Arbitration

The State of Connecticut	Gr: Managerial Longevity
And	Case # S-14
SEBAC	Date: December 21, 2012

Arbitrator: Roberta Golick, Esq.

Hearing: December 13, 2012

Appearances: For the State
Linda Yelmini, Director
Office of Labor Relations

For SEBAC
Dan Livingston, Esq.
Livingston, Adler, Pulda, Meiklejohn & Kelly P.C.

The Issue

The parties framed the issue as follows:

> Did the sacrifices required of managers as a result of the 2011 budget crisis at least equal those required of bargaining unit employees in bargaining units that ratified agreements consistent with the requirements of the SEBAC 2011 Revised Agreement?

The parties agreed that the question of remedy should be postponed pending a ruling on the stipulated issue.

Background

The operative facts are not in dispute. In 2011, SEBAC and the State of Connecticut engaged in discussions to address the enormous budgetary deficit anticipated for the 2012-2014 biennium. The theme that the Administration stressed throughout these discussions was "shared sacrifice." The budgetary crisis was to be approached through a combination of cuts, tax increases, and concessions and savings from State workers.

In addition to pension and healthcare changes that SEBAC eventually consented to, the Coalition – in the spirit of shared sacrifice – agreed to a modification in the area of longevity benefits. It is that longevity agreement, and in particular, the promise articulated by the Administration in connection with that longevity agreement, that serves as the basis for this SEBAC grievance. It is SEBAC's contention that the Administration did not live up to its promise, which was that longevity sacrifices to be imposed upon *non-represented* State workers (primarily managers) would be equal to or greater than the longevity sacrifices agreed to for *represented* State workers.

Prior to the changes wrought by the 2011 budget crisis, both represented workers and managers enjoyed longevity benefits. For all employees, eligibility for longevity benefits would commence at ten years of service. The next incremental step would occur at fifteen years. At twenty years of service employees would be eligible for the next incremental step. The final step would occur at twenty-five years. Longevity payments were paid in two installments during the year – in April and in October. Within the SEBAC unions, the structure of the longevity benefits differed depending on the bargaining unit. Some units had in their contracts a "cap" on longevity, which meant that employees' longevity payments were fixed and did not increase with general wage increases. Accordingly, in time, their longevity payments became a smaller percentage of their salaries. Other units were "uncapped." Their longevity benefits stayed abreast with their wage increases, but they might have received smaller wage increases to compensate.

As a result of the discussions between SEBAC and the Administration, SEBAC agreed to the following longevity provision:

Longevity

1. New Employees – No employee first hired on or after July 1, 2011 shall be entitled to a longevity payment; provided, however, any individual hired on or after said date who shall have military service which would count toward longevity under current rules shall be entitled to longevity if they obtain the requisite service in the future.

2. Current Employees – No service shall count toward longevity for the two (2) year period beginning July 1, 2011 through June 30, 2013. Effective July 1, 2013, any service accrued during that period shall be added to their service for the purpose of determining their eligibility and level of longevity entitlement if it would have counted when performed.

3. Capped units – Individuals in units with capped longevity shall not receive a longevity payment in October, 2011.

4. Uncapped units – The employer representative and the bargaining unit with uncapped longevity shall meet and discuss the issue of longevity. The parties shall agree on a procedure by which individuals in those units shall contribute an amount equal in value to the amount that was contributed in the Capped units. Default is that uncapped units will give up longevity using the Executive Branch Bargaining unit schedule.

As alluded to in Paragraph 4 above, one of the complicating factors in arriving at an even-handed longevity sacrifice within SEBAC itself was this disparity between “capped” and “uncapped” benefits. It was ultimately determined – and there is no issue around this – that to equalize the two groups, where a member in a capped unit would be foregoing one full longevity payment in October 2011, a member in an uncapped unit would forego approximately 24% of that installment. This was a one-time event.

The Administration’s treatment of managers’ longevity benefits was different from that of the represented units. The sacrifice for managers may be summarized as follows:

1. Longevity eligibility for managers was frozen. Managers who were not eligible for the longevity payments that were made in April 2011 (i.e., those who had not yet reached ten years of service) would never get a longevity benefit.

and

2. Managers who were eligible for longevity and did receive an April 2011 payment would receive whatever their longevity payment was in April 2011 for the remainder of their careers.

