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STATE OF MICHIGAN
DEPARTMENT OF LABOR

In The Matter of:

CITY OF MONROE,

Case No.
D-80-A723

and

STATE LABOR COUNCIL,
FRATERNAL ORDER OF POLICE

MERC ACT 312

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OPINION AND AWARD

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MONROE, CITY OF

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William J. McBrearty, Arbitrator
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OPINION AND AWARD

The undersigned, William J. McBrearty, was appointed by the Michigan Employment Relations Commission on or about December 15, 1980, to serve as Chairman of a panel of arbitrators in a dispute involving contract negotiations in the above case.

Representing the City of Monroe as one of the panel members was Joseph Lybik.

Representing the Fraternal Order of Police was El-Jay Bowron as the other panel member.

February 25, 1981, having been selected by the three panel members as an acceptable date for hearing the matters here in dispute, the hearing was held on that day, beginning at 10:00 a.m., in a conference room in the City Hall of Monroe. The hearing ended at 1:00 p.m.

Appearances

For the Employer,
City of Monroe:

Paul H. Townsend, Jr.
Attorney

For the Labor Organization
F.O.P.:

John A. Lyons,
Attorney

ISSUE

Should the City of Monroe provide hospitalization and other benefits to police officers of the rank of Sergeant and above, excluding the Chief of Police, who after having reached the age of 50 and after 25 years of service, retire?

POSITIONS OF DISPUTANTS

The Union, representing command officers (as distinguished from patrolmen who are represented by another police union) contends that hospitalization, medical, major medical and surgical insurance should be provided for all retired police employees of the rank of Sergeant and higher (excluding the Chief) between the ages of 50 and 60 who retire after 25 years of service. However, should such a retiree obtain employment after his or her retirement, the City is not required to provide hospitalization if the new employer carried hospitalization coverage for its employees.

The City of Monroe contends that under their collective bargaining agreements with the Firefighters and with the Patrol Group, both units, separate from the Command officers, that these employees, should they retire at age 50 and before age 60, must pay for their own BC/BS hospitalization and medical insurance, and uniform relations among these three separate and distinct organizations must, in the public interest, be maintained.

After age 60, the City of Monroe, a self-insurer, pays full hospitalization for all retirees from these three separate bargaining units. That is the present status.

The City's position is that this benefit should be negotiated at the bargaining level, on the next date for new collective bargaining contracts (July 1, 1981) with the three bargaining units.

The union contends that it represents a separate unit, of City Police Officers; that there is no "parity" between the Command Officers and the Patrol Group; and therefore, the Command Group is entitled to be awarded by the arbitration panel the new benefit here sought.

STATEMENT OF FACTS

No witnesses were sworn at the February 25, 1981 hearing. Four joint exhibits were offered and received in evidence:

- Exhibit 1. Economic Offer to Monroe Police Command Officers' Association, dated May 1, 1980, from the City of Monroe.
- Exhibit 2. Offer from Command Officers Association to Joseph Lybik, dated August 22, 1980, (actually an offer to City of Monroe, Joseph Lybik being its personnel manager or director).
- Exhibit 3. The contract between the City of Monroe and the Monroe Police Command Officers Association (July 1, 1977 to June 30, 1980). [The Chairman has read this 43 page Master Contract.]
- Exhibit 4. A one-page paper showing seven cities (Adrian, Ecorse, River Rouge, Riverview, Trenton, Wayne and Monroe), the ages of retirement of these employees (such as "50 and 25 years of service", "55/25 years service/60 compulsory") and the notation "Fully Paid Hospitalization" for each city except Adrian.

After brief arguments by the legal representatives of the Union and the City, the panel retired to deliberate on the issue or issues.

The Chairman was furnished by John A. Lyons, attorney for the Command Officers Association, a photocopy of an arbitration case which reached the Michigan Supreme Court in 1979, argued on January 10, 1980 and decided in June of 1980 in 408 Mich 410, Detroit v DPOA (Detroit Police Officers Association). Paul H. Townsend, Jr., attorney for Monroe, consented to the Chairman receiving (and considering) this case. I have also read it (more than 90 pages).

After the panel had met privately (and was not able to agree on a decision) it was agreed that the Chairman should prepare an Opinion and Award, meet again with the panel (March 12, 1981) and submit the proposed Opinion and Award. It was agreed that further discussion might then result in a final decision on this dispute.

Joint Exhibit 4, while it showed the majority of the seven cities (roughly the size of Monroe) permitted retirement after 25 years of service, some cities permitting retirement at 50 as sought here) with fully paid hospitalization, there was no showing that the situation in any of these towns was identical or similar to Monroe's situation.

In Monroe, one group of police wish to be given benefits which another (lower paid) group of police officers do not receive.

The exhibit does not show that which the other two panel members probably know but has not been revealed on the record of

this arbitration hearing so far, viz:-

Are there separate bargaining units for Firefighters and Police Officers in those other seven cities as is the case in Monroe?

Does one group enjoy more hospital benefits than another police or fire fighting group?

