

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

PUBLIC SCHOOL EMPLOYEES OF)	
WASHINGTON,)	CASE 10321-U-93-2368
)	
Complainant,)	
)	
vs.)	DECISION 4394 - PECB
)	
ASOTIN-ANATONE SCHOOL DISTRICT,)	
)	
Respondent.)	PARTIAL ORDER OF DISMISSAL
)	
)	

On March 10, 1993, Public School Employees of Washington filed a complaint charging unfair labor practices with the Public Employment Relations Commission, alleging that the Asotin-Anatone School District had committed certain unfair labor practices in violation of Chapter 41.56 RCW. Specifically, the complaint alleged that the employer had interfered with employee rights by its discharge or partial layoff of employees who were currently the subject of a petition for investigation of a question concerning representation pending before the Commission. The complaint further alleged that the employer had failed or refused to bargain with the union concerning those discharges and partial layoffs.

A preliminary ruling letter directed to the parties on March 31, 1993,¹ noted that RCW 41.56.140(1) prohibits an employer from discharging or otherwise discriminating against public employees in

¹ At that stage of the proceedings, all of the facts alleged in the complaint are assumed to be true and provable. The question at hand is whether, as a matter of law, the complaint states a claim for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

retaliation for their efforts to organize or select a bargaining representative. Those allegations were found to state a cause of action for further proceedings.

With respect to the allegations regarding a "refusal to bargain", the preliminary ruling letter noted that, while an employer has an obligation to maintain the status quo during the pendency of a question concerning representation, the union's right to bargain does not commence until it has either been voluntarily recognized by the employer or certified by the Commission as the exclusive bargaining representative of the employees in an appropriate bargaining unit. The allegation was thus found to state a cause of action for "interference" under RCW 41.56.140(1), but not as a "refusal to bargain" under RCW 41.56.140(4).

The union was given a period of 14 days following the date of the preliminary ruling letter in which to file and serve an amended complaint with respect to the allegation concerning the employer's refusal to bargain, or face dismissal of that allegation. Nothing further has been heard from the complainant.

NOW, THEREFORE, it is


ORDERED

1. The complaint charging unfair labor practices filed in the above-captioned matter states a cause of action under RCW 41.56.140(1), with respect to allegations that the employer has interfered with, restrained and coerced employees in the exercise of their rights, by its discharge or partial layoff of certain employees and with respect to changes of employee wages, hours, and working conditions during the pendency of a question concerning representation. Those allegations will be assigned to an Examiner in due course.

2. The complaint charging unfair labor practices filed in the above-captioned matter does not state a cause of action for a "refusal to bargain" under RCW 41.56.140(4), and is dismissed to that extent.

DATED at Olympia, Washington, this 19th day of May, 1993.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

This order may be appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.