

STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Interest Arbitration

-between-

BOROUGH OF LODI

-and-

PBA LOCAL 26

CASE NO.  
IA-97-1

OPINION  
AND  
AWARD  
ON  
REMAND

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BEFORE: JACK D. TILLEM, Arbitrator

APPEARANCES: For the PBA:  
LOCCKE & CORREIA, P.A.  
By: RICHARD D. LOCCKE, Of Counsel

For the Borough:  
PAUL S. BARBIRE, Attorney

The Borough of Lodi having appealed the interest arbitration award rendered on April 20, 1998 to the Public Employment Relations Commission, the Commission issued a decision and order dated September 25, 1998 vacating and remanding the award for "reconsideration in accordance with (its) opinion." The Commission stated:

The arbitrator's opinion thoroughly summarizes the evidence on all the criteria and he appears to have considered all of that evidence in arriving at his award. However, the opinion does not explain what factors he found most important or indicate why he gave those factors more weight than others. We also do not know how he weighed and considered those factors in relation to other evidence or factors in arriving at his final award. As in most arbitration proceedings, the evidence did not point ineluctably to a particular salary increase. The 4% wage increases awarded in each year are somewhat less than interest arbitration awards and settlements in 30 Bergen County municipalities and close to the 4.3% increase in average private sector wages for 1996 (Arbitrator's opinion, pp. 5, 10-11). However, we cannot assess the Borough's arguments that the wage increases were not justified given the Borough's financial condition without, for example, an explanation of how the arbitrator weighed evidence of what he found to be the Borough's severe short-term budgetary difficulties vis-a-vis that concerning the Borough's strong tax base and high tax collection rate (Arbitrator's opinion, p. 27). Similarly, we do not know what, if any weight the arbitrator gave to the cost of living or the Borough's decision not to spend up to its Cap limit or use its Cap bank. In this posture, a remand is required so that the arbitrator can issue an award and opinion that expressly articulates what factors and evidence he considered most important and explains how he weighed and considered all of the evidence.

The arbitrator must also separately determine whether the total net annual economic changes for each year of the agreement are reasonable under the eight statutory criteria, as required by N.J.S.A. 34:13A-16d(2);... Finally, the arbitrator should explain the significance of the information presented concerning municipal court and "911" revenues and the potential, if any, for layoffs as well as resignations.

The Commission having found that the evidence in the original award was thoroughly summarized, rather than repeat that summary, I would request that it be deemed part of this award as though fully set forth herein. At the outset, the statutory standards which I deemed to be most important, entitled to more weight than the others, are a comparison of the Lodi police officers' remuneration with other municipalities in that area of Bergen County, the financial impact on the borough, and the cost of living. That is not to say that the other standards, albeit not as significant, should not be weighed in the balance. Rather, having heard and reviewed the evidence these criteria do not separately or cumulatively carry sufficient weight, in my opinion, to change the outcome.

Consider for example the interest and welfare of the public. Lodi is served by a highly motivated and excellent police force. Its members are involved in all sorts of community affairs ranging from school lectures to local scholarship programs to various charitable endeavors. Nothing in the evidence is offered to challenge the conclusion that the public is very well served by its police department. Lodi ranks as one of the communities in Bergen County with the highest number of 911 responses, an intense level of activity despite a reduction in force over the past seven years of about one-third of the force.

The department's pro-active role is also reflected in the relatively large contribution of revenue it garners in municipal court costs and fines, a portion of which is retained by the municipality. Although the PBA points this out in support of its plea for

the wage increases it seeks, that is a problematic connection, one akin to a toll collector seeking a share of the proceeds. It does however buttress the conclusion that Lodi police are doing a top notch job. And, finally, it bears noting that about twenty-two officers live in town, participating as volunteer firemen, ambulance corpsman and athletic coaches. Hence, it stands to reason that the outcome, whatever it is, would have no measurable effect on the interest and welfare of the public.

In considering this standard the statute also directs that an assessment be made as to the limitations imposed upon the employer, an evaluation which presumably addresses the same issue raised by the criterion dealing with the "lawful authority of the employer." Because neither side's proposals bump up against the cap ceilings, the cap restraints, albeit of relevance, cannot be considered a material component of the outcome. Lodi's budget is well within cap limitations; almost \$1 million of cap flexibility having not been utilized, it has been carried forward as a cap bank into next year's budget.

The same lack of critical significance holds true for the statutory standard dealing with the continuity and stability of employment. There is simply no basis for believing that the ultimate decision -- whether favoring the borough or the PBA -- would motivate an officer to stay on or leave the job. With all due deference to the arguments submitted by the parties suggesting that an adverse decision spells Armageddon, a reality check shows that Lodi police officers have pretty much the same responsibilities as officers

in other communities and receive about the same range of remuneration, both in wages and fringes. Put another way, the distance between the parties' proposals being more a gap than a chasm, the award must be fashioned by a scalpel, not a machete. Hence, any rational outcome would scarcely fuel an exodus of police officers. Simply stated, the continuity and stability of the force is not a key determinant of the outcome.

