

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:

The District of Columbia Nurses  
Association,

Petitioner,

and

The District of Columbia  
General Hospital,

Respondent.

PERB Case No. 86-A-04  
Opinion No. 150

DECISION AND ORDER

On June 19, 1986 the District of Columbia Nurses Association (DCNA) filed an Arbitration Review Request with the District of Columbia Public Employee Relations Board (Board) seeking review of an arbitration award issued on June 10, 1986. In that Award, the Arbitrator ruled that a grievance filed by DCNA was not arbitrable. Based on the parties' joint request for an advisory opinion on the merits of the grievance, he found DCNA's grievance without merit. The basis for the review request is that the Arbitrator erroneously interpreted and misapplied a D.C. Council Resolution which he held was intended to cover nurses in a collective bargaining unit represented by DCNA.

On September 24, 1985 the District of Columbia Council passed Resolution 6-305 which raised the pay scales of non-bargaining unit governmental employees to conform with the pay increases produced in collective bargaining negotiations. In the same resolution the Council authorized a "special qualifications hiring rate" for positions in the District pay grades DS-7 through DS-10. Prior to the passage of this Resolution, the special qualifications hiring rate was limited to grades DS-11 and above.

On November 19, 1986 the DCNA filed a grievance with the District of Columbia General Hospital (DCGH) protesting the hospital's announced intent to apply the special qualifications rate in its future hiring of nurses. In its grievance DCNA claimed that the special qualifications hiring rate was not applicable to collective bargaining unit employees and its unilateral imposition by DCGH would be a violation of the collective bargaining agreement. The grievance went to arbitration with a request

for an advisory opinion on the applicability of the Council resolution to bargaining unit members even if the grievance was found to be premature or otherwise non-arbitrable.

On July 9, 1986 the D.C. Office of Labor Relations and Collective Bargaining (OLRCB), on behalf of DCGH, filed an "Opposition to Arbitration Review Request". OLRCB contends that the Arbitrator held that the issue concerning the application of superior qualifications to future hires was not arbitrable and on that basis alone the Review Request should be denied. OLRCB further argues that only final and binding arbitration awards, not advisory opinions, are subject to review by the Board. Thus OLRCB contends, since DCNA sought review on the basis of the Arbitrator's advisory opinion on Council Resolution 6-305 and not his finding of the non-arbitrability of the grievance, the Board has no basis for review of the grievance. Moreover, OLRCB argues, the Arbitrator properly addressed each of DCNA's arguments and correctly concluded that Council Resolution 6-305 applied to both organized and unorganized employees.

The issue before the Board is whether or not there is a basis for it to review the Arbitrator's Award.

Section 502(f) of the Comprehensive Merit Personnel Act (CMPA) (D.C. Code Section 1-605.2) authorizes the Board to consider appeals from arbitration awards pursuant to a grievance procedure only if it is determined that "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 carefully examined the Award and the pleadings of the parties and finds that neither is the Arbitrator's Award on its face contrary to law and public policy nor has it been shown that the Arbitrator exceeded the jurisdiction granted. There is no allegation of fraud or collusion.

O R D E R

IT IS ORDERED THAT:

The Request for Review of the Arbitration Award is denied.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD  
May 8, 1987