

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.

SUPERIOR COURT

(FILED: May 10, 2013)

JOHNSTON SCHOOL COMMITTEE

v.

JOHNSTON FEDERATION OF TEACHERS,
LOCAL 1702

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C.A. No. PM 13-0865

DECISION

LANPHEAR, J. This matter came on for consideration before the Court on the Johnston School Committee’s motions to stay and vacate an arbitration award of January 15, 2013.

I

Facts and Travel

The Johnston School Committee (School Committee) and the Johnston Federation of Teachers, Local 1702 (Union) are parties to a collective bargaining agreement (CBA) in duration from September 1, 2008 through August 31, 2009. Pursuant to Article II, Section 1, a grievance is:

A written complaint by the Federation or by a teacher and the Federation that there has been a violation, misinterpretation, or inequitable application of any of the provisions of this Agreement, or that a member of the bargaining unit has been treated unfairly or inequitably or discriminated against for any reason.

Mr. Carmine Giarrusso, a teacher in the Johnston School District, had previously served as a coach for certain high-school and middle-school sports teams. When he applied for coaching positions for the 2011-2012 school year, the School Committee declined his

appointment and appointed others to the positions. The Union then filed grievances on Mr. Giarrusso's behalf.

The Arbitrator considered whether or not the issue was arbitrable by reviewing the case of Sacco v. Cranston School Department, 53 A.3d 147 (R.I. 2012), issued by the Supreme Court one month prior to the instant arbitration hearing. The arbitrator found Mr. Giarrusso's coaching issue was arbitrable. Promptly upon issuing that decision, the arbitrator stayed the decision, and the School Committee appealed the arbitrator's decision and moved to vacate the arbitrator's decision by filing this action.

II

Analysis

A

The Arbitrator's Decision

In Sacco v. Cranston School Department, 53 A.3d 147 (R.I. 2012), the Rhode Island Supreme Court considered the issue of whether coaches' employment was subject to arbitration under the teachers' contract with the School Committee. Our High Court held:

Arbitration is a matter of contract and a party cannot be required to submit to arbitration any dispute which he has not agreed so to submit In the absence of clear language in the CBA providing that plaintiffs—in their capacities as coaches—have a right to submit grievances to the arbitration in grievance procedures, no right will be read into the contract. Therefore, it is our task to look at the CBA and the rights enunciated in it to determine whether there is an express agreement to arbitrate the rights of teachers who are working as sports-team coaches.

Sacco, 53 A.3d at 150.

The first six pages of the arbitrator's decision here are focused on the Sacco case. Included are comments such as, "The Rhode Island Supreme Court's decision might be subject to criticism on many grounds . . ." (Arbitrator's Decision, p. 4) It goes on to reason that the

United States Supreme Court decision in the Steelworkers' Trilogy¹ of 1960 trump Rhode Island law, apparently allowing him to ignore (or at least criticize) last year's Decision. This Court is convinced that the United States Supreme Court's precedential rulings, and other existing law, were taken into consideration when determining the Sacco case. Given the arbitrator's obvious antipathy for the recent Rhode Island Supreme Court Decision, this Court is left to review the arbitrator's decision with heightened scrutiny.

As indicated, the arbitrator goes to great lengths to distinguish the Sacco case from the instant action involving Mr. Giarrusso. Beginning on page six of the arbitrator's decision, he distinguishes the Sacco case from the Giarrusso case on several grounds, each of which will be discussed in turn.

First, while in the Sacco case, the Union did not grieve the arbitration, here the Union itself did grieve the arbitration. It is noteworthy that in the instant contract, individual teachers are given the ability to file grievances. The law should not discriminate by which party is filing an action (assuming that no question of standing exists), and hence, the arbitrator's distinction is inappropriate.

Second, in the instant action, the arbitrator suggests that the CBA here covers a vast scope of grievable issues. While the Union here alleges that any member may grieve who is "a member of the bargaining unit [who] has been treated unfairly or inequitably," (CBA Article II, Section 1) no identical provision appeared in the Cranston CBA at issue in Sacco. The arbitrator ignores that the purpose of the CBA is to define the employment relationship within the town, with a special focus on the education. As the first line of the Preamble for the CBA states, "The

¹ United Steelworkers of America v. Warrior & Gulf Navigation Co., 363 U.S. 574, 577-78 (1960); United Steelworkers of America v. American Manufacturing Co., 363 U.S. 564, 567 (1960); United Steelworkers of America v. Enterprise Wheel & Car Corp., 363 U.S. 593, 596 (1960)

School Committee of the Town of Johnston and the Johnston Federation of Teachers recognize that they have an interest in educational excellence that is far beyond the scope of collective bargaining governing terms and conditions of employment.”²

Third, the arbitrator bases his decision on the presumption that all coaches are members of the bargaining unit. (Arbitrator’s Decision, p. 6) While Article XXXV, Section 1.2 indicates that all coaches and extracurricular personnel are represented by the Federation, Article I, Section 1.1 refers to the Union as being “the exclusive bargaining agent for all certified personnel.” At hearing, counsel suggested that coaches are retained separately, with one year contracts. After arguments raised at the motion hearing, this Court is not convinced that all coaches are members of, and protected by, the CBA.

Fourth, and finally, the arbitrator concludes that, “The broad arbitration promise encompasses any dispute, and, as noted above, this case certainly involves a dispute.” (Arbitrator’s Decision, p. 10) This Court cannot conclude that the agreement to arbitrate is boundless. The Rhode Island Supreme Court has specifically instructed arbitrators and courts to allow arbitrations only where it is able “to determine whether there is an express agreement to arbitrate the rights of teachers who are working as sports-team coaches.” Sacco, 53 A.3d at 150. Therefore, rather than discussing the rights of parties to arbitrate a broad range of grievances, this Court will limit its discussion to the CBA itself.

B

Arbitrability of the Issue

The CBA at Article XXXV, Section 1.1 indicates that:

² As apparent from a pending case against the same teacher in P.C. No.12-2558, the School Committee’s concern likely originated from Mr. Giarrusso’s behavior in a classroom.

whenever qualified members of the bargaining unit are available, they shall be given preference over personnel from outside the bargaining unit for all [coaching] positions

...

Section 1.3 indicates that:

in the event that candidates are equally qualified, the determining factor shall be seniority, . . .

Section 2.1 indicates that:

Personnel who have received satisfactory evaluation and about whom a decision is made to reappoint them will not have to reapply for said position(s).

Coach salaries are delineated in Section 3 of the CBA.

Because this CBA, as distinguished from the agreement interpreted in Sacco, clearly expresses language indicating that the teachers in their capacities as coaches or applicants for coaching positions have the right to submit grievances to arbitration, the right clearly exists in this contract and need not be unfairly inferred. This case is distinguishable from the Sacco case for this reason alone.

III

Conclusion

The Court finds that the issue before the arbitrator is arbitrable and upholds the decision based on the grounds as those set forth in the arbitrator's decision. The arbitrator may proceed with its proceedings.



RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

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Johnston Federation of Teachers, Local 1702

CASE NO: PM 13-0865

COURT: Providence Superior Court

DATE DECISION FILED: May 10, 2013

JUSTICE/MAGISTRATE: Lanphear, J.

ATTORNEYS:

For Plaintiff: William J. Conley, Jr., Esq.

For Defendant: Scott F. Bielecki, Esq.