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City of Houston v. Houston Professional Fire Fighters' Association, Local 341

Supreme Court of Texas - March 31, 2023 - S.W.3d - 2023 WL 2719477 - 66 Tex. Sup. Ct. J. 561

City firefighters' union filed suit against city over claim that city violated the Fire and Police Employee Relations Act by failing to provide firefighters with substantially equal compensation and conditions of employment that prevailed in comparable private sector employment. Union also requested a declaration of compensation and conditions of employment for one year pursuant to the Act.

The 234th District Court denied city's jurisdictional plea, denied city's motion for summary judgment on claim that Act's judicial-enforcement provisions were unconstitutional, entered partial summary judgment for union, and permitted city to file an interlocutory appeal. City took an appeal as of right concerning the denial of its jurisdictional pea and tool an interlocutory appeal of the rejection of its constitutional claim. The Houston Court of Appeals affirmed. In a separate action, city police officers' union brought action for a declaration that Act preempted city charter amendment that would require city to set firefighter compensation commensurate with police officer compensation at similar ranks, which was a claim that the city joined. The 157th District Court entered summary judgment that the amendment was preempted by the Act. Firefighters' union and individual firefighters who had intervened appealed. The Houston Court of Appeals reversed and remanded. Review was granted in both actions.

The Supreme Court held that:

- Act's judicial-enforcement provision was not an unconstitutional abdication of legislative authority under the Texas Constitution;
- Act's compensation standards were not so vague as to render their judicial application unconstitutional under the Texas Constitution; abrogating *International Ass'n of Firefighters, Local Union No. 2390 v. City of Kingsville*, 568 S.W.2d 391;
- Firefighters' union was not required to propose particular private-sector standards during collective bargaining in order to be entitled to have the courts establish compensation under the Act; and
- Act preempted the city charter amendment.

Fire and Police Employee Relations Act's judicial-enforcement provision, which required courts to establish compensation in the event of an impasse in collective bargaining, was not unconstitutional abdication of legislative authority under the Texas Constitution, despite argument that the provision required courts to establish compensation in the first instance; the Act, which required local governments to provide firefighters with substantially equal compensation and conditions of employment that prevailed in comparable private sector employment, provided a legislatively defined standard by which to assess compensation structure and linked judicial enforcement of that standard to an evaluation of existing compensation.

Compensation standards laid out in the Fire and Police Employee Relations Act, which required local governments to provide firefighters with substantially equal compensation and conditions of employment that prevailed in comparable private sector employment, were not so vague as to render their judicial application invalid as result of unconstitutional delegation of legislative authority; the Act expressed the Legislature's policy judgment that firefighters' employment conditions should mirror the private sector; abrogating *International Ass'n of Firefighters, Local Union No. 2390 v. City of Kingsville*, 568 S.W.2d 391.

City firefighters' union was not required to propose particular private-sector standards during collective bargaining in order to be entitled to have the courts establish compensation under the Fire and Police Employee Relations Act, which, in a waiver of governmental immunity, allowed courts to do so in the event of an impasse and which required local governments to provide firefighters with substantially equal compensation and conditions of employment that prevailed in comparable private sector employment; Act's good-faith provision did not require either party to negotiate based on a particular standard or agree to particular terms.

Fire and Police Employee Relations Act's provision that required local governments to provide firefighters and police officers with substantially equal compensation and conditions of employment that prevailed in comparable private sector employment preempted city charter amendment that would require city to set firefighter compensation commensurate with police officer compensation at similar ranks; Act expressed an overarching state policy with respect to collective-bargaining compensation, Act provided that fire and police departments had to bargain independently with their public employer unless they voluntarily joined together, and Act provided a specific compensation standard for claims for judicial enforcement, i.e., private-sector employment, which conflicted with the amendment.

Fire and Police Employee Relations Act's provision that required local governments to provide firefighters with substantially equal compensation and conditions of employment that prevailed in comparable private sector employment establishes the standard for judicial enforcement of firefighter compensation to the exclusion of local law.

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