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9-11-1981

State of New York Public Employment Relations Board Decisions from September 11, 1981

New York State Public Employment Relations Board

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State of New York Public Employment Relations Board Decisions from September 11, 1981

Keywords

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Comments

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STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

#2A-9/11/81

In the Matter of

CHENANGO FORKS CENTRAL SCHOOL DISTRICT,

Employer,

-and-

BROOME EDUCATIONAL LOCAL 866, CSEA, INC.,

LOCAL 1000, AFSCME, AFL-CIO,

Petitioner.

BOARD DECISION AND
ORDER

CASE NO. C-2262

On May 8, 1981, the Broome Educational Local 866, CSEA, Inc., Local 1000, AFSCME, AFL-CIO (petitioner) filed, in accordance with the Rules of Procedure of the Public Employment Relations Board, a timely petition for certification as the exclusive negotiating representative of certain employees employed by the Chenango Forks Central School District (employer). The parties executed a consent agreement which was approved by the Acting Director of Public Employment Practices and Representation on June 26, 1981. The negotiating unit stipulated to therein was as follows:

Included: All classified Civil Service employees working twenty (20) or more hours per week, 180 to 260 days per annum.

Excluded: All managerial, confidential, secretarial (i.e. account clerk, account clerk typist, clerk, stenographer, typist) and all other employees.

Pursuant to the consent agreement, an election was held on August 21, 1981. The results of the election indicate that the majority of eligible voters in the stipulated unit who cast valid ballots do not desire to be represented for purposes of collective negotiations by the petitioner.¹

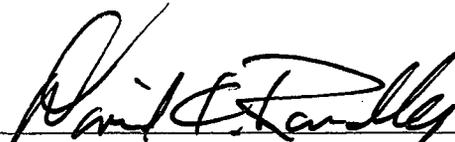
¹ There were 20 ballots cast in favor of and 52 ballots against representation by the petitioner.

Therefore, it is ordered that the petition be, and it hereby is, dismissed.

Dated: New York, New York
September 11, 1981



Ida Klaus, Member



David C. Randles, Member

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

#2B-9/11/81

In the Matter of

TEAMSTERS LOCAL 317, an affiliate of the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF
AMERICA,

Respondent,

upon the Charge of Violation of Section
210.1 of the Civil Service Law.

BOARD DECISION ON

MOTION

CASE NO. D-0213

On April 13, 1981, Counsel to this Board filed a charge alleging that Teamsters Local 317, an affiliate of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America (Local 317), engaged in a strike against the Onondaga County Water Authority on February 20, 21 and 22, 1981 and that this was the second strike by Local 317, the earlier one having occurred in 1979. The matter then came to this Board on the charge unanswered when Local 317 withdrew its answer upon its understanding that the charging party would recommend an agreed-upon penalty. The charging party recommended that the dues and agency shop fee deduction privileges of Local 317 be suspended for an indefinite period of time, with permission to be granted to Local 317 to apply to this Board for the restoration of those privileges one year after the date of this Board's decision, provided that certain conditions were met. We determined that the recommended penalty was consistent with the policies of the Taylor Law and we imposed it by our order.

Local 317 now moves this Board to withdraw the penalty on the ground that it is not one to which it had agreed. It asserts

7055

that it withdrew its answer upon the condition that its dues deduction privileges would be suspended for the period of time specified in the order, but that it did not agree to any suspension of its agency shop fee deductions.

Upon review of the correspondence between Local 317 and the charging party, we conclude that there may have been a misunderstanding between them regarding the penalty that would be recommended by the charging party. Accordingly, we withdraw our decision of July 23, 1981, and

WE ORDER that the answer of Local 317 be reinstated and that the matter be remanded to the hearing officer for further proceedings.

DATED: New York, New York
September 10, 1981



Ida Klaus, Member



David C. Randles, Member

NEW YORK STATE PUBLIC EMPLOYMENT RELATIONS BOARD

#2C-9/11/81

In the Matter of the

PLAINEDGE FEDERATION OF TEACHERS

: BOARD DECISION
: AND ORDER

upon the Charge of Violation of Section 210.1
of the Civil Service Law.

