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NEW YORK COURT OF APPEALS CASE COMPILATIONS: NEW YORK TRANSIT AUTHORITY V. TRANSPORT WORKERS UNION OF AMERICA, LOCAL 100, AFL-CIO

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NEW YORK CITY TRANSIT AUTHORITY V. TRANSPORT WORKERS UNION OF AMERICA, LOCAL 100, AFL-CIO[1]
(decided October 10, 2002)

I. SYNOPSIS

The New York Court of Appeals reversed the appellate division and held that Public Authorities Law § 1204(15) ("§ 1204(15)")[2] did not prohibit the New York City Transit Authority ("NYCTA") from submitting employee disciplinary actions to an arbitrator, and that the outcome of the arbitrations to which the NYCTA voluntarily submitted did not violate public policy.[3] The court also held that the arbitration awards did not violate any constitutional, statutory or decisional law, as § 1204(15) only alludes generally to public safety and neither explicitly nor implicitly demands for the dismissal of employees who violate safety rules.[4] The court adopted the reasoning of an analogous United States Supreme Court case,[5] and found that since § 1204(15) would not preclude the results reached during arbitrations, public policy is insufficient to justify overturning the arbitrations awards.[6] Therefore, the court reversed the orders vacating the arbitrators' awards.[7] Chief Judge Kaye and Judges Smith, Ciparick, Wesley, Rosenblatt and Graffeo concurred in the judgment.[8]

II. BACKGROUND

New York City Transit Authority v. Transport Workers Union of America[9] is a consolidation of two cases, Nos. 106 and 107,[10] in

1. 99 N.Y.2d 1 (2002).
2. PUBLIC AUTHORITIES LAW §1204 (15) (McKinney 2002).
3. *See* New York City Tr. Auth. v. Transport Workers Union of Am., 99 N.Y.2d 1, 9-10.
4. *See id.* at 12.
5. *See* Eastern Associated Coal Corp. v. United Mine Workers of Am., 531 U.S. 57 (2000).
6. *See In the Matter of New York City Tr. Auth.*, 99 N.Y.2d at 13.
7. *See id.*
8. *Id.*
9. *Id.*
10. *See In the Matter of New York City Tr. Auth.*, 99 N.Y.2d at 6.

which the NYCTA sought to vacate an arbitration award that reinstated an employee who had been terminated for violating safety rules.

A. The Rodriguez Case: Case No. 106

Case No. 106 arose in November 1998 when David Rodriguez, a subway train operator for 16 years, caused a collision and derailment when he failed to set the hand brake while shutting down a train.[11] Even though no injuries were sustained, Mr. Rodriquez had a history of prior suspensions for violating safety rules.[12] Two weeks before the accident Rodriguez attended a training course which taught the need to set the hand brake under the same circumstances.[13] NYCTA dismissed Rodriguez without pay.[14] After a hearing, a three-member arbitration panel upheld NYCTA's finding that Rodriguez failed to follow proper procedures.[15] However, in a decision dated January 22, 1999, the panel, by a two-to-one vote, determined that dismissal of Rodriguez was excessive, given his long tenure of service with only two prior "operational violations."[16] The panel reduced the penalty to time served without pay and a demotion for up to six months.[17]

NYCTA then brought a proceeding pursuant to CPLR article 75 to vacate the award, and the union cross petitioned to confirm. The supreme court, in an order dated October 15, 1999, ruled in the union's favor.[18] The appellate division, Second Department, reversed and vacated the arbitrators' reduction of the penalty and reinstatement of Rodriguez.[19] The court held that the arbitrator violated public policy by requiring the municipal transit authority to reinstate an employee, who had two prior operational suspensions, and who operated a subway train in a manner which jeopardized the safety of co-workers as well as the public. In so ruling, the

11. *See New York City Tr. Auth.*, 99 N.Y.2d at 5.
12. *Id.*
13. *Id.*
14. *Id.*
15. *See id.* at 6.
16. *In the Matter of New York City Tr. Auth.*, 99 N.Y.2d at 6.
17. *Id.*
18. *See* NYCTA v. Transport Workers Union of Am., 719 N.Y.S.2d 264 (App. Div. 2001).
19. *See id.* at 265.

court relied on the statutory duty of the NYCTA to operate the transit system for the safety of the public, as provided in § 1204(15).[20]

