

STATE OF HAWAII  
HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of	)	CASE NO. DR-12-44
	)	
EILEEN R. ANDERSON, Mayor	)	DECISION NO. 167
of the City and County of	)	
Honolulu,	)	
	)	
Petitioner,	)	
	)	
and	)	
	)	
STATE OF HAWAII ORGANIZATION	)	
OF POLICE OFFICERS (SHOPO),	)	
	)	
Intervenor.	)	
_____	)	

FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND ORDER

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On July 20, 1982, EILEEN R. ANDERSON, Mayor of the City and County of Honolulu [hereinafter referred to as Petitioner], by and through her attorney, Charlotte J. Duarte, filed a Petition for Declaratory Ruling with this Board. Petitioner sought a determination by this Board as to whether its ruling in Decision No. 161, State of Hawaii Organization of Police Officers (SHOPO), 3 HPERB \_\_\_\_\_ (1982), regarding arbitrability of grievances was applicable to pending grievances filed by the STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS [hereinafter referred to as SHOPO].

A hearing on the instant petition was held in the Board's hearings room on September 21, 1982, pursuant to due notice.

Based upon a review of the record and arguments presented in this case, the Board makes the following findings of fact, conclusions of law and order.

### FINDINGS OF FACT

Petitioner EILEEN R. ANDERSON is the Mayor of the City and County of Honolulu and a public employer within the meaning of Subsection 89-2(9), Hawaii Revised Statutes [hereinafter referred to as HRS], of employees of the City and County of Honolulu who are in Unit 12 (Police Officers).

Intervenor SHOPO is an employee organization and is the exclusive representative, as defined in Subsection 89-2(10), HRS, of Unit 12. SHOPO, here, represents the interests of Virginia L. Sanderson, formerly a police officer with the Honolulu Police Department and a member of Unit 12.

Pursuant to Administrative Rules, Section 12-42-8(g)(F), the Board takes judicial notice of the records and files in Case No. CE-12-66 culminating in Decision No. 161, State of Hawaii Organization of Police Officers (SHOPO), supra [hereinafter referred to as SHOPO case].

The Board in the above-cited case held inter alia, that the Employer's refusal to arbitrate the grievance of Virginia L. Sanderson contrary to a prior settlement agreement constituted a prohibited practice. The Board thereupon ordered the Employer to cease and desist from its prohibited practices and affirmatively ordered the parties to submit the subject dispute, in good faith, to an arbitrator for a determination of arbitrability in accordance with applicable contractual procedures.

At the hearing on this matter, respective counsel for the parties indicated a disagreement as to the issue to

be submitted to the arbitrator. Counsel for Petitioner indicated that the arbitration proceedings were therefore at a stalemate. Transcript [hereinafter referred to as Tr.] p. 3. Counsel for Intervenor SHOPO stated that the decision is clear and no further clarification is required of the Board. Tr. p. 7. Both parties agreed through their counsel, that Decision No. 161 directed the issues to be submitted to an arbitrator for resolution. Tr. pp. 7-8.

#### CONCLUSIONS OF LAW

Section 12-42-9(f), Administrative Rules, provides in part: "The board may, for good cause, refuse to issue a declaratory order."

Pursuant to the foregoing rule, the Board declines to issue a declaratory order in this case. The decision issued in the SHOPO case is clear and unambiguous. Moreover, the holding in that case appears to be understood by both parties as it was mutually agreed at the hearing in this matter that the arbitrability issue is to be submitted to an arbitrator. As the subject petition for declaratory ruling appears to have been filed under a misapprehension of SHOPO's position or because of a misunderstanding between the parties and further clarification of the Board's prior order is unnecessary, there exists good cause not to issue an order here.

#### ORDER

The petition is hereby dismissed.

EILEEN R. ANDERSON, Mayor of the City and County of Honolulu  
and STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS  
(SHOPO), Case No. DR-12-44  
Findings of Fact, Conclusions of Law and Order

DATED: Honolulu, Hawaii, October 26, 1982.

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD

  
MACK H. HAMADA, Chairperson

  
JAMES K. CLARK, Board Member

  
JAMES R. CARRAS, Board Member

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