

: In the Matter of Compulsory Interest Arbitration :
 : :
 : between :
 : : OPINION
 : Village of Granville Policemen's Benevolent Association: :
 : : AND
 : and :
 : : AWARD
 : Village of Granville :
 : :
 : :
 : :

PERB Case No. IA-120; M79-26

Public Arbitration Panel:
 James A. Cashen, Esq., Chairman
 Wayne D. Williams, Village Representative
 Gerald Washburn, PBA Representative

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 CONCILIATION

Appearances

Philip A. Berke, Esq., Village Attorney
 Al Sgaglione, President, Police Conference of New York, Inc., for
 Granville PBA

In accordance with the statutory provisions applicable to compulsory interest arbitration, more specifically Section 209.4 of the Civil Service Law of the State of New York, as amended July 1, 1977, the undersigned Panel was designated to make a just and reasonable determination of the matters in dispute. In arriving at such determination the undersigned Panel will specify the basis for its findings, taking into consideration the mandated statutory criteria as set forth below:

New York State Civil Service Law, Section 209.4 (v); a,b,c,d:

- a. comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services or requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities.
- b. the interests and welfare of the public and financial ability of the public employer to pay;
- c. comparison of peculiarities in regard to other trades or professions, including specifically, (1) hazards of employment; (2) physical qualifications; (3) educational qualifications; (4) mental qualifications; (5) job training and skills;
- d. the terms of collective agreements negotiated between the parties in the past providing for compensation and fringe benefits,

including, but not limited to, the provisions for salary, insurance and retirement benefits, medical and hospitalization benefits, paid time off and job security.

Issue:

The only issue submitted to the Interest Arbitration Panel for its determination and award was that of salary for members of the unit.

A hearing was held in the above-stated matter in the Village of Granville, New York, at which hearing both parties were afforded full opportunity to present oral and written testimony, cross-examine witness, and submit briefs. The award of this Panel is based on the testimony and materials submitted.

Background:

"The Village of Granville is located in Washington County. It is a Village of less than 3,000 people. The Village submitted information at the hearing that the average income per family residing in the Village is \$3,100. The Village also claimed that there was an exodus of people from the area and that relatively high unemployment existed.

There are five police officers in the bargaining unit. One of them is a sergeant while the other four serve as partolmen, two part-time. The Department also employs a chief but he is not involved in this collective bargaining process directly.

The Village of Granville budget runs from June 1 to May 31 of the following year. For several years prior to the 1979-80 fiscal year, the police budget had been exceeded by a large amount due to excessive overtime.

Beginning in late September of 1978, meetings were held between the Mayor and the Board of Trustees with the chief of police to discuss the rising cost of the police budget. The discussions

centered around possible ways to hold down the rising costs or at least hold them in line. Various alternatives were discussed.

In November of 1978, the Village was informed of the representation of the police force by the Policemen's Benevolent Association and a request to bargain was served on the Village. Thereafter, beginning in February of 1979 when the Village recognized the PBA, negotiations were held. In the Spring of 1979 a mediator was appointed by the Public Employment Relations Board at the request of the PBA.

Contract agreement was not reached during these negotiations or in mediation but in May of 1979 the Village announced it would provide a unilateral wage increase to policemen as of June 1, 1979. In fact, this wage increase was implemented and the increase impacted on the unit in the following manner:

<u>Officer</u>	<u>1978-79 pay</u>	<u>1979-80 pay</u>	<u>\$ Increase</u>	<u>% Increase</u>
K. McKeighan	\$10,650	\$11,786	\$1,136	10.7
J. Voudry	9,000	10,302	1,302	14.5
K. Smith	8,300	9,735	1,435	17.3
G. Ackley	8,300	9,735	1,435	17.3
R. Hout		\$4.36/hour		
A. Roberts		3.82/hour		
D. Petty		3.54/hour		
Part-Time Officers Starting		3.54/hour		

POSITION OF PARTIES

Policemen Benevolent Association

In its presentation to the Interest Arbitration Panel, the PBA presented extensive testimony and documentation relating to the financial condition of the Village of Granville. This information included the tax margin statement for the current fiscal year, the annual report of the Treasurer of Granville for the year ending May 31, 1978, Granville budgets for the year 1978-79 and 1979-80, statement of debt of the Village as of June 15, 1979, parts of an

audit conducted by the State Department of Audit and Control for the period June 1, 1973 through May 31, 1976. Testimony as to this financial information was provided by Edward J. Fennell, an independent consultant retained by the PBA.

Mr. Fennell also testified, largely without contradiction to the Village, as to the general financial condition of the Village. Among other factors he noted was that the constitutional tax margin of the Village currently was \$106,792 and that the percentage margin of that tax margin compared to the tax margin limitation, was 30.7%.

