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No. 37

In the Matter of Robert P.
Meegan, Jr., &c. et al.,
Respondents,

v.

Byron W. Brown, &c., et al.,
Appellants.

In the Matter of Joseph E. Foley,
&c. et al.,

Respondents,

v.

Byron W. Brown, &c., et al.,
Appellants.

Buffalo Teachers Federation,
Inc., et al.,

Respondents,

v.

Buffalo Board of Education for
City School District of City of
Buffalo et al.,
Appellants.

A. Vincent Buzard, for appellant Buffalo Fiscal
Stability Authority.
Matthew C. Van Vessem, for appellants Byron W. Brown et
al.

James N. Schmit, for appellants Buffalo Board of
Education for City School District of Buffalo et al.
W. James Schwan, II, for respondents Robert P. Meegan,
Jr. et al.

E. Joseph Giroux, Jr., for respondents Joseph E. Foley
et al.

Andrew D. Roth, for respondents Buffalo Teachers
Federation, Inc. et al.

New York State School Boards Association, Inc.; Buffalo
Niagara Partnership, amici curiae.

PIGOTT, J.:

In 2003, because of concern for the City of Buffalo's

financial problems, the Office of the State Comptroller conducted a review of the City's finances and issued a report, concluding that the City had been operating with a deficit for many years and was only able to fund its operations because of increasing state aid and by using its reserves. Based on these and other findings, the Comptroller proposed legislation to establish a City of Buffalo Oversight and Recovery Board whose mission was to ensure effective long-term restructuring of the City's fiscal condition.

In response, the State Legislature created the Buffalo Fiscal Stability Authority (BFSA), a public benefit corporation, to assist in achieving fiscal stability in the City by the 2006-2007 fiscal year (see id. § 3857 [1]). The Legislature stated,

"It is hereby found and declared that the city [of Buffalo] is in a state of fiscal crisis, and that the welfare of the inhabitants of the city is seriously threatened. The city budget must be balanced and economic recovery enhanced. Actions should be undertaken which preserve essential services to city residents, while also ensuring that taxes remain affordable. Actions contrary to these two essential goals jeopardize the city's long-term fiscal health and impede economic growth for the city, the region, and the state" (2003 N.Y. Sess. Laws Ch. 122 § 5695 [McKinney]).

Among other powers, the BFSA was authorized to impose a wage freeze upon finding that such a freeze was essential to the adoption or maintenance of a City budget or financial plan (see id. § 3858 [2] [c] [i]). In April 2004 it did just that,

determining "that a wage freeze, with respect to the City and all Covered Organizations, is essential to the maintenance of the Revised Financial Plan and to the adoption and maintenance of future budgets and financial plans that are in compliance with the Act." The freeze, effective April 2004, prevented any increase in wages, including increased payments for salary adjustments according to "plan and step-ups or increments".

The freeze was lifted in July 2007, whereupon the BFSA and the City indicated that City employees would immediately be entitled to a one-step increase in salary and wages. The Unions objected, however, contending that the employees were entitled to advance the four salary steps that they would have received had the freeze not been imposed.

I.

In 2007, petitioners and plaintiffs (hereinafter "the Unions") commenced these CPLR article 78 and declaratory judgment proceedings and action against respondents (hereinafter "the City") challenging, among other things, the suspension of step-up plan wage increases. Supreme Court granted the petitions, finding that Public Authorities Law Section § 3858 (2)(c)(iii) applies only to wages lost during the freeze and not to longevity and promotional steps provided in the various contracts between the City and its unions and therefore petitioners were "entitled to their previously negotiated wage increase benefits going forward immediately."

The City appealed. The Appellate Division affirmed for essentially the same reasons as Supreme Court (63 AD3d 1673 [4th Dept 2009]). This Court granted leave and we now reverse.

II.

