

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of
LEON GRANT
For determination of a dispute
concerning union security arising
under a collective bargaining
agreement between
KING COUNTY
and
PUBLIC SAFETY EMPLOYEES LOCAL 519

Case No. 1622-DR-78-14

Decision No. 591-PECB

MEMORANDUM DECISION

BACKGROUND

The petition in this matter was filed with the Commission on August 4, 1978. The petition alleges that the Public Safety Employees Local 519 (hereafter PSE) has refused to allow the petitioner to make payments to a selected charity instead of paying PSE the amount required under the union security clause in the collective bargaining agreement between PSE Local 519 and King County. The parties waived a field investigation of this matter, and submitted their respective positions in affidavits and briefs.

PETITIONER'S POSITION

Petitioner Grant is a Police Sergeant employed by the King County Department of Public Safety. He states he has conscientious objections to association with Public Safety Employees Local 519. Although Grant is not a member of an established church, he claims his conscientious objections occupy the same place as traditional religious tenets do in the lives of others. On that basis, he seeks an exemption from conformance with the union security clause included in a collective bargaining agreement covering police officers, sergeants and some lieutenants.

In his affidavits, Grant swears:

"4. ...In my own words, when I speak of nonmembership in Local 519, I mean my nonassociation with Local 519, based on bona fide religious tenets.

5. I am of the firm and unshakable belief that collective bargaining in the public safety sector presents a conflict of interest to employees engaged in bargaining, is an improper vehicle for resolving employment disputes between the public employer and its employees, and involves essential political decisions that should be made in a more independent fashion.

...

9. I do not wish to give financial support or accept financial support from organizations which adhere to views and practices with which I do not agree.

...

12. My objection to membership in Local 519 stems directly from my belief in God. God is the spirit of truth and goodness which is in everyone. That truth says to me that I cannot support the policies of organizations because I have no control over them. These organizations adopt policies which are opposed to my simple beliefs, or they at the very least have the real and immediate potential of doing so. I have in my own life known many examples of this. I have seen organizations follow policies of racism; I believe we are all one family of God and that racism--white against black or black against white or any other kind--is ungodly and wrong. I dropped from membership in organizations which fostered racism. That is one example but a vivid one for me."

In an affidavit supporting the petition, a law professor swears that he knows Grant to be a religious person who does believe in God, but rejects the institutionalized church because it does not fulfill his concept of the mission of the church. The President-Director of the Church Council of greater Seattle swears that Grant's dedication to conscience is similar to that held by conscientious objectors to war that the affiant had evaluated.

UNION'S POSITION

The Public Safety Employees Local 519 opposes the petition in this matter for three reasons: the petitioner's beliefs are not based on any religious tenets or teachings of a church; RCW 41.56.122 created a limited exception to the duty to conform to agency shop rules only to accommodate recognized religious beliefs, and if the exception were to include people who conscientiously objected to supporting organizations of any kind, the petitioner would not qualify since he does not object to joining all organizations.

DISCUSSION

In RCW 41.56.122, the state legislature authorized that collective bargaining agreements contain union security clauses, but added the proviso:

"That agreements involving union security provisions must safeguard the right of nonassociation of public employees based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member. Such public employee shall pay an amount of money equivalent to regular union dues and initiation fee to a nonreligious charity or to another charitable organization mutually agreed upon by the public employee affected and the bargaining representative to which such public employee would otherwise pay the dues and initiation fee."

The Commission has never before had occasion to rule on a petition requesting authorization of payments to a charity in lieu of paying fees under RCW 41.56.122. However, three such petitions have been presented to the Commission under a similar section of the Educational Employment Relations Act, RCW 41.59.100. See: Evergreen School District, Decision No. 221, (EDUC, 1977); Vancouver School District, Decision No. 224, (EDUC, 1977); and Issaquah School District, Decision No. 262, (EDUC, 1977). Each time the petition was denied because the petitioner did not advance the specific, bona fide religious tenets or teachings of a church or religious body of which the petitioner was a member.

There have been no facts presented to justify a different holding on the petition in this case, even though the petition was filed under the Public Employees Collective Bargaining Act. Petitioner Grant is demanding an administrative expansion of a very narrow exemption. Since the legislature specifically limited the exception, PERC is without the authority to broaden the scope.