In October 2011 SEBAC filed the following complaint:

> Under SEBAC 2011, it was agreed that managers would make longevity sacrifices comparable to those made by the represented workforce. Longevity payments were frozen for two years – but preserved over the long-term – for members of the unions in SEBAC. In addition, the October 2011 bonus was forfeited in capped units, with equivalent losses in represented uncapped units. Since managers were paid the full October longevity bonus, some managers will never make equivalent sacrifices – particularly those who retire shortly, or those who already have 25 years of service.

The question at hand is whether, as promised by the Administration, the sacrifices by managers in the area of longevity were at least equal to the sacrifices endured by the represented employees.

Discussion

To start, let us review the sacrifices of each group. SEBAC's sacrifices are the following:

- No longevity benefit ever for employees hired on or after July 1, 2011 (with an exception, not in issue here, for persons hired later with military service);
- No longevity payment in October 2011 for "capped" employees; approximately a 24% reduction in the October longevity payment for "uncapped" employees;
- A freeze on longevity step movement for two years, after which employees 'snap' to where they would have been if there had been no freeze.

The managers' sacrifices are the following:

- No longevity benefit ever for managers who had not already reached ten years of service and begun to receive longevity payments by April 2011;
- No further longevity progression for any manager; amount paid in April 2011 frozen for the remainder of the manager's career.

It becomes starkly apparent upon comparison of these two sets of sacrifices that the reduction in the longevity benefit for managers cuts far deeper than the reduction in the longevity benefit for SEBAC represented employees. One enormous difference is that SEBAC was able to retain a longevity benefit for employees hired any time prior to July 1, 2011. What that meant to SEBAC was that all current employees as of July 1, 2011 would continue to enjoy a longevity benefit for the remainder of their careers. In contrast, the cutoff for longevity eligibility on the manager side was a decade earlier. What that meant for managers was that managers hired after July 1, 2001, all of whom would have looked forward to a longevity benefit in their future, many of whom might have been approaching eligibility for the commencement of this economic benefit, would in fact have no longevity benefit at all, ever.

Another difference is that SEBAC was able to secure for its members hired before July 1, 2011, a resumption of the full longevity benefit following the two-year 'time freeze.' For many represented employees, the two-year freeze would have no impact whatsoever. The freeze would only affect employees who would have transitioned to the next incremental level in one of those two years. When the 'time freeze' ends, the benefit is restored to all, as if there had never been a freeze. For managers, however, the 'time freeze' is forever. Whatever level of benefit managers were at for the April 2011 payment will be their level for the rest of their careers.

It is true, as SEBAC argues, that unlike represented employees, managers did not "sacrifice" the October 2011 longevity installment. But that one-time difference in treatment between the two groups is small compared to the "reach-back" cutoff and the permanent freeze imposed on managers. Group to group, managers fared far worse.

If that were not already plainly evident, further evidence is found in a review of how SEBAC ended up with a set of sacrifices that differed from those the Administration planned for its managers. During the 2011 discussions, the Administration proposed to SEBAC the very same longevity concessions that were being imposed on managers. SEBAC rejected those proposed concessions as far too harsh a modification of the existing benefit, and SEBAC ultimately succeeded in gaining agreement on the current terms.

SEBAC's complaint here is not based on a group to group comparison. Rather, it focuses chiefly on the fact that managers did not sacrifice their October 2011 longevity payment while SEBAC members either got no payment for October or approximately a 24% reduction in their October 2011 payment. Further, SEBAC points out that those managers who had 25 years as of April 2011 made no sacrifice at all, while union employees with 25 years made a one-time sacrifice of either all or approximately 24% (depending upon their capped/uncapped status), of their October payment.

Where SEBAC's argument fails is in its *micro* approach to the notion of "shared sacrifice" rather than the *macro* approach that is warranted. In any agreement covering a broad assortment of employees in different stages of their careers, there are going to be individuals who appear to do better than others. Even within SEBAC itself, the 2011 provision will have a larger or smaller economic impact on employees depending on their years of service. The notion of "shared sacrifice" must be considered in the context of the whole group. By focusing instead on what may appear to be inequities between individuals, the aggrieved employees in this matter lose sight of the big picture, past and future.

The conclusion is inescapable: SEBAC as a collective group fared far better than did the managers with respect to the longevity benefit.

Accordingly, the grievance must be denied.

Award

> The sacrifices required of managers as a result of the 2011 budget crisis were larger than those required of bargaining unit employees in units that ratified agreements consistent with the requirements of the SEBAC 2011 Revised Agreement.
>
> The grievance must therefore be denied.

Roberta Golick

Roberta Golick, Esq.
Arbitrator

Date: December 21, 2012