: CASE NO. D-0204

On October 28, 1980, Martin L. Barr, Counsel to this Board, filed a charge alleging that the Plainedge Federation of Teachers (Federation) had violated Civil Service Law (CSL) §210.1 in that it caused, instigated, encouraged, condoned and engaged in a strike against the Plainedge Union Free School District (District) on September 4 and 18, 1980. The charge further alleged that 243 teachers out of a negotiating unit of 247 participated in the strike. This is the second instance involving a strike violation charged against the Federation as representative of teachers employed by the District. 11 PERB ¶3060. Unlike the total strike charged herein, the earlier strike was limited to a refusal of teachers to attend faculty meetings and to perform extracurricular activities.

The Federation filed an answer but thereafter agreed to withdraw it, thus admitting the factual allegations of the charge, upon the understanding that the charging party would recommend, and this Board would accept, a penalty of indefinite suspension of the Federation's dues deduction privileges, provided, however, that the Federation could apply to this Board after 75% of its dues for the 1981-82 school year would have otherwise been deducted, for restoration of such privileges. ^{1/} The charging party has so recommended.

1/ This is intended to be the equivalent of a right to apply for restoration nine months after commencement of the suspension. Since the deductions are not made uniformly throughout the calendar year, the application time is expressed as a fractional percentage of the annual deduction.

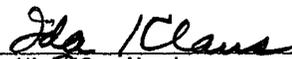
Ordinarily, for an employee organization's second violation of CSL §210.1, this Board imposes a minimum penalty of indefinite suspension of dues deduction privileges, subject to restoration upon application after the suspension has been in effect at least one year.^{2/} In those cases in which we have imposed such penalty, however, both the first and second strikes at issue involved the refusal by unit employees to perform their primary job duties, as is typical of most public sector job actions. By contrast, the Federation's first strike involved only extracurricular activities and meetings; the teachers continued to perform their regular classroom instructional duties over the course of the strike. The penalty we imposed for that action reflected "the unusual nature of the strike and its limited impact". We therefore believe it appropriate to slightly mitigate the penalty we would ordinarily impose for the Federation's second violation of the strike prohibition. Inasmuch as Counsel's recommendation presents a reasonable disposition of this case, given its unusual facts, and obviates the need for a hearing, we adopt the proposed penalty.

On the basis of the unanswered charge, we find that the Federation violated CSL §210.1 in that it engaged in a strike as charged, and we determine that the recommended penalty is a reasonable one and will effectuate the policies of the Taylor Law.

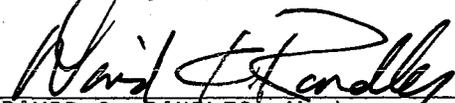
^{2/} See Griffith Faculty Association, 8 PERB ¶3086 (1975), Ballston Spa Education Association, 8 PERB ¶3087 (1975), Niagara Falls Teachers, 8 PERB ¶3088 (1975), and Local 252, TWUA, 14 PERB ¶3062 (1981).

NOW, THEREFORE, WE ORDER that the deduction privileges for dues and agency shop fees, if any, of the Plainedge Federation of Teachers, be suspended indefinitely commencing on the first practicable date, provided that the Federation may apply to this Board at any time after seventy-five percent (75%) of such dues and fees would ordinarily have been deducted, for the full restoration of such privileges. Such application shall be on notice to all interested parties and supported by proof of good faith compliance with subdivision one of CSL §210 since the violation herein found, such proof to include, for example, the successful negotiation, without violation of said subdivision, of a contract covering the employees in the unit affected by the violation, and accompanied by an affirmation that it no longer asserts the right to strike against any government, as required by the provisions of CSL §210.3(g).

DATED: New York, New York
September 10, 1981



IDA KLAMS, Member



DAVID C. RANGLES, Member