B. The Bright Case: Case No. 107

Case No. 107 arose in June 1999 when Leroy Bright, a bus driver for over 20 years, struck and injured a pedestrian.[21] The transit authority suspended him without pay in contemplation of dismissal. The Transport Workers Union ("TWU") invoked the grievance/arbitration procedure pursuant to the terms of the collective bargaining agreement on Bright's behalf. A hearing was held before a single arbitrator,[22] who found that Bright was responsible for the accident, but declined to impose the penalty of dismissal.[23] Instead, the arbitrator ordered reinstatement without back pay.[24] On the petition of the NYCTA, the supreme court vacated the arbitrator's award and upheld Bright's dismissal. It said that requiring the authority to reinstate Bright as a bus driver "would cause the authority to act in a way inconsistent with its statutory obligations pursuant to Public Authorities Law § 1204(15) to do everything possible to operate the buses and subways for the 'safety of the public.'"[25] The Appellate Division, Second Department affirmed in a memorandum opinion.[26]

On the TWU's motion, the Court of Appeals granted leave to appeal in these cases to consider whether the courts below properly vacated the arbitration awards as violative of public policy.[27]

III. DISCUSSION

The Court of Appeals began its analysis with a brief overview of arbitration policy, and the public policy exception to the broad power of the parties to agree to arbitrate their disputes and the

20. NYCTA, 719 N.Y.S.2d at 265.
21. *See New York City Tr. Auth.*, 99 N.Y.2d at 6.
22. *Id.*
23. *Id.*
24. *Id.*
25. *Id.*
26. *See* NYCTA. v. Transport Workers Union of Am., 721 N.Y.S.2d 544 (N.Y. App. Div. 2001).
27. *See New York City Tr. Auth.*, 99 N.Y.2d 1.

power of arbitrators to fashion the parties' remedies.[28] The court then considered the NYCTA's contentions that the arbitration awards below should be vacated.[29] The court ultimately found that the cases at issue failed to meet either of the two prongs of the public policy exception to vacate the arbitration awards.[30] Therefore, the court reversed the Appellate Division's orders and reinstated the judgments of the Supreme Court, Kings County.[31]

A. Arbitration Awards And Public Policy

Under modern arbitration jurisprudence, there are policies both in favor of supporting arbitration and in discouraging judicial intervention with regard to both the process and the outcome of such proceedings.[32] Judicial intervention on public policy grounds is a narrow exception to the broad powers of parties to submit to arbitration of their disputes, and the expansive power of arbitrators to decide such matters.[33] Courts must be able to examine arbitration agreements or awards facially. They must not engage in fact-finding or legal analysis in coming to the conclusion that public policy precludes enforcement of the final determination.[34]

In this case, the parties submitted to arbitration pursuant to a collective bargaining agreement.[35] The court noted that judicial restraint is appropriate in these types of cases.[36] The court specifically pointed to the Taylor Law,[37] in which the Legislature explicitly adopted a policy of encouraging public employers and employees to agree upon procedures for resolving disputes as a means for achieving peace in the public sector, and preventing labor strife which resulted in work stoppages under prior law.[38]

The court also pointed out the advantages of submitting to arbitration in labor disputes, as well as the correlative disadvantages

28. *See New York City Tr. Auth.*, 99 N.Y.2d at 7.
29. *See id.* at 8-12.
30. *Id.*
31. *See id.* at 13.
32. *See id.* at 7.
33. *New York City Tr. Auth.*, 99 N.Y.2d at 7.
34. *Id.*
35. *See id.* at 6.
36. *See id.* at 7.
37. CIVIL SERVICE LAW §200.
38. *See New York City Tr. Auth.*, 99 N.Y.2d at 7.

of judiciary intervention in this field.[39] In labor disputes arbitrators are chosen by labor and management because arbitrators are particularly knowledgeable about the relationship of the parties, their needs, and the existing conditions in the specific bargaining unit.[40] A judge, on the other hand, is less sensitive to these issues since he or she does not have the same experience or competence to decide such proceedings.[41]

B. Public Authorities Law § 1204(15)

The NYCTA argued below, and the Appellate Division agreed, the arbitration awards should be vacated as a violation of the general statutory powers granted to the NYCTA under the Public Authorities Law:[42] "to exercise all requisite and necessary authority to manage, control and direct the maintenance and operation of transit facilities. . .for the convenience and safety of the public."[43]

§ 1204(15) forms the basis for vacating the arbitration awards only if the court is able to conclude, "without engaging in any extended fact-finding or legal analysis" that it "prohibits, in an absolute sense, the particular matters to be decided or certain relief being granted."[44] The court found that the NYCTA could not satisfy the first prong of the public policy exception: that § 1204(15) "prohibits in an absolute sense the particular matters to be decided. . .by arbitration".[45]

