10, 1977, is granted.

In so doing, the Court finds that with respect to the issues encompassed by its recommendations the impasse panel fully and fairly considered the facts on the record and the contentions of the respective parties that it properly performed its obligations pursuant to the pertinent statutory standards as provided in New York City Collective Bargaining Law, Section 1173-7.0c(3)(b).

Inasmuch as the deferral of the 6% wage increase for July 1, 1976 to June 30, 1977 represents the focal point of the controversy as expressed upon, oral argument, the Court feels it is appropriate to point out that the panel's recommendations that the 6% for that period be deferred was properly within the competence of the panel, was given due considerations by it, and was consistent with wage policy considerations for all City employees. The status quo provisions of NYC CBL 1173-7.0d was not intended to bar the parties or on impasse panel from effecting retroactive changes in terms and conditions of employment. This includes wages. What it prescribes are unilateral changes.

In sum then, it is the finding of the court that the Patrolmen's Benevolent Association has not met its burden of proving the invalidity of the panel's award (Caso v. Coffey, 41 N.Y.2d 153) Nor has there been any showing that the award was arbitrary or capricious.