

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:

The District of Columbia Metropolitan
Police Department,
Petitioner,

PERB Case No. 84-A-01
Opinion No. 69

and

The Fraternal Order of Police,
Metropolitan Police Department Labor
Committee (On behalf of Officer
Campbell),
Respondent.

DECISION AND ORDER

On November 21, 1983, the District of Columbia Metropolitan Police Department (MPD) filed an Arbitration Review Request with the District of Columbia Public Employee Relations Board (Board) seeking review of an arbitration award issued on October 25, 1983. The Fraternal Order of Police (FOP) grieved Officer Campbell's suspension from work for 30 days by MPD. MPD alleged that Officer Campbell violated MPD General Orders pertaining to witness identification of suspects in robbery cases. The Arbitrator ruled that the grievance should be sustained and the suspension overturned. The basis for the appeal is MPD's contention that "the portion of the arbitrator's award which found that the grievant had not violated [MPD] General Order Series 304, Number 7, Part I-H-1 is contrary to law and public policy" in violation of Section 502(f) of the Comprehensive Merit Personnel Act (CMPA) (D.C. Code Section 1-605.2(6)).

On November 30, 1983, FOP filed its opposition contending that, "on its face, the arbitration award stands for nothing more than that the Department [MPD] failed to sustain its burden of proof under the circumstances of this particular case and that the award has absolutely no significance whatsoever with respect to law or public policy."

The matter appears clearly arbitrable based on Article 20 of the negotiated Agreement which provides that:

"The purpose of this grievance procedure is to establish effective machinery for the fair, expeditious and orderly adjustment of grievances. Only an allegation that there has been a violation, misapplication, or misinterpretation of the terms of this Agreement shall constitute a grievance under the provisions of this grievance procedure."

Since, by its own terms, the Agreement provides for arbitration of disputes involving alleged misapplications of law resulting in unfair personnel actions, this matter was grievable.

Under the provisions of Section 502(f) of the CMPA, the Board is authorized to consider appeals of arbitration awards resulting from a grievance procedure, and may review such awards only if "the arbitrator was without, or exceeded his or her jurisdiction; the award on its face is contrary to law and public policy; or was procured by fraud, collusion or other similar and unlawful means."

The Board has reviewed this matter and finds that the award is not on its face contrary to law or public policy as charged by MPD. The Arbitration Review Request, as submitted, fails to establish a basis for review by the Board pursuant to Section 502(f) of the CMPA.

O R D E R

IT IS ORDERED THAT:

The Arbitration Review Request is denied and the appeal dismissed.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
February 1, 1984