We turn to the cost of living, always an important consideration in resolving a labor impasse. The Consumer Price Index, hovering around 2 to 3 percent over the past few years, would favor the borough's proposal. But when the C.P.I. is thrown into the recipe with the comparability data and analysis of the financial impact on the borough, there is sufficient counterweight to justify an award higher than current inflation figures would dictate.

Besides, raises in the public sector have historically never experienced the uppermost peaks or nadirs of the C.P.I. Two decades ago, for example, when the C.P.I. was soaring to double digit increases public sector raises, to be sure, remained in tandem but always a few percentage points lower. The same holds true now, whether for cops, teachers or other public sector employees, the increases generally tend to track the C.P.I. but a little bit higher. No evidence has been proffered by the borough to show why Lodi should diverge from this pattern - a tradition, if you will, of reasonable accommodation in public sector employment to the shifts, at times mercurial, in the C.P.I.

The evidence submitted with reference to comparability and overall remuneration swings the pendulum in favor of the PBA. In 1996 a top step officer's salary in Lodi was \$60,046, the lowest of ten comparable Bergen County municipalities in the surrounding area, and almost \$3,000 or 5 percent less than the average of \$62,996 (See table on page 11 of the award). Granted the longevity provision of 4 percent every four years reaching a maximum of 12 percent for a Lodi officer is more generous than most, the overall effect still leaves the average Lodi policeman who has not reached the maximum longevity percentage with a lower salary than his colleagues in surrounding towns.

According to the information available at the hearing, the average increase in Bergen County in 1996 for law enforcement officers was 4.9 percent; in 1997 - 4.6 percent; in 1998 - 4.3 percent; and for the few districts reporting in 1999, 4.2 percent. These numbers reflect a clearly declining trend, but still an average of 4.5 percent, an increase roughly comparable to that afforded to school teachers in Bergen County who make up an even larger segment of a public employer's payroll. On the private sector side, the data furnished by PERC shows that from 1995 to 1996 the average wage increase was 4 percent for major industries and broken down county by county, the percentage increase was 4.3 percent.

So, in a tug of war, the cost of living standard pulls one way while the comparability data in the public and private sector tugs in the other direction, the latter side afforded a bit of extra heft by the fact that the Lodi police officer's base salary is

some \$3,000 below the average in that Bergen County area.

What about the financial impact on the municipality? The statutory standard arguably with the greatest ability to affect the outcome, it is heavily relied on by the borough. The evidence, however, would suggest that its reliance may be misconceived, the borough appearing to have the financial wherewithal to fund the increases originally awarded without any discernible impact on the taxpayers. For the sake of the argument, let us assume that the range of reasonableness for an award in this case is somewhere between 3.5 and 4.5 percent. Now a 1 percent increase on the base salary of every employee in the unit, from captain to patrolman, would cost the borough \$20,506, a number based on the total base wage cost of \$2,050,668 for 1996. Dividing the value of 1 percentage point by the municipal portion of the levy generates an impact of .002 percent, or an increase of about \$1.80 on a resident with a \$3,000 tax bill. Assuming a 3.5 percent increase, that's \$6.30 or 52 cents a month. If a 4.5 percent increase were awarded, the taxpayer would shoulder \$8.10 a year or 68 cents a month.

To fill out the picture, fringes and additional payments like longevity, holidays, pension, etc., which are always carried along in the wake of a base wage increase must also be dealt with. Assuming a 30 percent add on for these items, the impact on the taxpayer of, say, a 4 percent increase, is still less than \$10 a year. Put another way: the difference between a low reasonable increase of 3.5 percent and a high reasonable increase of 4.5 percent is \$2.00 a year or less than 20 cents a month. The foregoing numbers, as noted

in the original award, are based solely on the municipal portion of the borough's budget. The total general appropriations of the borough for the 1998 fiscal year being slightly in excess of \$18 million, the actual impact on the budget of a wage point is around one tenth of 1 percent.

Assume for the moment that the PBA would be rather happy if not ecstatic about a 4.5 percent increase across the board settlement in each of the four years. And assume further that the borough would barely suppress a smile signing off on a 3.5 percent increase for those years. That difference of 1 percent, or \$20,000 to \$25,000 per year depending upon whether the fringes are included, is what has kept this pot boiling in Lodi through negotiations, mediation, interest arbitration, an appeal to PERC and back again to interest arbitration – a mini-series that may well cost the taxpayers a good chunk if not as much as the total amount separating the parties for the entire four year deal.