How many of these cities are self-insurers, as the City of Monroe is?

How many provide uniform insurance coverage for its two groups, patrol and command?

The hearing record did not disclose who would pay a police command retiree's BC/BS or hospitalization costs if he or she obtained employment where hospitalization is not provided--the City or the retiree?

It was and is the Chairman's belief after careful consideration of the issues that if the Patrol Group and the Fire Fighters had requested at their collective bargaining sessions the hospitalization (etc.) benefits that the Command Group here request, and if that request, proposal or demand had been granted by the City of Monroe, it would be discriminatory for this arbitration panel to deny the Police Command Officers Association the same benefits.

But the reverse is here sought.

It is the Chairman's view in this dispute that there is and must be parity - equality among or between municipal units performing similar services - especially between separately organized police groups, i.e. patrol and command units. It is distinctly in the public interest that police officers should be treated uniformly.

The Chairman cannot agree with the contention of the Command Officers Association that they have no "parity with other City units."

Incidentally, the case of Detroit v DPOA, 408 Mich 410, supra, indicates that the appellate court recognized the relationship between the Detroit Police Lieutenants and Sergeants Association and the DPOA by this language at p. 423:

"12. The award in this case cannot properly be approved without deciding the merits of the city's appeal in the Detroit Police Lieutenants and Sergants Association case. The chairman of the arbitrators in this case declared that the cost-of-living allowance in the award rendered by another panel in the Lieutenants and Sergeants case is the central issue in this dispute. He emphasized that acceptance of the DPOA cost-of-living-allowance offer was virtually mandated by the award of an identical provision in the Lieutenants and Sergeants arbitration. The merits of this appeal thus depend in part on the merits of the city's appeal in the Lieutenants and Sergeants case and therefor this appeal cannot finally be decided before decision of the city's application for leave to appeal." [Emphasis added.]

Again at page 495 the Court, speaking through Justice Williams in in this split decision case, in discussing the cost of one of the Officers Association's points of dispute:

"The panel cannot escape the history of the city in its relations with its unions, not only as evidenced by contractual undertakings but by actions of the electorate from time to time. For years there has been a correlation between benefits of police and fire personnel, commonly referred to as security personnel. * * * After years of debate, both the general electorate and in collective bargaining, the principle of parity was established between police and fire. Even more interestingly, there is a correlation to a degree between certain positions in the Fire Department and positions among the Lieutenants and Sergeants."

"As indicated earlier, the chairman is of the opinion that this panel cannot remake or change history nor can it escape the history the parties themselves have made, that is, of certain internal relationships in

comparisons between DPOA members as well as between and among these groups or bargaining units and the fire fighters.'" [Emphasis added.]

That "public interest" or "public welfare" are among the factors to be considered and applied in compulsory arbitration disputes by panel members is noted in the language of Justice Williams at p.454 of Detroit v DPOA, "...first, that the panel invest its deliberations with specific contemplation of the public welfare . . . and, second, that the tribunal consider public and private sector wages, hours and conditions of employment." (Joint Exhibit 4 dealt only with hospitalization benefits of public employees; Benefits of non-public employees was conspicuously absent from this exhibit.) [Emphasis added.]

That public welfare is involved in cases where one group of public employees receives less or more consideration than another (Command vs. Patrol Units) seems, to this Arbitrator, obvious.

The union's last, best offer (Joint Exhibit 2) was rejected by the City, before and during arbitration. The City's last, best economic offer (Joint Exhibit 1) was amended during the arbitration hearing to an offer to include the issue of hospitalization benefits to command police officers who retire at age 50 (with 25 years of service) at the next collective bargaining negotiation conference on July 1, 1981, when the present bargaining agreement will be renegotiated.

For the reasons previously expressed in this Opinion, the Chairman votes in favor of the City's last best offer.

To conclude, it was originally decided and agreed on February 25th between delegates Bowron and Lybik, and the Panel

Chairman, that the Chairman would prepare a draft of his Opinion and Award and would submit the draft to Bowron and Lybik at a subsequent meeting of the panel.

An Opinion and Award was submitted to the two delegate panel members on March 12, 1981.

After discussion, Delegate Lybik voted with the Chairman in favor of accepting the last offer of the City of Monroe (renegotiating the present collective bargaining agreement on the date set for pension renegotiations, July 1, 1981.)

Delegate Bowron dissented from this decision and on March 20, 1981 (third meeting of the Panel), a four page dissent was given Chairman McBrearty and Delegate Lybik. After discussion of the Chairman's Opinion and Award and Delegate Bowron's dissent, Messrs. Lybik and McBrearty voted to reaffirm their previous decision.

The Chairman thereafter amended the wording of his Opinion to read as follows:

AWARD

The majority of the panel adopts the last, best economic offer of the City of Monroe to the Command Officers' Association and agrees that the issue (hospitalization) should be renegotiated at the same time as pensions for City of Monroe Firefighters and Police Officers' pensions are negotiated; viz, on July 1, 1981.

William J. McBrearty, Chairman

Joseph Lybik, Delegate

Dated: April __, 1981.