The petition alleges that 41.56.122 is unconstitutional because it favors religious people over nonreligious people. To make the statute constitutional, the petitioner argues, it must be interpreted to include the conscientious beliefs of a single individual. However, the scope of the authority of the Executive Director in this issue is limited by WAC 391-21-900 to determining whether an employee is eligible to make alternative payments based solely on "bona fide religious tenets or teachings of a church or religious body of which the employee is a member". It is for the courts to determine if the scope of this exemption is unconstitutionally narrow.

To further support his argument that the statute in question was to cover conscientious objectors, the petitioner submits an affidavit from the Field Representative of the Washington Conference of Seventh Day Adventists, who assisted in creating the nonassociation clause of RCW 41.56.122. The affiant swears:

"8. To my knowledge, the nonassociation clause of RCW 41.56.122 was intended to apply to any public employee with reasonable convictions against union membership, who can demonstrate that those convictions are religious in nature and that they are guiding principles in his life."

However, Public Employees Collective Bargaining in Washington - The First Biennial Report submitted to the 42nd Session of the Washington State Legislature, Revised Second Edition, 1971, (page 4), ^{1/} contains legislative

^{1/} Submitted to the governor and the legislature by the Public Employees Collective Bargaining Committee created by RCW 41.56.400 through .420.

history of RCW 41.56.122 that states the clause was recommended to "preserve the cohesiveness of the employee organization without impairing religious beliefs". (emphasis added) The petitioner's objections are based on personal beliefs.

It is significant that Grant is not petitioning for exclusion from union membership. That is freely available. PSE Local 519 has a rebate procedure established for nonmembers to ensure that such people are not required to support activities unrelated to the costs of the collective bargaining. Grant is seeking an exclusion from the requirement to pay even the agency fee. He requests in his petition to pay his portion of collective bargaining costs to a nonreligious charity. The request is denied because the statute does not contemplate granting the exemption to a conscientious objector who is not a member of an organized religion.

The petitioner also requested that PERC provide temporary relief by granting an order preventing his dismissal by the employer. However, the PSE agreed to stay enforcing the clause provided that the petitioner agreed to pay an amount equivalent to his agency fee into a special fund in a local bank, pending the issuance of this decision. Therefore the petitioner's request need not be ruled upon here, and the transfer of funds is not required until the period for review of this order has expired.

In connection with the foregoing, the Executive Director makes the following:

FINDINGS OF FACT

1. Leon Grant is employed as a Police Sergeant with the King County Department of Public Safety.
2. A collective bargaining agreement exists between King County and the Public Safety Employees Local 519 covering police officers, sergeants and some lieutenants in the King County Department of Public Safety. That agreement contains a union security provision under which Grant is obligated to make payments.
3. Public Safety Employees Local 519 has a political activity rebate procedure to calculate a representation fee due from nonmembers.
4. A dispute has arisen concerning the obligation of the petitioner to pay representation fees to the Public Safety Employees pursuant to the mentioned union security provision; the jurisdiction of the Public Employment Relations Commission has been invoked by the petitioner pursuant to WAC 391-21-900; a

petition, supporting affidavits and a brief were filed by the petitioner which advanced certain personal beliefs but failed to advance any specific tenets or teachings of a religious body of which he is a member as the basis for a claim of a right to nonassociation.

CONCLUSIONS OF LAW

The petitioner has not set forth issues of fact which cannot be disposed of without a hearing; and has not set forth facts which, as matter of law, could constitute a basis for a ruling in his favor pursuant to WAC 391-21-900.

ORDER

1. If no petition for review of this order is filed with the Public Employment Relations Commission within 20 days following the date of this order, King County and Leon Grant shall cause to be remitted to Public Safety Employees Local 519 any and all funds to which it is entitled under union security clauses in applicable collective bargaining agreements between King County and Public Safety Employees Local 519.

2. If a petition for review of this order is filed with the Public Employment Relations Commission within 20 days following the date of this order, such filing shall automatically stay the effect of this order pending a ruling thereon by the Commission.

Dated at Olympia, Washington, this 13th day of February, 1979.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

Attorneys of Record:

Puro & Haynes, by George Cleve Haynes, Attorney at Law, for the petitioner.

Hafer, Cassidy & Price, by John Burns, Attorney at Law, for the union.