
In the Matter of Arbitration

between

Village of Dansville

and

Coco Bolo Club

AWARD

PERB Case No. GA-0103

RECEIVED
RELATIONS
Nov 11 1976

CONCILIATION

Appearances

For the Village

James Kenna, Trustee
Robert Conway, Major

For the Coco Bolo Club

Louis Colella, Attorney
Marc Vernam, President
Dennis Hartman

On August 10, 1976, the Coco Bolo Club, representing the police officers of the Village of Dansville, New York, petitioned the Public Employment Relations Board to convene an arbitration panel to resolve the negotiations impasse between the Club and the Village, pursuant to section 209.4 of the Civil Service Law. Panel member James Schessler was designated by the Village, member Al Sgaglione by the Club, and Chairman Howard Foster by the Public Employment Relations Board. An arbitration hearing was held on October 15, 1976, at the Donovan State Office Building in Buffalo, New York. The parties were afforded full opportunity to present evidence and argument, and upon completion of the hearing the record was closed.

The previous contract between the parties expired on May 31, 1976. Negotiations for a successor contract failed to produce agreement on two issues: salaries and health insurance benefits. The

recommendations of a PERB fact-finder, Mr. Eric Lawson, on these issues were rejected by both parties. Those recommendations included: (1) a four percent salary increase plus established increments, and (2) the assumption by the Village of health insurance premiums in effect as of July 1, 1976, plus any increases up to \$50 per employee, with the employee absorbing the cost of any increases beyond \$50.

Although the negotiations were conducted in the context of a one-year agreement, the Club indicated at the hearing its willingness to accept an arbitration award covering two years. The spokesmen for the Village, however, were without authority to accede to a two-year award, and the panel thus regards its mandate as limited to a one-year determination, since the issues described in the petition were so framed.

The award below represents the best judgment of the panel as to "a just and reasonable determination of the matters in dispute," as prescribed by law. We have carefully considered the voluminous evidentiary material offered by the parties and their respective arguments in support of their positions. In addition, our deliberations were heavily influenced by two assumptions: First, that the spirit of the Taylor Law requires us to give considerable weight to the fact-finder's recommendations, and to regard those recommendations as proper unless a preponderance of the evidence clearly suggests otherwise. Second, that we are constrained by the format of the issues as presented to us. Specifically, although we may have preferred to issue an award altering the existing salary schedule, we feel that the

fact that neither party's position departs from the framework of that schedule requires us to operate within it. We shall elaborate on this point below.

Salary

The Club proposes a 6.2 percent increase across the entire salary schedule. The Village proposes a one-time \$250 bonus for each member of the bargaining unit. As noted earlier, the fact-finder recommended a 4 percent increase in the schedule. The expired schedule (which has nevertheless been continued by the Village to the present time) provides for a starting salary of \$7,475 and a top salary of \$11,500 after five years of service, with semi-annual increments.

<u>Years</u>	<u>Salary</u>
0	\$ 7,475
1/2	7,820
1	8,280
1½	8,625
2	9,085
2½	9,430
3	9,890
3½	10,235
4	10,695
4½	11,040
5	11,500

The Club's arguments in support of its demand for a 6.2 percent increase on the schedule may be summarized as follows:

- 1) Dansville is a prosperous village, with several major private employers, new construction, and the prospect of a new highway coming through it.
- 2) Wages in private industry in the area already exceed that of the Village's police officers.

- 3) Salaries of Dansville police officers lag behind those of comparable communities in Western New York. In that connection, the fact-finder erred when he compared Dansville with the Western New York average, in that he failed to allow for increases taking effect elsewhere in 1976. Thus while the fact-finder noted that Dansville's salaries are only \$326 behind the area average, updated figures show the difference to be on the order of \$1,500.
- 4) Salary increases negotiated elsewhere in 1976 have averaged 7 to 8 percent.
- 5) The fact-finder was also serving as fact-finder for the civil service unit in Dansville, and thus was apparently sensitive to the effect of his recommendations for the police unit on the civil service unit. The latter has now settled.
- 6) Dansville police officers have failed to keep pace with the cost of living over the past five years.
- 7) The fact-finder himself recommended a six percent increase in the town of Brighton, New York. Dansville deserves no less.
- 8) The Village can afford to pay the 6.2 percent demanded, since (a) there is a substantial amount of delinquent taxes; (b) there was a substantial amount of revenue sharing funds left over from the previous budget which was not entered into the present budget; (c) there was a substantial balance of general funds left over from the previous budget; and (d) the Village is taxing at only about 60 percent of its constitutional limit.

9) Police work is a dangerous profession, no less in Dansville than elsewhere, and should be compensated accordingly.

The Village, for its part, did not explicitly address the fact-finder's recommendations. It disputed the Club's contention that the Village is especially prosperous, noting that there are dilapidated buildings as well as new ones and that the "new" highway has been on the drawing boards for many years. The Village also contends that comparisons with salaries in private industry are irrelevant. It notes that comparable percentage increases for police units elsewhere must be viewed in light of the base to which these percentages are applied, and in many cases the base is much lower than Dansville's. Furthermore, the Club's figures include all villages in New York State, including those on Long Island where the cost of living is much higher. The Village did not expound at length on the issue of "ability to pay," noting only that an excessive salary increase would necessarily mean a reduction in services.