The borough's evidence concerning its lack of cash surplus causing it to resort to tax anticipation notes during the past few years is not questioned. It's problematical however as to whether that shortage justifies portraying the municipality as being in difficult financial straights. First of all, the borough's lament about a loss of certain types of state aid must be considered in the light of the fact that other types of state aid have offset them. The revision of the energy receipts tax aid, for example, brought over \$787,000 to Lodi in 1998. And this amount was coupled with supplementary energy receipts tax of \$40,000 which had not been obtained in 1997. These two items of revenue would certainly



have offset other losses, a conclusion confirmed by the bottom line total revenues for 1997 and 1998 being substantially the same.

In the second place, the municipal portion of the total tax levy actually decreased, dropping from 29.6 cents of the total levy of \$3.12 in 1996 to 28.4 cents in 1997. And then there is the matter of ratables, according to the Bergen County equalization table, Lodi with over \$100 billion in ratables has one of the highest aggregate true value of property in the region.

And finally, Lodi's collection rates over the past few years, always over 93 percent and rising - in 1995, 94.99 percent; in 1996, 95 percent; and in 1997, 95.03 percent - would indicate a town prospering and on the upswing. With a strong ratable base and very good collection rates getting better every year, it is fair to conclude that Lodi is by no means a poor town. Indeed, the dire prognostications of shortfalls in revenue and reduction in ratables which the borough has suggested in these proceedings are difficult to square with the mayor's own pronouncement in a 1997 message to his constituents.

**Four new major retail stores are bringing hundreds of jobs and millions of new tax ratabilities to a town with a bright future that the business community is rapidly 'discovering'. It's Lodi.**

**To those of us who have always known and loved our community, we are not very surprised. We are ready to welcome Home Depot, Rite Aid, Super Saver, and R & S Strauss as the latest signs that our program of fiscal responsibility and sound**

**planning for our town's future is really working. And there is absolutely no doubt that it is.**

A brief recap of the statutory criteria as applied to this impasse:

The modest increases in the CPI, while exerting a downward pull, are counterbalanced by the comparability data showing increases in excess of 4 percent offered to police officers in surrounding municipalities, increases to teachers hovering around 4 to 4.5 percent and increases above 4 percent in the private sector. Given that Lodi, according to the budget and tax information, can reasonably afford an increase between, say, 3.5 and 4.5 percent without any discernible impact on the taxpayer, the fact that the Lodi police officer has one of the lowest base salaries in the region tends to further offset the significance of the C.P.I. numbers.

Yet even with a 4 percent increase for each of the four years which I would award herein, the Lodi police officer will still obtain a smaller dollar increase than officers receiving the same 4 percent in other communities which are paying around the average. In Lyndhurst, for example, a police officer at \$63,151, slightly above the average, would receive a raise of \$2,526 while a 4 percent increase to the Lodi officer generates \$2,402, a difference of \$124 which means that the Lodi officer falls further behind. On the other hand, a number of factors militate against offering catch-up numbers: the trend in percentage increases is downward, the C.P.I. remains steady at its present conservative levels, there is no indication of inflation appearing on the horizon - so that when these considerations are balanced against those skewing in favor of the PBA, I believe that a 4

percent increase in each of the four years represents a fair and reasonable balance in the context of the statutory standards. As a coda, although I do not believe that the raises have a significant impact on the borough's budget, it should be noted that some relief from these expenses would be obtained by that part of the award herein which increases the number of steps for a police officer to obtain top salary from entry level plus three to entry level plus five.

AWARD

Having received the case on remand from the Public Employment Relations Commission and in accordance with its Decision and Order dated September 24, 1998, the undersigned renders the following award:

1. Term of agreement: four years from July 1, 1996 to June 30, 2000.
2. Salaries: all salary steps and all ranks shall be increased as follows:

July 1, 1996	4 percent (retroactive to 7/1/96)
July 1, 1997	4 percent (retroactive to 7/1/97)
July 1, 1998	4 percent (retroactive to 7/1/98)
July 1, 1999	4 percent
3. Effective July 1, 1998 the salary guide for police officers shall be increased from entry level and three steps to entry level and five steps, the maximum salary being attained in the sixth year of employment.

4. All other proposals are deemed denied, the prior agreement to continue except to the extent modified by this aware and the agreement of the parties.

Dated: December 7, 1998

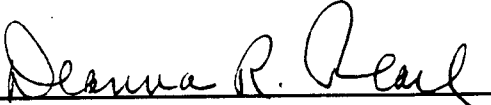


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JACK D. TILLEM, Arbitrator

STATE OF NEW YORK )  
COUNTY OF NASSAU ) SS:

On the 7th day of December, 1998, before me personally came and appeared JACK D. TILLEM, to me known and known to me to be the individual described herein and who executed the foregoing instrument and he acknowledged to me that the same was executed by him.



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DEANNA R. PEARL  
Notary Public, State of New York  
No. 4823999  
Qualified in Nassau County  
Commission Expires Nov. 30, 2000

