

NEW YORK STATE PUBLIC EMPLOYMENT RELATIONS BOARD - ADMINISTRATOR

MAR 10 1986

In the Matter of the Interest Arbitration between

THE CITY OF NEW ROCHELLE

and the

NEW ROCHELLE POLICE SUPERIOR
OFFICERS ASSOCIATION, INC.

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* Case No. IA83-10;
* M82-645
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Opinion
and
Award

APPEARANCES

For the City

David Wirtz, Esq.

- Of Counsel, Rains & Pogrebin, P.C.

For the Association

Reynold A. Mauro, Esq.

- Of Counsel, Shlachter & Mauro

BEFORE

Joel Golovensky

- City Member

Arthur H. Grae

- Association Member

Rodney E. Dennis

- Neutral Chairman

Hearings in the above-referenced matter were held in New Rochelle, New York, on January 16, February 7, and March 8, 1984, to consider the terms of a successor agreement to the contract between the parties dated January 1, 1981 - December 31, 1982. The Panel then met in Executive Session on May 9, 1984, to discuss the issues before it. The Panel concluded that the Chairman would fashion an award and submit it to the members for their approval.

In his deliberations, the Neutral Chairman was guided by statutory provisions applicable to compulsory interest arbitration pursuant to Civil Service Law, Section 209.4 (as amended July 1, 1977).

Relevant criteria include:

(a) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other employees performing similar services or requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities.

(b) the interests and welfare of the public and the financial ability of the public employer to pay;

(c) comparison of peculiarities in regard to other trades or professions, including specifically, (1) hazards of employment; (2) physical qualifications; (3) educational qualifications; (4) mental qualifications; (5) job training and skills;

(d) The terms of collective agreements negotiated between the parties in the past providing for compensation and fringe benefits, including, but not limited to, the provisions for salary, insurance and retirement benefits, medical and hospitalization benefits, paid time off and job security.

POSITIONS OF THE PARTIES

The Association

Several of the Association's proposals were dropped before proceeding to interest arbitration. The original numbering of the proposals shall be retained, however, since the parties are accustomed to addressing them accordingly and retention of the same numbers should avoid confusion.

(1) MODIFICATION OF THE 1981-1983 CONTRACT

The present collective bargaining agreement shall continue in full force and effect except as modified herein.

(2) CAPTAINS' TOURS

All captains on staff assigned to Headquarters shall work a five-four shift, five days in one work week and four days in a second work week. Such a tour shall be deemed to constitute an average of 35.5 hours per week.

(3) COMPENSATORY TIME

All members of the bargaining unit who work on staff and work a five-four tour, five days in one week and four days in the second week shall be entitled to 26 hours per year compensatory time.

(4) SALARY

Salary increase--12% per year.
Effective 1/1/83, there shall be a 12% increase in the schedule of annual salaries.

(5) LONGEVITY PAY

Longevity pay shall be increased as follows:

Five years - \$300
Ten years - 400
Fifteen years - 500
Twenty years - 600

(6) SICK LEAVE PAYMENT

At the time of retirement, an SOA member shall be entitled to be paid up to 180 days of accrued sick leave at the then current wage rate.

(7) UNIFORM AND CLEANING ALLOWANCE

ARTICLE X, paragraph 1 is amended to read as follows:

Uniform and Cleaning Allowance. A uniform and cleaning allowance of Six Hundred Dollars (\$600) shall be paid for the previous year by the EMPLOYER in the month of January in each calendar year, to each employee who is presently in the bargaining unit and shall be paid in accordance with existing practices. The EMPLOYER will provide an additional payment of One Hundred Dollars (\$100) on promotion to sergeant and Two Hundred Fifty Dollars (\$250) upon promotion to lieutenant and Two Hundred Fifty Dollars (\$250) upon promotion to captain.

(8) NIGHT DIFFERENTIAL

There shall be a night differential of 10% paid to all SOA members who work from 1600 hours to 0800 hours.