§ 1204(15) does not prevent the NYCTA from entering into collective bargaining agreements which provide for the arbitration in the case of disciplining employees when they commit safety violations. The collective bargaining agreements in this case explicitly specified that "no warning, reprimand, suspension or dismissal shall be imposed until the completion of the disciplinary procedure" before an arbitrator.[46] § 1204(15) does not expressly reserve to the

39. *See New York City Tr. Auth.*, 99 N.Y.2d at 8.
40. *Id.*
41. *Id.*
42. *See* NYCTA, 721 N.Y.S.2d at 544.
43. PUBLIC AUTHORITIES LAW §1204 (15).
44. *See New York City Tr. Auth.*, 99 N.Y.2d at 9, citing *Matter of Sprinzen*, 46 N.Y.2d at 631 (1979); *Rockland County Patrolmen's Benevolent Assn.*, 65 N.Y.2d 677 (1985).
45. *See New York City Tr. Auth.*, 99 N.Y.2d at 9.
46. *See New York City Tr. Auth.*, 99 N.Y.2d at 9.

NYCTA the non-delegable responsibility to decide the appropriate penalty for an employee's breach of safety rules.[47]

Once the arbitration determinations are made, nothing in § 1204(15) gave the NYCTA the authority to supersede such decisions.[48] The court cited *Matter of New York State Correctional Officers and Police Benevolent Association*[49] as controlling precedent. In that case, a prison guard, employed by the New York Department of Correctional Services, was suspended from duty because he flew a Nazi flag from his front porch. His suspension was submitted to arbitration as required by the collective bargaining agreement between the correctional officers' union and New York State. The arbitrator found the employee not guilty of the charges contained in the notice of discipline, and reinstated him. Petitioners, employee and union, sought confirmation of the award and respondent sought to vacate. Affirming, the court held that the award did not violate the well-defined constitutional, statutory or common law of New York. By submitting the issue of petitioner employee's conduct to arbitration, the parties placed upon the arbitrator the responsibility of passing on the implications of employee's offensive conduct under the collective bargaining agreement and the court could not reject the findings because it did not agree with them.[50] Accordingly, the court honored the NYCTA's decision that the arbitrators, acting within their authority under the collective bargaining agreements, could rule on the appropriateness of the penalty of dismissal.[51]

Finally, the court found that the cases at issue did not qualify for judicial intervention under the second prong of the public policy exception: that the award itself "violates a well-defined constitutional, statutory or common law of this State."[52] The awards on their face did not disregard safety concerns or the seriousness of breaches of safety rules. While the arbitrators reinstated both Rodriquez and Bright, they did impose serious financial sanctions. A forfeiture of six weeks pay and a six month demotion was imposed

47. *See New York City Tr. Auth.*, 99 N.Y.2d at 9.
48. *Id.*
49. 94 N.Y.2d 321 (1999).
50. *See id.* at 329.
51. *See New York City Tr. Auth.*, 99 N.Y.2d at 11.
52. *Id.*

on Rodriguez. Bright lost over four months pay and the court issued a warning of possible future termination on the occurrence of another breach.[53]

The court then considered whether an identifiable public policy exists, "embodied in statute or decisional law, which prohibits, in an absolute sense" the arbitrators from substituting severe sanctions for outright dismissal in these cases.[54] The court interpreted the policy mandate of § 1204(15) as the enforcement of *some kind* of disciplinary regime when transit employees violate safety rules and thereby cause dangerous accidents.[55] Such a policy mandate does not require the imposition of dismissal as the final sanction. Therefore, § 1204(15) does not justify overturning the arbitrators' awards of substantial forfeiture of pay and probation in these cases.[56]

IV. CONCLUSION

In *New York City Transit Authority v. Transport Workers Union of America*, the New York Court of Appeals held that § 1204(15) did not prohibit the NYCTA from submitting employee disciplinary actions to an arbitrator, and that the outcome of the arbitrations to which the NYCTA voluntarily submitted did not violate public policy.[57] The court also held that the arbitration awards did not violate any constitutional, statutory or decision law, as § 1204(15) only alludes generally to public safety and does not specifically require the dismissal of employees who violate safety rules.[58]

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53. *New York City Tr. Auth., 99 N.Y.2d at 11.*
54. *See id.* at 15, citing *Matter of Sprinzen*, 46 N.Y.2d at 631.
55. *See New York City Tr. Auth.*, 99 N.Y.2d at 16.
56. *See id.*
57. *See id.* at 9-11.
58. *See id.* at 12-13.