Bond Case Briefs

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Borough of Keyport v. International Union of Operating Engineers

Supreme Court of New Jersey - July 14, 2015 - A.3d - 2015 WL 4207440

Unions for public employees brought scope-of-negotiation challenges to municipalities' layoff actions. The Public Employment Relations Commission (PERC), in three separate decisions, held that municipalities violated Employer-Employee Relations Act (EERA). Municipalities appealed and appeals were consolidated. The Superior Court, Appellate Division, reversed. Unions sought certification to appeal, which was granted.

The Supreme Court of New Jersey held that:

- Negotiation of layoffs was not preempted by civil service statutes or regulations;
- Negotiation of temporary layoffs would have significantly interfered with determination of governmental policy; and
- Negotiation of elimination of positions as part of layoff plan would have significantly interfered with determination of governmental policy.

Neither civil service regulation that had permitted temporary layoffs of employees in State or local service, nor civil service statutes, preempted negotiation of temporary layoffs of public employees or elimination of positions as part of overall layoff plan, where statute and implementing regulations that authorized a layoff of public sector employees did not require that such action affecting terms and conditions of employment be taken.

Negotiation would have significantly interfered with management determination of governmental policy, and therefore municipalities' imposition on certain units of public employees mandatory, but temporary, layoffs, in the form of a reduced number of work days over a specified period of time was non-negotiable, such that municipalities did not violate Employer-Employee Relations Act (EERA) by imposing layoffs without negotiating with representatives from unions for public employees. Actions went directly to a substantive policy determination about whether and how to deliver public services when delivery was affected by serious and pressing economic considerations.

Negotiation would have significantly interfered with management determination of governmental policy, and therefore municipality's elimination, as part of an overall layoff plan, three full-time clerical positions and replacement of them with part-time positions, resulting in the affected employees losing their eligibility for health benefits, was non-negotiable, such that municipality did not violate Employer-Employee Relations Act (EERA) by taking action without negotiating with representatives from unions for public employees. Actions went directly to a substantive policy determination about whether and how to deliver public services when delivery was affected by serious and pressing economic considerations.