It was also pointed out that the total debt of the Village was \$640,165 as compared to a maximum debt limit of \$1,189,448- a very good ratio.

Note was also made that in the Annual Statement of the Village the cash balance of the various funds was in good condition. Receipts had exceeded expenses in the year ending May 31, 1978 and, according to the PBA, the balance of current funds at the end of May, 1978 was \$91,673 and at the end of May, 1979 was \$181,000.

The Union then noted that its proposal as to a wage increase to be effective retroactive to June 1, 1979 would provide that with respect to the full-time officers on the Police force that Sergeant McKeighan should receive \$12,698, Patrolman John Voudrey, \$10,730 and Patrolman Barry Ackley, \$9,896 for a total of \$1,501. This demand represented 0.43% of the total budget of funds for the current fiscal year and only a 0.62% of the tax levy for the year. It was argued that there was more than enough money to provide for this wage increase from the projected surplus of operating funds for the current year which was estimated to be at \$11,163.

The PBA also demanded that as to part-time officers, R. Hoyt be paid at the rate of \$4.64/hour, R. Roberts at the rate of \$4.03/hour,

and D. Petty at \$3.78/hour. The starting wage for part-time employees was to be set at \$3.35/hour.

In testimony from the police officers actually in the bargaining unit, the wide variety of job responsibilities and functions was noted. The difficulty of performing the police functions in a small village community where there is no jail, little back-up support and no training was stressed. Even more, although State law requires training for Village police officers, none have been trained in Granville.

Note was made that up until June 1, 1979, in spite of a State law requiring a 40-hour per week work limitation except in emergency situations, the policemen in the Village of Granville had been working numerous additional hours in violation of State law. The difficulty in working with part-time patrolmen was also emphasized and the fact that patrolmen were continually leaving for better positions in the State prison system and elsewhere was noted.

In its presentation, the PBA noted that although the Village of Granville was a relatively small governmental unit, the duties of the police officers were identical to those performed in villages, towns and cities of a much larger size. It argued therefore the salary rates for police employed in these jurisdictions should be seriously considered as the job duties and functions were not that different from the police employed by the Village of Granville.

Several contracts were submitted by the PBA for consideration of the panel and note was made of the extensive benefits including the relatively high salary levels, when compared to the benefits and salary demanded by the PBA of the Village of Granville. Thus, the contract between the Village of Hudson Falls and the PBA, the current salary schedule for State Troopers, the contract between the Village of South Glens Falls and the PBA, as well as other recent settlements, were noted and the Interest Arbitration Panel was asked to compare these wages with

those that were being requested by the PBA.

Finally, a PERB published bulletin, dated March, 1979, was submitted by the PBA which cited recent salary settlements for police personnel in New York State in certain cities, towns and villages.

In closing, representatives of the PBA argued that although the Village had supplied a unilateral wage increase to the members of the bargaining unit effective June 1, 1979, such an increase should not be considered sufficient as it was less than that demanded by the policemen and did not bring wages up to those in comparable jurisdictions.

Village of Granville

The Village of Granville, in its presentation, noted certain economic and financial conditions relating to the Village. The average income of Granville residents is approximately \$3100 per year and in recent years there has been an exodus out of Granville because of high taxes and job lay-offs in the major industries. No compelling evidence or testimony was presented by the Village relating to its own financial position which would substantively contradict the presentation by the PBA. While its representative did not draw the same conclusions from the financial evidence presented by the PBA as to the Village finances, no serious "ability to pay" question was raised by the Village.

It was noted by the Village that it had attempted to solve the admitted budget problems in the police unit. Extensive evidence and testimony was given as to the concern of the Village over the extensive overtime incurred by the police department in the past two or three years. Thus, it was noted that in the 1978-79 Village fiscal year the police budget was exceeded by \$17,000 due to excessive overtime and that this was the third year in a row that expenses exceeded budget projections. Attempting to meet this serious situation the Board

in November of 1978 authorized the hiring of six full-time officers.

The Village also noted that it had been unaware of the State law that limited the hours of employment of placement except in emergency situations. It noted that the overtime situation had been resolved as of June 1, 1979 and that since that date overtime was limited to emergency situations.

The Village also noted that it considered the current police force in Granville to be an efficient and effective one and that it had attempted to recognize the value of the policemen's work effort by the salary increase provided to them effective June 1, 1979. In that connection, it was noted that other Village employees received a flat 9% increase whereas the increase afforded to the policemen was much higher. It was argued that the wage increase given compared favorably to what was being paid in other local governmental units and also gave adequate recognition to the fact that extensive overtime pay had been provided to these men in recent prior fiscal years.