Public Authorities Law § 3858 provides, in relevant part:

"In carrying out the purposes of this title during any control period, the [BFSA] . . . may impose a wage and/or hiring freeze:

(i) During a control period, upon a finding by the [BFSA] that a wage and/or hiring freeze is essential to the adoption or maintenance of a city budget or a financial plan that is in compliance with this title, the [BFSA] shall be empowered to order that all increases in salary or wages of employees of the city and employees of covered organizations which will take effect after the date of the order pursuant to collective bargaining agreements . . . now in existence or hereafter entered into, requiring such salary or wage increases as of any date thereafter are *suspended*. Such order may also provide that all increased payments for . . . *salary adjustments according to plan and step-ups or increments for employees of the city and employees of covered organizations which will take effect after the date of the order pursuant to collective bargaining agreements . . .* requiring such increased payments as of any date thereafter are, in the same manner, suspended.

. . .

(iii) Notwithstanding the provisions of subparagraphs (i) and (ii) of this paragraph, *no retroactive pay adjustments of any kind shall accrue or be deemed to accrue during the period of wage freeze, and no such additional amounts shall be paid at the time a wage freeze is lifted, or at any time thereafter*" (emphasis added).

The City argues that under §§ 3858 (2)(c)(i) and (iii), contractual salary increases, step increases, and other pay adjustments were suspended and did not accrue during the wage freeze period and that, therefore, the union members were only entitled to a one-step increase -- rather than four step increases -- once the wage freeze ended. The Unions, on the other hand, acknowledge that the Act prohibits the accrual of retroactive pay, but argue that their members accrued service credit in the step-salary plan and, upon the lifting of the wage freeze, should receive those salary step increases.

Both parties argue that the plain language of the statute supports their position. In our view, neither interpretation is unreasonable. Ultimately, however, the interpretation proffered by the City most comports with the meaning and purpose of the statute.

The legislation plainly permits the BFSA to suspend all salary and wage increases, including any "step-ups" and "increments" (§ 3858 [2][c][i]). It further provides that "no retroactive pay adjustments *of any kind* shall accrue or be deemed to accrue during the period of wage freeze" (§ 3858 [2][c][iii] [emphasis added]). The term "retroactive pay adjustments of any kind" must be read broadly. Section (2)(c)(iii) refers back to (2)(c)(i), which defines the type of adjustments, including differentials, step-ups and increments, that the BFSA is empowered to suspend. Thus, the Legislature's use of the term

"accrue" in section (iii) provides further evidence of its intent under section (i) that step increases and increments were suspended and did not accrue during the wage freeze.

III.

While examining the specific language of statutory provisions is part of our inquiry, we must also look to the underlying purpose and the statute's history as "we are mindful that in 'the interpretation of statutes, the spirit and purpose of the act and the objects to be accomplished must be considered. The legislative intent is the great and controlling principle'" (Ferres v City of New Rochelle, 68 NY2d 446, 451 [1986] quoting People v Ryan, 274 NY 149, 152 [1937]).

Public Authorities Law § 3850-a sets forth the Legislature's intent. In that provision, the Legislature declared that the "maintenance of a balanced budget by the city of Buffalo is a matter of overriding state concern." This remedial legislation was enacted to provide the city of Buffalo with "long-term fiscal stability," ensuring confidence of investors in the City's bonds and notes and to protect the economy of the region (id.). The Act further provides that "[t]he provisions of this title shall be liberally construed to assist the effectuation of the public purposes furthered hereby" (id. § 3873). Thus, the entire purpose of the statute was to place the city of Buffalo on sound financial ground over the long term. In order to accomplish such purpose, BFSA was empowered to

freeze wages and salary increments until the City's growth and stability were renewed. The intent of the statute supports the City's position.

Accordingly, the order of the Appellate Division should be reversed, with costs, the amended petitions in Matter of Meehan v Brown and Matter of Foley v Brown dismissed, and judgment granted to defendants in Buffalo Teachers Federation, Inc. v Buffalo Board of Education declaring in accordance with this opinion.

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Order reversed, with costs, the amended petitions in Matter of Meehan v Brown and Matter of Foley v Brown dismissed, and judgment granted to defendants in Buffalo Teachers Federation, Inc. v Buffalo Board of Education declaring in accordance with the opinion. Opinion by Judge Pigott. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith and Jones concur.

Decided March 29, 2011