

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 00-1485

September Term, 2001

THIS JUDGMENT VACATED AND REPLACED BY ORDER OF JANUARY 7, 2002.

AMENDED JUDGMENT FILED NOVEMBER 9, 2001.

Filed On: November 9, 2001 [637390]

Association of Civilian Technicians, New York State Council,
Petitioner

v.

Federal Labor Relations Authority, Respondent

Petition for Review of an Order of the Federal Labor Relations Authority

Before: GINSBURG, *Chief Judge*, HENDERSON, *Circuit Judge*, and WILLIAMS, *Senior Circuit Judge*.

J U D G M E N T

This appeal was considered on the record from the Federal Labor Relations Authority and on the briefs and arguments of the parties. The court has determined that the issues presented occasion no need for an opinion. *See* D.C. Cir. Rule 36(b). It is

ORDERED AND ADJUDGED that the petition for review should be DENIED. Both parties agree that petitioner's collective bargaining proposal would require the Guard to fill technician positions at NEAD with civilian technicians, implicating the Guard's right to determine its organization. Petitioner argues that the proposal requires the Guard to fill technician positions with civilian technicians only because it incorporates the Guard's regulation, ANGI 36-101, to that effect. Petitioner then contends that a proposal that merely requires the Guard to comply with its own regulation cannot impermissibly infringe upon the Guard's right to determine its own organization; all the Guard need do to escape the burden is to change its regulation. We conclude, however, that the FLRA correctly determined that ANGI 36-101 does not require the Guard to hire civilian technicians; therefore, petitioner's argument fails at the first step.

The clerk is directed to withhold issuance of the mandate herein until seven days after disposition of any timely petition for rehearing. *See* D.C. Cir. Rule 41.

Per Curiam
FOR THE COURT:
Mark J. Langer, Clerk

BY:
Deputy Clerk