



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AFSCME LOCAL 1801

Petitioner

v.

TOWN OF PELHAM, N.H.

Respondent

CASE NO. A-0520:2

DECISION NO. 90-28

Representing AFSCME Local 1801

James C. Anderson

Representing Town of Pelham, New Hampshire

Gary Wulf

Also appearing:

Doris S. Mannies, Town of Pelham
Charlene F. Takesian, Town of Pelham
Linda Lavalley, AFSCME
Patricia Walsh, AFSCME
Doreen M. Strawbridge, AFSCME

BACKGROUND

On April 1989, the Pelham Support Staff/AFSCME Council 93/Local 1801 filed improper practice charge against the Town of Pelham for unilaterally removing the position of bookkeeper from the bargaining unit by reclassifying the position from bookkeeper to a newly created position of Town Accountant and excluded the new position of Town Accountant from the unit. AFSCME stated that the positions of bookkeeper and Town Accountant are similar in duties and functions and should not be excluded from the unit and in violation of 273-A:5 I (c) "To discriminate in the hiring of tenure or terms and conditions of employment."

By way of answer to the complaint, the Town admits to creating a new position of Town Accountant since the original bargaining unit was created and that the new position assumed some of the duties of the bookkeeper position but denies that such action is in any way motivated to discriminate against union membership or to invalidate any agreement between the parties, and that the created position of Town Accountant is both managerial and professional and therefore exempt from the bargaining unit under 273-A:1 (VIII) and (XI) requested relief, the PELRB orders the position of Town Accountant be included in the bargaining unit.

Hearing in this matter held at PELRB office, July 6, 1989.

AFSCME opening statement "The Town is trying to gain something by creating this new position that they had been unsuccessful in getting by negotiating the position out of the bargaining unit.

The Town by its representative Gary Wulf stated the Town had upgraded the position with much greater responsibility than that required of the bookkeeper position.

Testimony was offered by several witnesses as to the duties involved in the position of bookkeeper and attempts made during negotiations to exclude the position from the bargaining unit.

At this point the parties stipulated that the position of bookkeeper was still considered to be a position in the unit although unfilled at the time of hearing.

Job specifications were presented for both positions in question.

Town Treasurer Charlene Frances Takesian, testified as to the treasurer's duties and the relationship of the bookkeeper and the Town accountant position to the treasurers office. The specific duties and requirements of the Town accountant position description were discussed at length along with the advertisement for the position as being professional and required an experienced accountant and the fact that the position is salaried whereas other support staff bargaining unit positions are hourly employees.

FINDINGS

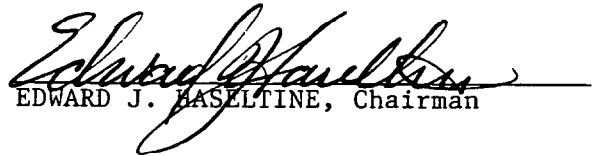
After considering the exhibits and oral testimony offered we make the following findings.

1. The parties had attempted to negotiate the bookkeeper position out of the bargaining unit at the table without resolution.
2. The parties stipulate that the bookkeeper position is still part of the support staff bargaining unit and will remain so.
3. A new position was created by the Town titled "Town Accountant" and considered it excluded from the bargaining unit on the basis of its professional and managerial requirements. Evidence and testimony at the hearing did not support this conclusion. As many of the bookkeeper position duties are included in the job description of Town Accountant.
4. The Town admits that many of the duties of the bookkeeper are incorporated in the new position of Town Accountant.
5. The lines of supervision are similar for both positions.

ORDER

The position of Town Accountant is included in the support staff bargaining unit and the unit is hereby modified to reflect this decision.

Signed this 19th day of April, 1990.


EDWARD J. BASELTINE, Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding. Members Daniel Toomey and Seymour Osman present and voting. Also present, Executive Director Evelyn C. LeBrun.