

MASSACHUSETTS SUPREME JUDICIAL COURT

Collective Bargaining Reform Ass'n v. Labor Relations Commission

436 Mass. 197 (2002) · Decided March 5, 2002

SUMMARY

The Massachusetts Supreme Judicial Court held that the Labor Relations Commission's dismissal of a petition to sever public employees from an existing bargaining unit was not immediately subject to judicial review under G. L. c. 30A, § 14. Representation proceedings generally do not produce a final adjudicatory order reviewable by a court absent extraordinary circumstances or a subsequent prohibited-practice proceeding. The court affirmed dismissal of the plaintiff's complaint and noted that the union could pursue a later petition or raise the issue in connection with a prohibited-practice claim.

CASE DETAILS

COURT	Massachusetts Supreme Judicial Court
WRITING FOR THE COURT	Greaney, J.
JURISDICTION	Massachusetts
DECIDED	March 5, 2002
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Collective Bargaining Reform Association appealed the Superior Court's dismissal of its complaint seeking judicial review under G. L. c. 30A, § 14, of the Labor Relations Commission's dismissal of a representation petition. The Supreme Judicial Court granted direct appellate review and affirmed.
STANDARD OF REVIEW	The court reviewed de novo whether the commission's representation decision was a final decision in an adjudicatory proceeding subject to judicial review under G. L. c. 30A, § 14. It also rejected the claim that the commission's decision was arbitrary or capricious.
PRECEDENTIAL VALUE	Published Massachusetts Supreme Judicial Court decision; precedential.
PARTIES	Collective Bargaining Reform Association v. Labor Relations Commission

TOPICS

judicial review of agency action

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labor law

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the Labor Relations Commission's dismissal of COBRA's representation petition without ordering an election was a final decision in an adjudicatory proceeding subject to immediate judicial review under G. L. c. 30A, § 14.
2. Whether extraordinary circumstances required immediate judicial review of the commission's certification decision.
3. Whether the commission lacked authority to dismiss the petition after finding that the operators constituted an appropriate bargaining unit under the first part of the City of Beverly test.
4. Whether the commission's dismissal of the petition was arbitrary or capricious.

HOLDINGS

1. In ordinary cases, judicial review of Labor Relations Commission certification issues is unavailable until the commission has issued or denied an order based on an unfair labor practice. The dismissal of COBRA's representation petition was not a final agency decision resulting in a reviewable adjudicatory order.
2. COBRA failed to establish extraordinary circumstances warranting immediate judicial review of the commission's dismissal of its representation petition.
3. The commission had authority to apply the second part of the City of Beverly severance test and dismiss the petition because COBRA failed to show that the operators' distinct interests caused or were likely to cause serious conflicts or divisions within the existing bargaining unit.

KEY QUOTATIONS

“Our case law is clear: “In ordinary cases judicial review of certification issues may take place only after there has been a commission decision based upon an unfair labor practice.”” (202)

“The commission’s role was essentially that of an investigatory fact finder.” (203-204)

“The certification “procedure does not end in any order requiring anybody to do anything and . . . there is no provision for a court review.”” (204)

FACTUAL BACKGROUND

Boston had recognized SEIU as the exclusive bargaining representative for a broad group of nonprofessional employees, including communication equipment operators who handled calls on the city's enhanced 911 system. After unsuccessful efforts to obtain a position upgrade from SEIU and the city, COBRA petitioned to sever the

operators into a separate bargaining unit and represent them. The commission found that the operators were functionally distinct but had not demonstrated that their interests had caused or were likely to cause serious conflicts or divisions within the existing bargaining unit, and it dismissed the petition without directing an election.

PROCEDURAL HISTORY

COBRA petitioned the Labor Relations Commission under G. L. c. 150E, § 4, to sever Boston police-department communication equipment operators from an existing bargaining unit represented by SEIU and to obtain a separate representation election. After a lengthy hearing, the commission dismissed the petition without ordering an election, finding that although the operators were a functionally distinct appropriate unit, they had not shown that their distinct interests caused or were likely to cause serious conflicts or divisions within the existing unit. COBRA sought judicial review in Superior Court, which dismissed the complaint for lack of immediate reviewability; the Supreme Judicial Court affirmed that dismissal.

DISPOSITION

affirmed

CASES CITED

- City of Beverly, 1 M.L.C. 1108 (1974)
- Jordan Marsh Co. v. Labor Relations Comm'n, 312 Mass. 597 (1942)
- City Manager of Medford v. Labor Relations Comm'n, 353 Mass. 519 (1968)
- Worcester Indus. Tech. Inst. Instructors Ass'n Inc. v. Labor Relations Comm'n, 357 Mass. 118 (1970)
- Local 1111, Int'l Ass'n of Fire Fighters v. Labor Relations Comm'n, 14 Mass. App. Ct. 236 (1982)
- Sullivan v. Labor Relations Comm'n, 5 Mass. App. Ct. 532 (1977)
- Boire v. Greyhound Corp., 376 U.S. 473 (1964)
- American Fed'n of Labor v. NLRB, 308 U.S. 401 (1940)
- Goethe House N.Y., German Cultural Ctr. v. NLRB, 869 F.2d 75 (2d Cir. 1989), cert. denied, 493 U.S. 810 (1989)
- United Food & Commercial Workers, Local 400 v. NLRB, 694 F.2d 276 (D.C. Cir. 1982)
- Chicago Truck Drivers, Helpers & Warehouse Workers Union (Indep.) v. NLRB, 599 F.2d 816 (7th Cir. 1979)
- Physicians Nat'l House Staff Ass'n v. Fanning, 642 F.2d 492 (D.C. Cir. 1980), cert. denied, 450 U.S. 917 (1981)
- Switzer v. Labor Relations Comm'n, 36 Mass. App. Ct. 565 (1994)
- Boston Police Superior Officers Fed'n v. Labor Relations Comm'n, 410 Mass. 890 (1991)
- Alexander v. Labor Relations Comm'n, 404 Mass. 1005 (1989), cert. denied, 493 U.S. 955 (1989)
- Quincy City Hosp. v. Labor Relations Comm'n, 400 Mass. 745 (1987)
- Lyons v. Labor Relations Comm'n, 397 Mass. 498 (1986)
- Barrington Sch. Comm. v. State Labor Relations Bd., 608 A.2d 1126 (R.I. 1992)

- *Leedom v. Kyne*, 358 U.S. 184 (1958)
- *Vaca v. Sipes*, 386 U.S. 171 (1967)
- *Graham v. Quincy Food Serv. Employees Ass'n & Hosp., Library & Pub. Employees Union*, 407 Mass. 601 (1990)
- *Pattison v. Labor Relations Comm'n*, 30 Mass. App. Ct. 9 (1991)

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