

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. LYLE E. FRANK **PART** **11M**

Justice

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LAW ENFORCEMENT EMPLOYEES BENEVOLENT
ASSOCIATION,

Petitioner,

- v -

THE CITY OF NEW YORK, NEW YORK CITY OFFICE OF
COLLECTIVE BARGAINING BOARD OF CERTIFICATION,
SUSAN J PANEPENTO, NEW YORK CITY OFFICE OF
LABOR RELATIONS, NEW YORK CITY DEPARTMENT OF
CITYWIDE ADMINISTRATIVE SERVICES, CITY
EMPLOYEES UNION LOCAL 237 INTERNATIONAL
BROTHERHOOD OF TEAMSTERS

Respondent.

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INDEX NO. 157041/2022

MOTION DATE 09/28/2022,
12/22/2022,
12/28/2022

MOTION SEQ. NO. 001 002 003

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 6, 11, 12, 15, 17, 18, 19, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 50, 52

were read on this motion to/for ARTICLE 78 (BODY OR OFFICER).

The following e-filed documents, listed by NYSCEF document number (Motion 002) 20, 21, 22, 23, 24, 51, 54

were read on this motion to/for DISMISSAL.

The following e-filed documents, listed by NYSCEF document number (Motion 003) 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 53

were read on this motion to/for DISMISSAL.

Petitioner moves, pursuant to CPLR Article 78, to reverse and annul the Decision and Order of the New York City Office of Collective Bargaining, Board of Certification dated July 19, 2022. Respondents’ the City of New York (“City”), the New York City Department of Citywide Administrative Services (“DCAS”), and the New York City Office of Labor Relations (“OLR”) (collectively “City”), oppose the instant petition and cross move to dismiss.

Respondents City Employees Union Local 237 International Brotherhood of Teamsters (Local 237), New York City Board of Collective Bargaining and Office of Collective Bargaining, move

separately to dismiss the instant petition, motion sequence 002 and motions sequence 003, respectively.

Standard of Review

Article 78 review is permitted, where a determination was made that “was arbitrary and capricious or an abuse of discretion, including abuse of discretion as to the measure or mode of penalty or discipline imposed....” CPLR §7803(3).

“Arbitrary” for the purpose of the statute is interpreted as “when it is without sound basis in reason and is taken without regard to the facts.” *Pell v Board of Ed. of Union Free School Dist. No. of the Towns of Scarsdale and Mamaroneck, Westchester Cty.* 34 NY2d 222, 231 [1974].

A court can overturn an administrative action only if the record illuminates there was no rational basis for the decision. *Id.* “Rationality is what is reviewed under both the substantial evidence rule and the arbitrary and capricious standard.” *Id.* If the court reviewing the determination finds that “[the determination] is supported by facts or reasonable inferences that can be drawn from the records and has a rational basis in the law, it must be confirmed.” *American Telephone & Telegraph v State Tax Comm’n* 61 NY2d 393, 400 [1984].

It is well established that the court should not disturb an administrative body’s determination once it has been established that the decision is rational. See *Matter of Sullivan Cnty. Harness Racing Ass’n, Inc. v Glasser*, 30 NY2d 269 [1972]; *Presidents’ Council of Trade Waste Assns. v New York*, 159 AD2d 428, 430 [1st Dept 1990].

Discussion

The Court finds that petitioner has failed to establish that the denial of his application was arbitrary, capricious or in violation of lawful procedure. A thorough review of the record

supports the respondents' contentions that the underlying decision is rational and its finding that the United States Supreme Court ruling in *Janus v AFSCME, Council 31*, 138 S.Ct. 2448 [2018] does not constitute a change in circumstance is not arbitrary or capricious.

As it is well established that the determination of the agency must be given deference, the record before this Court is devoid of any interpretation or application of the underlying laws, rules or policies that are so irrational as to require this Court to intervene. Based on the foregoing, it is hereby

ORDERED that motions sequence 002 and 003 to dismiss the petition are granted; and it is further

ADJUDGED that the petition, motion sequence 001, is denied.

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LYLE E. FRANK, J.S.C.

3/1/2023

DATE

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE