
In the Matter of the Arbitration between

THE VILLAGE OF MOUNT KISCO,
the Village

and

THE PROFESSIONAL ADVANCEMENT COMMITTEE
of the POLICE DEPARTMENT of the
VILLAGE OF MOUNT KISCO,
the PAC

Re: Certain Terms of the Agreement



OPINION

AND

AWARD

On February 3, 1977 a hearing in the above matter was held before David Goodman, the Village Member, Gerald Matlin, the PAC Member, and Daniel House, the Public Panel Member and Chairman of the Public Arbitration Panel designated under Section 209.4 of the Civil Service Law by the Public Employment Relations Board to hear and to decide the above dispute. The Panel held an Executive Session on March 3rd at which time by a majority vote it decided on the Award as it appears below.

There appeared for the Village:

Kenneth R. Wolff, Esq., Village Attorney
Robert F. Ledger, Village Manager

There appeared for the PAC:

William F. Plunkett, Jr., Esq., Attorney
John L. Northen, Chairman
Theodore Brugger
Ralph R. Hyatt

Under date of August 31, 1976, Factfinder John R. Wittlesey issued his Factfinder's Report and Recommendations in the impasse between the parties regarding certain terms of the agreement being negotiated between them to replace the Agreement which had been scheduled to expire on May 31, 1976. On September 28, 1976, PAC filed a petition with PERB setting forth its statement of items in the Factfinder's Report which had been agreed upon and of items remaining in impasse; and, on October 18, 1976 the Village responded with a letter to PERB which included (among other things) a statement entitled "ERRORS IN FACTFINDER'S REPORT", a list of the Factfinder's recommendations with which the Village agreed and a list of those which the Village rejected. From these lists it appears that the following items are still in impasse as described and are to be disposed of by action of this Panel:

1. SALARIES Both parties reject the Factfinder's recommendation for a 6.8% general increase. The Village proposes a 2.% increase; and PAC proposes about 7.87%.
2. LONGEVITY Both parties reject the Factfinder's recommendation that 6.8% be added to the present longevity steps. The Village would make no change from the preceding contract; PAC would increase the present schedule to \$250. at five years, with an additional \$250. at each succeeding five-year period to \$1,000. at twenty years.
3. DENTAL PLAN The Factfinder recommended no Dental Plan in the new agreement, but that the parties "continue to study" the problems of adopting a dental plan with a view to potential installation of such a plan in the next negotiations; the Village was ready to accept this recommendation, but PAC was not. PAC wants a dental plan adopted in this contract.
4. LIFE INSURANCE The PAC wants the Village to pick up the payment of the contributions now made by its members towards their life insurance now partly paid for by the Village. The Factfinder recommended, but only the Village agreed, that the PAC proposal be rejected.
5. RANK DIFFERENTIAL PAC proposed increasing the rank differential from 10% to 15% at each of the five increment steps. The Factfinder recommended and the Village agreed, that this change be rejected.
6. ACCUMULATED SICK LEAVE The Factfinder recommended increasing the maximum payment of accumulated sick leave on death, severance or retirement from 25% to 50% of up to 180 days of such accumulation (which is the maximum allowable accumulation). The Village had proposed that the maximum allowable accumulation be reduced from 180 to 120 days for certain employees. The PAC still wants the percentage to be increased to 75%.
7. DURATION The Village is ready to accept the Factfinder's recommendation for a one-year contract retroactive to June 1, 1976, but the PAC wants a two or a three-year agreement retroactive to June 1, 1976.

The Village pointed out two errors in the Factfinder's report and the PAC did not dispute these observations by the Village. According to the Village, the \$50. increase in detective pay, stated by the Factfinder

to have been agreed upon between the parties, was not agreed upon. Since neither party listed this \$50. increase as an item in impasse, we need not deal with it.

The Village pointed out that the Factfinder erred in representing that the Village had demanded a reduction in maximum sick leave accumulation capability from 180 to 90 days, and that the actual proposal by the Village was only to reduce that accumulation capability to 120 days for all police employees hired on or after June 1, 1976. But this error was not involved with the reasoning given by the Factfinder for his recommendation on this item; his recommendation appears to be based primarily on the fact that 50% of a 180-day maximum accumulation is a more customary allowance in police agreements than 75%, and on the fact that the Village gave no evidence to support its proposal for any reduction in the maximum accumulation to be allowed. Thus the error need not be further dealt with by us.