(9) VACATION LEAVE

Vacation leave shall be increased from 20 to 30 days.

(10) PERSONAL LEAVE

Personal leave days shall be increased from 3 to 5 days per year.

(11) CARRY OVER OF PERSONAL LEAVE DAYS

Any unused personal leave day shall be carried over from year to year and be accrued by the SOA member involved.

(12) EDUCATIONAL ALLOWANCE

SOA members shall be entitled to 100% reimbursement for any graduate work which they may engage in as students.

(14) UNION ACTIVITY

The President of the Union or his representative shall be entitled to 15 working days per year for union activities.

(15) HEARING OFFICER COMPENSATION

In the event that any member of the bargaining unit represented by SOA is designated as a Hearing Officer in a disciplinary case, he shall receive a minimum of 8 hours pay at time and a half rate of compensation for each day or part of a day spent on such assignment.

(16) HEALTH/DENTAL INSURANCE

...the present dental allowance of \$100 be increased to \$200.

(18) RETIREMENT ADJUSTMENT LEAVE

ARTICLE VII, paragraph (4) of the current collective bargaining agreement is to be amended so as to delete the words "and not more than twenty-four (24) years of service" and to change "30 working tours" to "32 working tours."

(20) SPECIAL SEVERANCE VACATION LEAVE PAY

ARTICLE VII, paragraph 3 is to be amended to read as follows:

Special Severance Vacation Leave Pay. In the final year during which retirement of an employee is scheduled, special vacation leave pay shall be granted in accordance with the following schedule:

- Between 20 and 25 years of service - 80% of one (1) month's pay.
- In the 25th year of service - One (1) month's pay.
- In the 30th year of service - Two (2) month's pay.
- In the 35th year of service - Three (3) month's pay.

The City

(2) CAPTAINS' TOURS

Retain current practice.

(3) COMPENSATORY TIME

Retain current practice.

(4) SALARY

1/1/83 - 7 percent

1/1/84 - 7 percent

(5) LONGEVITY PAY

Retain current practice.

(6) SICK LEAVE PAYMENT

Retain current practice.

(7) UNIFORM AND CLEANING ALLOWANCE

Delete Article X, paragraph 1.

(8) NIGHT DIFFERENTIAL

Retain current practice.

(9) VACATION LEAVE

VII-2: Amend the first sentence of paragraph b to read:
"An employee may accrue unused annual vacation time up to a maximum of two (2) years entitlement upon the approval of the Police Commissioner."

(10) PERSONAL LEAVE

VII-5: Amend the provision to entitle each employee in the bargaining unit to one day of personal leave per annum.

(11) CARRY OVER OF PERSONAL LEAVE DAYS

Retain current practice.

(12) EDUCATIONAL ALLOWANCE

Retain current practice.

(14) UNION ACTIVITY

II-7: Delete the second paragraph which refers to the Union President's work chart and tour of duty.

II-8: Leaves to attend Union Conventions or Functions: Amend this provision to provide a maximum of five working days leave for the purposes enumerated. Delete the second paragraph.

(15) HEARING OFFICER COMPENSATION

Retain current practice.

(16) HEALTH INSURANCE/DENTAL

IX-1, Health Insurance: Active Employees Coverage. The EMPLOYER agrees to pay one-half ($\frac{1}{2}$) the cost of individual and dependent coverage under the Statewide Option of the New York State Health Insurance Program or equivalent for employees hired prior to January 1, 1983 for the term of this AGREEMENT.

For those employees who elect to enroll in either the G.M.I. or an H.M.O. option instead of the Statewide Option or equivalent, the EMPLOYER will pay the same dollar amount toward the monthly premiums for such options as it pays for employees enrolled in the Statewide Option or equivalent program.

IX-2, Health Insurance: Retirees Coverage. Effective January 1, 1983, this provision by the terms of this AGREEMENT will expire and will not be renegotiated by the EMPLOYER.

IX-3, Health Insurance: Suspended Employees. Abolish this provision.