The Village presented its own evidence which purported to show the following:

1) The Village's proposal represents an average 2.51 percent increase for the eight members of the bargaining unit over the year ending May 31, 1977. Simply maintaining the present schedule would mean an average 5.63 percent increase. The fact-finder's recommendations would represent a 9.85 percent increase, and the Club's demand a 12.18 percent increase. These calculations, of course, include the effects of the semi-annual increments.

2) The Village concedes that its starting salary is very low, compared with cities and villages of similar size. Because of the increments, however, Dansville salaries accelerate rapidly, so that officers at or near the top step earn more than the average of their counterparts elsewhere.

3) Even though the salary schedule may not have risen as fast as the cost of living, the salaries of individual officers have more than kept pace because of the increments.

Discussion

The increments established in the previous salary schedule are clearly an important factor in this impasse. The Club contends that "the increment schedule has nothing to do with raises, and therefore any percent increase must be applied to each incremental step in the 1975-1976 contract wage schedule." (Brief to fact-finder, exhibit 1, p. 8). As noted earlier, since neither party proposed abolishing or amending the schedule, we are prepared to make our determination in terms of an across-the-board adjustment to the schedule. But it is one thing to say that increments should be continued; it is quite another to say that the magnitude of the percentage adjustment should not take cognizance of the built-in increments. Even though the increments were established in previous contracts, the amounts of money they represent were not expended in previous contracts. Thus an increment in 1976-77 represents both additional cost to the Village and additional resources to the employees. As such, it is not appropriate to think in terms of "old money" and "new money." Furthermore, in

another context, the Club itself suggested that the responsibilities of a three-year policeman are no different from those of a five-year policeman; it is therefore appropriate to construe the increment as a routine salary increase rather than a reward for extra or more valuable service.

The effect of the increments may be seen in the prospective salary change for each member of the bargaining unit under the various proposals before us. These are summarized in the table below.

<u>Officer</u>	<u>With 4% Increase</u>								
	<u>Salary</u> 5/31/76	<u>With \$250 Bonus</u>		<u>Salary</u> 6/1/76	<u>%Incr.</u>	<u>Salary</u> after 1st incre- ment	<u>%Incr.</u>	<u>Salary</u> after 2nd incre- ment	<u>%Incr.</u>
LaForce	11,500	11,750	2.2	11,960	4.0	11,960	4.0	11,960	4.0
Mahus	11,500	11,750	2.2	11,960	4.0	11,960	4.0	11,960	4.0
Vernam	11,040	11,290	2.3	11,482	4.0	11,960	8.3	11,960	8.3
Hartman	10,235	10,485	2.4	10,644	4.0	11,123	8.7	11,482	12.2
Werth	9,430	9,680	2.7	9,807	4.0	10,286	9.1	10,644	12.9
Cox	9,085	9,335	2.8	9,448	4.0	9,807	7.9	10,286	13.3
Wampole	9,085	9,335	2.8	9,448	4.0	9,807	7.9	10,286	13.3
Mustari	7,820	8,070	3.2	8,133	4.0	8,611	10.1	8,970	14.7

<u>Officer</u>	<u>With 6.2 Percent Increase</u>					
	<u>Salary</u> 6/1/76	<u>%Increase</u>	<u>Salary</u> after 1st incre- ment	<u>%Increase</u>	<u>Salary</u> after 2nd incre- ment	<u>%Increase</u>
LaForce	12,213	6.2	12,213	6.2	12,213	6.2
Mahus	12,213	6.2	12,213	6.2	12,213	6.2
Vernam	11,724	6.2	12,213	10.6	12,213	10.6
Hartman	10,870	6.2	11,358	11.0	11,724	14.5
Werth	10,015	6.2	10,503	11.4	10,870	15.3
Cox	9,648	6.2	10,015	10.2	10,503	15.6
Wampole	9,648	6.2	10,015	10.2	10,503	15.6
Mustari	8,304	6.2	8,793	12.4	9,160	17.1

Note: There were discrepancies in the present salaries and seniority as presented by the Village and the Club. We have used the Village's figures, but the percentage increases would not be seriously changed by using the Club's figures. The percent increase in all cases represents the change from May 31, 1976.

With a four percent across-the-board increase, the raises between May 31, 1976 and varying dates in 1976-77 (depending on the officer's anniversary) would range between 4.0 and 14.7 percent, with an average of about 10 percent. With a 6.2 percent increase, the raises would range from 6.2 percent to 17.1 percent, with an average of about 12 percent. With the \$250 bonus, the raises would range between 2.2 and 3.2 percent, averaging about 2.6 percent.

We regard the employer's position as inadequate. It represents less than half the rate of increase in the cost of living, and the Village provided no specific evidence to show that it is financially unable to pay more. Furthermore, and perhaps more important, it offered no argument to demonstrate that the fact-finder's recommendations were improper or erroneous.