According to the PAC, the recommendations of the Factfinder do not represent a just and reasonable resolution of the impasse because the evidence shows that the average percentages of salary increases in other settlements is higher than 6.8: PAC claims that these show average increases recommended by factfinding reports for police in other New York State communities to be 7.87%, which is the amount of the increase PAC asks that we award, and an average in actual settlements of 7.5%. From the data supplied, however, it is difficult to determine just what the percentage increase was in the cases of the other communities (frequently different increases were given at different levels within the same bargaining unit); and, as pointed out by the Village, the timing of the increases cited were not always the same as those involved in this case.

More relevant to a setting of the just and reasonable amount of a salary increase in this case is the fact that several years ago the Village announced its intention (but, it is agreed, did not commit itself) to keep its police salaries among the top three in Westchester County and the fact, noted by the Factfinder, that the Village's compensation has fallen behind many of the police departments cited in a survey furnished by Westchester County. The data supplied to us shows that, if the 6.8% increase recommended

by the Factfinder is applied for the year from June 1, 1976 to May 31, 1977, the Village's police salaries will be among the top several in Westchester County with which the supplied data permits comparison for that period (the comparison being of first-class police officers).

The PAC petition to PERB asking for arbitration closes with the following statement:

"While PAC is not satisfied with each and every element of the Factfinder's Report, it does believe that the Factfinder's Report was fair and impartial and forms the basis for the public arbitration panel award."

At the arbitration hearing the Village supplied no evidence to support a finding that its proposal constitutes a just and reasonable resolution of the difference, nor that the Factfinder's proposals would be other than a just and reasonable resolution. However, PAC indicated that it would prefer the distribution of added benefits more in favor of immediate benefits than postponed benefits. For that reason, we have modified the Factfinder's recommendations in our Award (without any significant change in the long-term cost of the package) by reducing the 50% maximum payment of accumulated sick leave to 40% and providing that the employees covered by the Agreement be relieved of paying any portion of the cost of the current life insurance and that the Village pay for that insurance in full instead of only in part. With this exception our Award will order the same disposition of the issues presented to us as was recommended by the Factfinder.

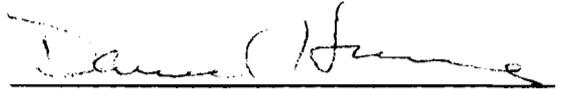
The intention of the Award below is to deny any change in the previous Agreement in connection with any of the items in impasse not specifically mentioned in the Award.

A W A R D

The undersigned Public Arbitration Panel hereby makes the following Award:

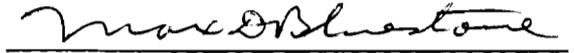
1. Effective retroactive to June 1, 1976 the pay amounts in the pay scale provided for in Article Three and attached to the June 1, 1975 to May 31, 1976 Agreement and the amounts in the longevity schedule in Article Nine of that Agreement shall be increased each by 6.8 per cent.

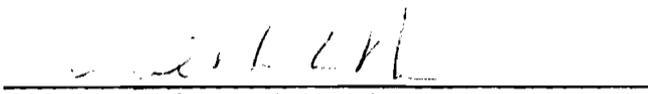
- 2. Article Eight b. as it appears in the June 1, 1975 to May 31, 1976 Agreement shall be amended, effective on June 1, 1976 as part of the new Agreement to run from June 1, 1976 to May 31, 1977, by increasing the twenty-five (25%) per cent provided therein to forty (40%) per cent.
- 3. The Village shall pay the full cost for the life insurance for which it now pays only part cost for the employees covered by the Agreement.
- 4. The new Agreement shall be of one year's duration, from June 1, 1976 to May 31, 1977.


 Daniel House, Chairman

Dated: March 4, 1977
 STATE OF NEW YORK
 SS:
 COUNTY OF NEW YORK

On this 4th day of March 1977 before me personally came and appeared Daniel House to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.