(18) RETIREMENT ADJUSTMENT LEAVE

Retain current practice.

(20) SPECIAL SEVERANCE VACATION LEAVE PAY

Retain current practice.

ADDITIONAL CITY PROPOSAL:

WORK WEEK

IV: Add a new paragraph as follows: "The EMPLOYER shall have the right to switch tours for training purposes."

DISCUSSION AND FINDINGS

A brief word is in order about the purpose and function of interest arbitration in police disputes. Although the procedure is a statutorily guaranteed right, it should not be used as a substitute for bargaining or as a device whereby one party seeks to achieve by chance what it is unable to gain through direct negotiations. Under such a procedure, a heavy burden rests on the side requesting a major benefit or alteration in the terms and conditions of employment to show why it is unduly disadvantaged by maintenance of the status quo or by the fashioning of an agreement consistent with other contractual arrangements arrived at within the municipality or in contiguous areas. Under such circumstances, it is not enough to show that there are minor differences in wages, hours, and conditions of employment or that a municipality would be mildly inconvenienced by the additional expenditure or reallocation of funds. Substantial evidence is required to convince an Arbitration Panel

to make fundamental changes and a clear case must be made for why a hardship exists. Where no great disparity or hardship can be shown, a party seeking modest changes or improvements will, more often than not, find that its position is substantiated by the Panel.

Based on a thorough review of the record in the present case, it must be concluded that no compelling reasons were provided by either party—in the course of three days of hearing or in the presentation of voluminous documents—to convince the Panel that it should award other than a modest and reasonable settlement. Thus, we find that the terms of the present collective bargaining agreement shall continue in full force and effect, except as modified herein:

(1) TERM: Two-year extension of agreement (1983-1985)

(4) SALARY: January 1, 1983 - 7 percent
January 1, 1984 - 7 percent

(14) UNION ACTIVITY: The President of the Union or his representative shall be entitled to 15 working days per year for Union activities.

REASONING

For general comparison purposes, Superior Officer units in Westchester County were considered. The Panel was not persuaded that comparisons with units in Nassau and Suffolk Counties were relevant. In all areas of the contract, Superior Officers in

New Rochelle were found to be as well off as, if not better off than, Superior Officers in other bargaining units in Westchester.

Serious consideration was also given to the fact that all other units in the City had settled, with agreements calling for similar wage levels and, in certain situations, for reductions in benefits. Reductions are not being required in this case. At the same time, cost of living statistics, over the period involved here, were less than the wage increase granted.

The Panel was impressed with the presentations involving the competence and commitment of Superior Officers in New Rochelle. While their attributes can not be underrated, a practical analysis of the situation requires that their levels of wages and benefits be reasonably related to other employees in the city and similarly situated employees in other jurisdictions.

Primary among the Union's demands was a proposal for a modification in Captains' Tours. In considering this issue, the Panel took into account the fact that when incumbent Captains were appointed, they were fully cognizant of the 40-hour work schedule. It was reasonable at that time to expect that top members of management would work a full eight-hour day/five-day week schedule and the Panel finds that still to be the case.

A persuasive argument was presented to support the request for a reduction in tour for Captains. The fact that lower-ranking,

Officers and Patrolmen work the 5/4 tour has no bearing on the issue.

In recommending that the status quo be maintained in the majority of issues considered, the Panel reasoned that increases in benefits, reductions in time worked and raises in supplemental compensation are not appropriate at this time, unless there are special inequities. We find no such inequities in this situation.

The atmosphere surrounding collective bargaining at the present time is one in which modest increases, if any, are granted and major reductions in benefits are sought by employers. Given the prevailing mood, the Panel thinks this award is fair. The fact that the parties are 18 months into the new contract requires that they immediately discuss the issues they think are important in hope of arriving at a contract in a timely fashion and be first in the next round of bargaining, rather than last.

A. G. Dennis 8/24/84
R. E. Dennis, Neutral Chairman