The Village also provided information comparing wage rates paid to policemen in Granville to similar wage rates to policemen in comparable surrounding jurisdictions. Thus, comparisons were made with the wages paid in the Villages of Greenwich, Fort Edward, Salem, Whitehall and Cambridge as well as the wages paid in the Washington County Sheriffs Department. Such analysis, argued the Village, would indicate that the current wage rates for the police force in Granville were generous and were more than the wages in effect in these comparable jurisdictions. The Village also noted an analysis made of the cost that would be incurred by the Village if it contracted with the Washington County Sheriff Department for the provision of police

services in the Village. Such an analysis indicated that there could be substantial savings by the Village if it contracted out its work.

The Village urged the panel not to consider the wage rates in the State or in the larger governmental units cited by the PBA as the fiscal condition of such places as well as their size made them inappropriate for comparison to the Village of Granville.

OPINION

In considering the determination as to salary, the arbitrator has been conscious of the criteria to be followed in such a situation as set forth by the State law.

A comparison of the wages of the police in Granville to the wages paid police in comparable surrounding jurisdictions would indicate that the current salary of the police in Granville compares quite favorably with those in the surrounding jurisdictions. In particular, Village Exhibit 11 in showing salaries paid in the immediately surrounding villages in Washington County shows that the wages paid to Granville police, as of June 1, 1979, are higher than those paid to policemen in these other jurisdictions, even those that have larger populations - Fort Edwards and Whitehall. The only exception would be the Village of Hudson Falls, with a population three times that of Granville, where the patrolmen are paid slightly more in salary. Even more, examination of PBA Exhibit 5, which is a report of salaries paid police as compiled by PERB in March of 1979, would confirm the fact that, considering the relative size and geographic location of Granville, its wage rates are comparable to those of most similar sized villages in the State.

While the PBA has pointed to much higher wage rates paid police everywhere, the arbitrator notes that most of those jurisd-

ictions are in many ways not comparable to the Village of Granville. It is also noted by the arbitrator that most recent settlements in governmental units, including the State of New York, provide for wage increases of between 7% - 8% per year.

Consideration of the financial ability of the Village leads the arbitrator to the conclusion that the Village can afford the wage increase demanded by the PBA. Its financial condition is relatively sound and stable as so aptly demonstrated in the presentation by the PBA.

Although the existing financial condition of the Village may be positive, the Village did demonstrate that the Village and the surrounding community was not in good financial shape. In this context, the arbitrator notes the low annual income of residents, the recent exodus of residents and the financial problems of some of the major employers in the area which has resulted in lay offs of many employees residing in the Village of Granville.

The arbitrator also notes that other than for wages all other contract terms have been resolved by the parties and employees have gained substantial benefits and improvements in terms and conditions of employment. This settlement includes a retirement benefit, clothing allowance, sick leave, health insurance and vacation benefit provisions. While such agreement is not determinative as to the PBA wage proposal, it is recognized that substantial economic and non-economic benefits were obtained by the policemen in Granville

It is also noted by the arbitrator that other employees in the Village received a 9% increase in wages for the current fiscal year - substantially less than the unilateral increase already given

to the police in Granville. If the hazardous and pressurized nature of the job of the Village policemen is to be recognized, and the arbitrator believes that such recognition is not unreasonable, the Village of Granville already has done so by the additional percentage increase in salary given to the police as opposed to other Village employees.

In summary, while the Village does have the financial ability to meet the PBA wage demand, consideration of other criteria, including the mandatory statutory criteria, leads the arbitrator to the conclusion that the increase in salary for police already introduced by the Village on June 1, 1979, in general, is just and reasonable given all the considerations referred to above. While the Village may not have been wise, from a labor bargaining standpoint, to have unilaterally instituted a wage increase at the same time it should not be penalized for having done so.

While in general the arbitrator believes that the new wage rates instituted by the Village as of June 1, 1979, represent a fair and equitable increase in wages for the current contract year, the arbitrator does believe that some further adjustment is appropriate. Thus, it is noted that the increase provided to Sergeant McKeighan, which was in the amount of \$1,136 and represented a 10.7% increase, was less in terms of dollar amount and percentage of the increases afforded to both the chief of police and the other full-time patrolmen. In addition, comparison to the relative differences between wages paid to sergeants and policemen in other comparable jurisdictions indicate that a greater differential than currently exists in Granville would not be inappropriate. Accordingly the arbitrator recommends that the salary paid to Sergeant McKeighan in the current 1979-80 fiscal year be

increased by \$250 to a level of \$12,026.

