

Trades Unions Prevail As Mayor is Ruled Wrong on Wage Shift

By DAVID SIMS | Posted: Monday, July 9, 2012 4:15 pm

Some 10,000 municipal skilled-trades workers July 5 won a court decision upholding their rights to prevailing wages determined by the City Comptroller's Office after they were stripped of them by an Executive Order of the Mayor in April. The Bloomberg administration immediately announced plans to appeal.

Manhattan Supreme Court Justice Manuel J. Mendez ruled that the Mayor had acted capriciously in ending a 118-year-old practice by moving the workers covered under Section 220 of the State Labor Law into the same bargaining framework as the rest of the city's workforce.

'Inappropriate From the Get-Go'

"We're very pleased the judge agreed that the city overreached by stripping workers of prevailing-wage protections," AFL-CIO New York City Central Labor Council President Vincent Alvarez said in a statement. "It was an inappropriate action from the get-go, and would have hurt thousands of workers and their families. This a great win, and it belongs to all the unions who got together to fight back when the city overstepped its authority."

Corporation Counsel Michael A. Cardozo said in a statement, "The administrative change the city made seeks to undo an expensive anomaly in New York City government, and was implemented by other major jurisdictions in the state years ago. These workers should bargain for their wages and benefits like other city employees, as well as other public employees around the state. Our actions were firmly rooted in statute and judicial precedent. We disagree with the decision and will be appealing it."

The Mayor had argued that the change was not significant and merely removed the Comptroller's unilateral power to set wages for a certain group of workers. But the many unions representing the workers, who collectively filed suit against the Executive Order, said that Mr. Bloomberg had ignored state labor laws, collective-bargaining laws and city civil service laws.

The Executive Order took away the provisions allowing skilled-trades workers to petition the Comptroller's Office for a study comparing their work to that of similar private-sector employees and set wages that way.

Wanted Direct Bargaining

Instead, wages would be determined through bargaining between unions and City Hall, with appeals through the usual dispute-resolution process instead of the Comptroller's Office.

Municipal Labor Committee Chairman Harry Nespoli, who joined the suit with an amicus brief,

criticized the Mayor's approach to the Executive Order. "The way it was put together was very poorly done by the Mayor's people. They never even turned around and notified the unions about their intentions. They should have sat down and talked to them," he said in a phone interview.

"The judge found exactly what the unions were talking about, that it was done unprofessionally," he continued. "It changed sick time for them, it changed terminal leave for them, it changed paid holidays, welfare funds, contributions. There was more to it than what the Mayor was saying."

Justice Mendez detailed in his decision the potentially significant changes for employees. "Sick-day accruals have been halved; terminal leave currently accumulating up to 100 days is modified to 70 days...and payment to employees not covered under Workers' Compensation has been eliminated along with contributions to the welfare and retiree fund for unionized employees," he wrote.

Major Salary Impact

Salaries would have also changed in many titles, he pointed out. "A Boilermaker Supervisor currently earning approximately \$114,587 will have a range of \$85,000 to \$105,000," he noted. "A Blacksmith Supervisor earning approximately \$114,587 will have a range of \$98,000 to \$114,000."

Saying that the changes were "unilaterally altered by the [city] without any notice, hearing or determination by the New York State Civil Service Commissioner," Justice Mendez ruled that the unions were now "trying to obtain accrued salary, time and benefits without being afforded the statutory protections of civil servants."

Saying the Executive Order did "not have a rational basis" and calling it "arbitrary and capricious," Justice Mendez annulled the order.

State AFL-CIO: 'Welcome News'

State AFL-CIO President Mario Cilento said in a statement, "[This] is welcome news to thousands of hard-working New Yorkers whose prevailing wage protections were denied. The city's actions were a transparent power grab that would have had a detrimental impact on middle-class workers. This is a great victory and a direct result of our movement's ability to work together and fight back when management blatantly disregards the voice of its workers."

Teamsters Local 237 President Gregory Floyd, who represents some 2,000 workers affected by the decision in titles like Elevator Mechanic, Bricklayer, Plasterer and Cement Mason, said his union had filed an identical but separate suit and is still waiting on the decision.

Nonetheless, "I knew that justice would prevail," he said in a phone interview. "The bargaining process, like it or not, is what it is. It's been that way for over 100 years, and I didn't see the Mayor changing it with an executive order."

A spokesman for City Comptroller John C. Liu said in a statement, "This office has set prevailing wages for more than a century and the Mayor's current labor strategy has resulted in 200,000 men

and women working without a contract in this city. We fully agree with the court's decision in this case and hope that City Hall will focus on the real issues affecting our city.”