

STATE OF CONNECTICUT
LABOR DEPARTMENT

CONNECTICUT STATE BOARD OF LABOR RELATIONS

IN THE MATTER OF
TOWN OF CANTON

DECISION NO. 3556

-and-

DECEMBER 11, 1997

NAGE/IBPO

Case No. ME-18,817

APPEARANCES:

Attorney Jeffrey Mirman
For the Town

Attorney Raymond F. Parlato
For the Union

DECISION AND DISMISSAL OF PETITION

On January 13, 1997 NAGE/IBPO (the Union) filed a petition with the Connecticut State Board of Labor Relations (the Labor Board) seeking to clarify that an existing bargaining unit of employees of the Town of Canton (the Town) includes the position of Accountant. A hearing on the petition was conducted by the Labor Board on April 9 and July 17, 1997 at which both parties appeared and were allowed to present information concerning the petition. Both parties filed briefs, the last of which was received by the Labor Board on September 2, 1997.

THE HEARING

The 1995 - 1999 collective bargaining agreement between the Union and the Town contains a recognition clause which includes the following description of the bargaining unit represented by the Union:

. . .all non-elected employees of the Town Hall including: Assistant to the Senior Assessor, Assessment Technician, Tax Clerk, Clerk, Clerk/Receptionist, Secretary, Bookkeeper, Assistant Town Clerk, Land Use Coordinator and

Building Technician. Excluded are: Administrative Assistant to the CAO, Director of Public Works, Town Engineer, Finance Officer/Treasurer, Town Clerk, Tax Collector, Director of Planning and Community Development, Water Pollution Control Plant Superintendent, Senior Assessor and Building Official.

In July, 1996, the Town created the position of Accountant. The creation of the position was in response to a suggestion by the Town Auditors that certain financial duties in the Town's Finance Office be segregated. Prior to July 1996, the Finance Office had two positions; the Finance Officer and a bookkeeper. Since July 1996 Marianne Scanlon has occupied the position of Accountant. Before that time, Scanlon worked as a temporary accountant for the Town performing similar duties.

A job description for the Accountant position was promulgated when the position was created. In addition to the specific and numerous duties listed in the description, the following qualifications are required for the job:

Considerable knowledge of general accounting principles and practices with the ability to apply these principles to solve practical problems, perform complex mathematical computations and establish and maintain complex financial records. Ability to interpret a variety of instructions furnished in written, oral or schedule form. Experience with data processing applications in financial accounting and reporting systems. Working knowledge of governmental accounting theory, principles and practices; internal control procedures and management information systems; payroll and accounts payable functions; budgetary , accounting and reporting systems; GAAFR, GAAP, and GASB. Ability to establish and maintain effective working relationships with employees, Town officials and the public; ability to communicate effectively, both orally and in writing.

Scanlon possesses the qualifications required by, and performs the duties listed in, the job description. Specifically, she holds an Associate's Degree in accounting and has worked in various accounting positions over the last thirty years. In her position as Accountant for the Town, she reconciles most of the Town bank accounts as well as the interfund accounts on a monthly basis. She has created and utilizes a number of reports in her job analyzing various expenditures of the Town, which reports are relied upon by Town officials to budget resources and make governing decisions. She assumes the responsibilities of the Finance Officer/Treasurer in her absence.

Scanlon also exercises discretion with regard to several aspects of her job. She decides the timing of transfers of certain funds, often involving large sums. She decides how to categorize revenues in periodic reports to give the Finance Board an accurate reflection of available funds. She also works independently on many projects for the Finance Officer. While the Finance Officer and the Accountant perform each other's jobs in the event of an absence, the lower level financial assistant cannot perform the job of the Accountant in her absence.

DISCUSSION

Conn. Gen. Stat. §7-471(3) provides in relevant part:

. . .No unit shall include both professional and nonprofessional employees unless a majority of such professional employees vote for inclusion in such unit; . . .The term “professional employee” means: (A) Any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given time period; (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital,. as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual or physical processes; or (B) any employee who (I) has completed the courses of specialized intellectual instruction and study described in clause (iv) of subparagraph (A) and (ii) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in subparagraph (A) hereof.

In analyzing the term “professional employee” under a similar provision in the State Employee Relations Act, this Board discussed the considerations, other than title, which might lead to a determination of professionalism. The Board stated:

. . .if a person’s functions, in actual practice, utilized the kind of knowledge of an advanced type in a field of science or learning of the kind specified in the Act, he may be a statutory professional without regard to his title. The key to professionalism on this basis, it seems to us, is the ability to bring to bear on the problems of a job a body of theoretical or conceptual knowledge as distinguished from the know-how that may be gained by experience without a thorough understanding of underlying principles. . . .

State of Connecticut, Dec. No. 1800 (1979).

Here, we find that the Accountant is a professional employee pursuant to the Act. In this regard, we find that she is involved in predominantly intellectual and varied work as opposed to performing routine tasks. She performs tasks which require her to exercise discretion over large sums of money and to create reports upon which the Town’s governing bodies rely in making decisions. Her work is certainly of the type that it cannot be standardized in relation to a given time period. Finally, we find that the accounting work performed by the incumbent requires knowledge of an advanced type in a field of learning customarily acquired by a prolonged course of specialized intellectual instruction in an institution of higher learning. As such, we find this position to be a professional employee which cannot be included in this bargaining unit without a

vote on this question. Because the petitioner has chosen to pursue a petition for clarification, a vote is not appropriate and the petition is dismissed.

ORDER

By virtue of and pursuant to the power vested in the Connecticut State Board of Labor Relations by the Municipal Employee Relations Act, it is hereby

ORDERED that the petition filed herein be, and the same hereby is, **DISMISSED**.

CONNECTICUT STATE BOARD OF LABOR RELATIONS

C. Raymond Grebey

C. Raymond Grebey
Acting Chairman

Thomas G. Gutteridge

Board Member

Patricia V. Low

Alternate Board Member

CERTIFICATION

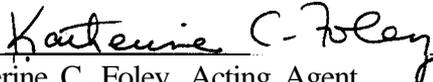
I hereby certify that a copy of the foregoing was mailed postage prepaid this 1 lth day of December, 1997 to the following:

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CONNECTICUT STATE BOARD OF LABOR RELATIONS