With respect to the other full-time employees, the arbitrator determines that an increase of \$75 be given to Patrolman John Voudry and increases of \$50 per year be given to the other two patrolmen. If, as the arbitrator understands, one of these patrolmen is no longer employed such person should receive a retroactive pro rata salary payment, based on this award, through the time of his termination. As to the wage rates applicable to the part-time policemen in the Village the arbitrator determines that the existing hourly rates payable to them are fair and appropriate and should not be increased during the current fiscal year.

Once this award is implemented, the total salary increases effective on June 1, 1979 for full-time unit police in the Village of Granville can be reflected as follows:

<u>Officer</u>	<u>1978-79 Pay</u>	<u>1979-80 Pay</u>	<u>\$ Increase</u>	<u>%Increase</u>
K. McKeighan	\$ 10,650	\$ 12,026	\$ 1,386	13%
J. Voudry	9,000	10,377	1,377	15.3%
K. Smith	8,300	9,785	1,485	17.9%
G. Ackley	8,300	9,785	1,485	17.9%

STATE OF NEW YORK) SS:
COUNTY OF ALBANY)

James A. Cashen

James A. Cashen, Chairman

On this 2/ day of January, 1980, before me personally came and appeared James A. Cashen, to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that executed the same.

Wayne Williams, Trustee

Wayne Williams, Village Member

STATE OF NEW YORK)
COUNTY OF WASHINGTON) SS:

Sharon A. Nash

SHARON A. NASH
Notary Public, State of New York
Qualified in Albany County 8/81
Commission Expires March 31, 1984

On the 24 day of December before me personally came and appeared Wayne Williams, to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that executed the same.

Richard T. Roberts

RICHARD T. ROBERTS
Notary Public, State of New York
Washington County 4662789
Commission Expires March 30, 1981

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: between :
: Village of Granville Policemen's Benevolent Association :
: and :
: Village of Granville :

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CONCILIATION

PERB CASE M79-26

DISSENTING OPINION BY GERALD F. WASHBURN
EMPLOYEE ORGANIZATION PANEL MEMBER

The Employee Organization Panel Member dissents on the Award issued by the majority in PERB Case M79-26.

Despite the fact that evidence was produced by the PBA during the interest arbitration hearing in the Village of Granville that the Village has the ability to pay the salary demands made by the PBA and despite the fact that the PBA submitted evidence at the arbitration hearing to justify and warrant the PBA membership its salary demands in their entirety, the Award by the majority members of the Panel does not reflect a fair, reasonable or equitable Arbitration Award based on the evidence submitted by the parties at the interest arbitration hearing.

In the Opinion of the Chairman, he states "the arbitrator has been conscious of the criteria to be followed in such a situation as set forth by the State law." The Chairman goes on to state "a comparison of the wages of the police in Granville to the wages paid police in comparable surrounding jurisdictions". No where in the law criteria will one find the word "surrounding". Criteria requires comparability and comparable communities, and comparable communities means state-wide since the application of the law is state-wide.

The Chairman goes on in his opinion to state "the arbitrator also notes that other than for wages all other contract terms have been resolved by the parties and employees have gained substantial benefits and improvements in terms and conditions of employment." The Chairman fails to note that this is the first official document ever negotiated by the parties and that the terms of the settlement were benefits already in effect for the PBA membership but were never condensed into contract language.

The Chairman in his Opinion states that the Village may have been unwise in unilaterally instituting a wage increase. I say the Village is guilty of an improper labor practice charge by unilaterally instituting any wage increase without completing negotiations. The use of the word "unwise" by the Chairman is extremely mild to say the least.

The total salary demand made by the PBA to be shared by the full-time members of the bargaining unit amounted to \$1500.00. The Chairman in his Opinion states the Village can afford the wage increase demanded by the PBA. The Village's financial condition is relatively sound and stable as also aptly demonstrated in the presentation by the PBA, and yet the majority Award's total salary increases amounted to \$375.00 to be shared by the full-time members of the bargaining unit, notwithstanding the fact that according to the Chairman in his Opinion that the hazardous and pressurized nature of the job of the Village Policeman is to be recognized and the Chairman believes that such recognition is not unreasonable. I say the majority of the Panel members in this case have failed to recognize the hazardous and pressurized nature of the job of the Village Policemen.

It is for these reasons I must respectfully dissent from the majority vote of the Interest Arbitration Panel in PERB Case No. M79-26.

Gerald F. Washburn

GERALD F. WASHBURN
Employee Organization Panel Member

STATE OF NEW YORK)
COUNTY OF ALBANY) SS:

On this *8th* day of January 1980, before me personally came and appeared Gerald F. Washburn, to me known and known to be to be the individual described in and who executed the foregoing instrument and he acknowledged to me that executed the same.

Virginia Fissette
Notary Public
State of New York

VIRGINIA FISSETTE
Notary Public, State of New York
COM-12 1980
Residing in Albany County,
Commission Expires March 30, 1981