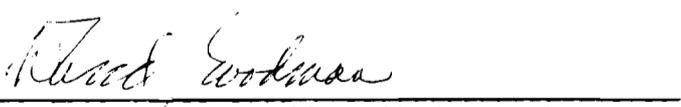

 MAX B. BLUESTONE
 Notary Public, State of New York
 No. 30-535417
 Qualified in Nassau County
 Commission Expires March 30, 1978


 Gerald Matlin, PAC Member, Concurring

Dated:
 STATE OF NEW YORK
 SS:
 COUNTY OF WESTCHESTER

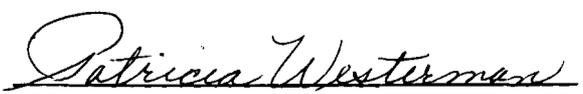
On this 11 day of March 1977 before me personally came and appeared Gerald Matlin to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.


 Patricia Westerman


 David Goodman, Village Member, Dissenting (Dissenting Opinion Attached)

Dated:
 STATE OF NEW YORK
 SS:
 COUNTY OF WESTCHESTER

On this 16 day of March 1977 before me personally came and appeared David Goodman to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.


 Patricia Westerman

DAVID GOODMAN
PUBLIC ADMINISTRATION CONSULTANT
POST OFFICE BOX 477
SHRUB OAK, NEW YORK 10588
TELEPHONE: (914) 962-5863

March 7, 1977

Mr. Daniel House, Chairman
Mt. Kisco Public Arbitration Panel
~~270 Broadway~~ 370 SEVENTH AVENUE
New York, N. Y. 10001

Re: Case #CA-0110; M76-279
Village of Mt. Kisco &
PAC, Mt. Kisco Police Dept

Dear Mr. House:

Following are my reasons for dissenting from the award agreed upon by the majority of the Panel in the above matter at its meeting of March 3, 1977.

1. Mt. Kisco will now have the highest paid police department of all 21 Westchester villages topping even such affluent communities as Scarsdale and Bronxville.

2. The \$16,819 base pay for a first grade patrolman will exceed that of the current top three villages by as much as \$169 and of the lowest paid Westchester village department by \$1,469.00.

3. Base pay plus longevity for a first grade patrolman will now exceed that of the current top three villages by as much as \$356 at the completion of five years service; by \$433 at the completion of ten years service; and by \$580 at the completion of fifteen years service. Compared to the lowest paid Westchester village department a fifteen year Mt. Kisco patrolman will exceed the pay of his fifteen year counterpart by an incredible \$1,607.00! It would appear that the Panel's award completely disregards the legislative directive for comparability.

4. Carefull analysis of the exhibits sumbitted by both parties show that in the 1975/76 fiscal year Mt. Kisco was paying a higher base rate than at least six of the other twenty Westchester villages are currently paying in the 1976/77 fiscal year.

5. Increasing, from 25% to 40% of unused sick leave at retirement, the bonus payment for not abusing the sick leave priviledge is perverting the very purpose of the benefit. As you know, the Village previously agreed to increase the allowance from thirteen day per year to

Mr. Daniel House

2.

fifteen days per year. According to a police exhibit this benefit is granted in only four other Westchester villages. Also, the Village, in accordance with police contract provisions, has purchased at no cost to the officers State Retirement Option #341-j which provides retirement credit for unused sick leave on a day-for-day basis up to an accumulation of 165 days.

6. With reference to the life insurance award relieving the officers of the obligation to pay 50% of the premium, I am in complete accord with the conclusion of Factfinder Whittlesey (page 7, FF Report):-

"....it does not seem inappropriate to require a modest payment by the beneficiaries of the life insurance as their contribution in this respect to their family security".

This particular life insurance policy, unlike those of other departments, includes monthly survivors' benefits for up to 120 months. Also, the Village, in accordance with the police contract provisions, has purchased at no cost to the officers State Retirement Option 360-b which provides for a \$20,000 death benefit.

7. The funding of the increases in salaries and in longevity in direct costs and associated costs, which are computed on a payroll basis, such as:-

Retirement; Social Security; Workmens
Compensation Insurance; Liability
Insurance; Overtime; and Holiday Pay,

will be equivalent to an increase of 40¢ (2%) in the village tax rate.

It seems to me that awards, such as this one, which so blithely ignore the fiscal facts of municipal life will only stiffen the resistance of frustrated municipal officials to binding arbitration and will hasten its demise. If such awards are to prevail New York City's misery soon will have plenty of company.

As I stated at the above meeting I wish this letter of dissent to be attached to the majority award when it is sent to PERB and to other interested parties.

Very truly yours,



David Goodman
Employer Panel Member

DG:n