

Public Employees - Illegal Strikes

Directive #14-68
Issued by:

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Administrative Director

The Chief Justice has asked me to advise the Assignment Judges and Chancery Judges that the Supreme Court has agreed upon the following general policy to be followed where injunctive relief against an illegal strike by public employees is sought and granted:

1. Every violation of an injunction, whether temporary or final, restraining an illegal strike by public employees should be promptly prosecuted by the judge who entered the order, either on application of the party who sought the injunction, or, if no such application is made, on the judge's own initiative. This should be made clear to all parties at the time the injunctive order is applied for and entered.
2. No judge should participate in any way in negotiations between the parties in an effort to settle their dispute because the responsibility for mediation of labor disputes in public employment has been specially placed by statute in the Public Employment Relations Commission (*N.J.S.A. 34:13A-5.2*), and it would be inappropriate for a judge to interfere with or become involved in what is clearly a non-judicial matter. Moreover, such participation might compromise the judge's impartial consideration of any applications for relief that might be made. If injunctive relief has been granted such involvement might compromise the judge's obligation to prosecute violations of the order.
3. Where it appears that an injunctive order has been violated, the judge entering the order must determine, on the basis of affidavits or sworn testimony, whether the violations should be dealt with criminally by reference to the Grand Jury for indictment or whether to proceed by way of contempt in accordance with *R. 1:10-2(c)* although ordinarily the latter course would be pursued. To determine the facts, i.e., service of the injunctive order and the violation of it, the judge may rely on affidavits or may subpoena witnesses and take sworn testimony.
4. Since by *R. 1:10-2(c)* the judge who entered the order alleged to be violated is disqualified from hearing the contempt proceedings, the order to show cause should be made returnable before the judge assigned by the Chief Justice to sit in the event of a disqualification (see order of the Chief Justice dated September 9, 1968). If for any reason the judge so assigned cannot hear the matter, the Chief Justice should be so advised, through the Administrative Director, so that another judge may be assigned.

EDITOR-S NOTE

The applicable rule has been updated. *R. 1:10-2(c)* has replaced *Rule 4:87* of the original text. The Public Employment Relations Commission and applicable statutory cite replace the reference in the original to the "newly created Division of Public Employment Relations and its commission and staff."