The Club's proposal, on the other hand, represents individual raises averaging twice the recent rate of increase of the CPI. Increases of this magnitude must be supported by strong evidence that the fact-finder's recommendations (which themselves went well beyond the cost of living) failed to account for extraordinary circumstances. As to specific points raised by the Club, we offer the following observations:

- 1) Comparisons with other bargaining units are very difficult, since the results are dramatically affected by the other units chosen. An examination of figures prepared by PERB and the Police Conference of New York, however, show a fairly distinct pattern: the highest salaries in large cities and their suburbs; somewhat lower salaries in cities in the 50,000 to 100,000 range;

and the lowest salaries in small villages, towns, and cities. The Club would compare Dansville with all police units in Western New York, including not only the large cities of Buffalo and Rochester but also their affluent suburbs. Now these salary patterns are undoubtedly influenced by a number of factors (differences in area cost of living, varying tax bases, etc.), and they may not always be justifiable in terms of differences in the demands of the job, but they are simply too well established to be ignored. The recommendation of the fact-finder would put Dansville among the higher salaried rural villages in Western New York, and we do not regard it as appropriate to compare this village with Buffalo, Rochester, or the suburbs of Erie and Monroe Counties.

2) It may be true that increases in this region have averaged 7-8 percent, but these figures do not take account of the effects of the increments. The fact-finder's recommendation here represents an average increase of about ten percent, but we simply do not know what the total increases in other units have been. In that connection, it is worth commenting on the Club's allusion to Mr. Lawson's recommendation in Brighton. There, the police have a two-stage schedule, and it seems fair to assume that most members of that bargaining unit are at the top. Thus a six percent increase in Brighton would mean average individual raises of only slightly more than six percent, while a four percent increase in Dansville, as shown above, represents an average individual raise of ten percent.

3) We regard Mr. Lawson's involvement in the Dansville CSEA unit as irrelevant to this determination.

In sum, we find no compelling reason to overturn the fact-finder's recommendation. We are, as noted earlier, somewhat uneasy with the distribution of the increases, especially as it affects the two officers at the top of the schedule. Left to our own devices, we might have preferred to overhaul the salary schedule so as to allocate the overall raise more uniformly (even while recognizing that the low starting salary in Dansville requires a somewhat unbalanced adjustment). But since the issue was presented to us by both parties in terms of an across-the-board increase, we feel obliged to endorse the fact-finder's recommendation in its entirety.

Health Insurance

The Club demands that the Village continue to pay the full cost of health insurance. The Village offers to pay the premium in effect on June 1, 1976, with subsequent increases to be absorbed by the employees. The fact-finder recommends that the Village pick up any increase up to \$50, with the employee absorbing the rest.

The Village points out that the cost of the Blue Cross/Blue Shield Family Plan rose by \$127.68 during the previous contract and by an additional \$93.36 since its expiration. It acknowledges that the CSEA unit was given 100 percent paid health insurance, but only after the unit agreed to accept a wage increase of 10¢ an hour instead of the 12¢ recommended by the fact-finder.

The Club notes that the 100% paid insurance was introduced into previous contracts at the cost of concessions in other areas, and it argues that the total added cost of this benefit in 1976-77 is only \$520. (By our calculations, the actual cost is \$693.48: \$93.36 for 7 plus \$39.96 for 1.).

In our view, neither party made a compelling case for rejecting the fact-finder's recommendation. The cost of health insurance is no longer negligible (it now amounts to about six percent of the salary bill in Dansville), and there is nothing inviolate about the Village's previous practice of shouldering the entire cost. It may be argued, moreover, that the accelerating cost of health insurance should not be hidden from employees by virtue of their immunity from its impact. On the other hand, it would not be appropriate to require employees to absorb the entire burden of future increases, especially since there are many advantages to having compensation paid in the form of non-salary benefits. Thus the cost-sharing recommendation of the fact-finder is not unreasonable: for 1976-77, it translates to the Village's assuming 94 percent of the cost of health insurance.

Award

1. The 1975-76 salary schedule shall be increased by four (4) percent. Members of the bargaining unit shall receive this increase, along with increments at the appropriate times, effective June 1, 1976.
2. The Village shall pay for health insurance at the rates in effect on May 31, 1976, plus any increases up to \$50 per man. Further increases shall be paid by the employee.

Howard G. Foster, Chairman
Public Arbitration Panel

James E. Schessler
Employer Member

Al Sgaglione
Employee Organization Member

STATE OF NEW YORK)
) SS.:
COUNTY OF ERIE)

On this ____ day of _____, 1976, before me appeared HOWARD G. FOSTER, to me known and known to me to be the person described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

STATE OF NEW YORK)
) SS.:
COUNTY OF LIVINGSTON)

On this ____ day of _____, 1976, before me appeared JAMES E. SCHESSLER, to me known and known to me to be the person described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

STATE OF NEW YORK)
) SS.:
COUNTY OF ALBANY)

On this ____ day of _____, 1976, before me appeared AL SGAGLIONE, to me known and known to me to be the person described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.
