

SUPREME COURT : NEW YORK COUNTY
SPECIAL TERM : PART I

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In the Matter of the Application of

THE POLICE BENEVOLENT ASSOCIATION,
LONG ISLAND RAILROAD POLICE, INC.,

Petitioner,

For a Judgment Pursuant to Article 78
of the Civil Practice Law and Rules,

-against-

Index No. 17601/82

ARVID ANDERSON, Chairman of the Board of
Certification, HILTON FRIEDMAN and
DANIEL C. COLLINS, Members of the
Board of Certification, THE BOARD OF
CERTIFICATION of the Office of
Collective Bargaining, THE OFFICE OF
COLLECTIVE BARGAINING of the City of
New York, THE CITY OF NEW YORK, and
THE CITY EMPLOYEE'S UNION,
LOCAL 237, I.B.T.,

Respondents.

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JOHN A. K. BRADLEY, J.:

In this Article 78 proceeding petitioner moves for an
order transferring this matter to The Appellate Division, Second
Department.

The respondent, Office of Collective Bargaining, also
requests the transfer of this matter to the Appellate Division.

Section 7803 subd. 4 concerning the only questions that
may be raised under this article includes "whether a determination
made as a result of a hearing held, and at which evidence was taken,
pursuant to direction by law is, on the entire record, supported
by substantial evidence."

Section 7804 subd. (g) provides that where an issue specified in the aforementioned section and subdivision is raised, the court shall direct that the matter be transferred to the Appellate Division in the judicial department in which the proceeding was commenced.

Here, the issue raised, concerns whether the decision, after a hearing was held, by the Office of Collective Bargaining was supported by substantial evidence and therefore should be transferred to the Appellate Division (Holy Spirit Assn. v Tax Comm., 62 AD2d 188).

Accordingly, motion granted to the extent that the matter shall be transferred to the Appellate Division, First Department. Petitioner's request to transfer this matter to the Appellate Division Second Department is denied with leave to request this relief from the Appellate Division, First Department.

Settle order.

Dated: 12/27/82