

Bond Case Briefs

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EMPLOYMENT - MASSACHUSETTS

Sheriff of Suffolk County v. Jail Officers and Employees of Suffolk County

Supreme Judicial Court of Massachusetts, Suffolk - June 14, 2013 - N.E.2d - 465 Mass. 584

Union filed grievance, alleging that termination, by county sheriff, of employment of county jail officer violated just cause provisions of collective bargaining agreement. Arbitrator found just cause for discipline, but revoked the discharge and ordered six-month suspension without pay, benefits, or accumulation of seniority.

The Supreme Judicial Court ruled that arbitrator's award would not be vacated. Union filed a complaint for contempt, asking that county sheriff be held in contempt for failing to pay back pay pursuant to trial court's judgment confirming arbitrator's award.

Supreme Judicial Court held that:

- It was irrelevant to the issue of mitigation of damages that officer might have been able to further offset his lost earnings by working on a more permanent basis as a restaurant employee, carpenter, or bouncer, and
- County sheriff would not be assessed postjudgment interest.

When one is under contract for personal service, and is discharged, it becomes his duty to dispose of his time in a reasonable way, so as to obtain as large compensation as possible, and to use honest, earnest and intelligent efforts to this end. He cannot voluntarily remain idle and expect to recover the compensation stipulated in the contract from the other party.

General principle of mitigation of damages is applicable to public employees who are reinstated after having been unlawfully discharged.

When an arbitrator's award of reinstatement and repayment for loss of earnings to a terminated employee is silent on the duty to mitigate damages, court should take into consideration whether the issue of mitigation of damages was explicitly raised before the arbitrator or whether any challenge to the award was waived by a failure to raise the issue of mitigation before the arbitrator or, in a timely fashion, to challenge the award as having exceeded the arbitrator's authority.