

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D20347
Y/kmg

_____AD3d_____

Argued - June 12, 2008

ROBERT A. SPOLZINO, J.P.
STEVEN W. FISHER
EDWARD D. CARNI
THOMAS A. DICKERSON, JJ.

2007-10623

DECISION & ORDER

MTA Bus Company, respondent, v Transport
Workers Union of America, AFL-CIO,
et al., appellants.

(Index No. 37468/05)

David B. Rosen, New York, N.Y., Davis Wright Tremaine, LLP, New York, N.Y. (Victor A. Kovner and Matthew A. Leish of counsel), and Gladstein, Reif & Meginnis, New York, N.Y. (Walter M. Meginnis, Jr., of counsel), for appellants (one brief filed).

Andrew M. Cuomo, Attorney General, New York, N.Y. (Benjamin N. Gutman, Peter Karanjia, and Neil H. Abramson of counsel), for respondents.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Larry A. Sonnenshein, William Fraenkel, and Mordecai Newman of counsel), for City of New York, amicus curiae.

Harry Greenberg, Lake Success, N.Y., for Municipal Labor Committee, amicus curiae.

In an action, inter alia, to enjoin the prospective violation of Civil Service Law article 14 (the Taylor Law), the defendants appeal from an order of the Supreme Court, Kings County, (Balter, J.), dated November 7, 2007, which denied their motion to reinstate their right to deduct union dues from the paychecks of their members employed by the plaintiffs and required them to submit, with any future application to reinstate that right, affidavits from the President and each

October 14, 2008

Page 1.

MTA BUS COMPANY v TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO

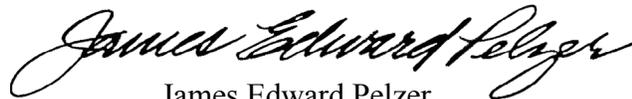
individual member of the Executive Board of Local 100 of Transport Workers Union of America, AFL-CIO, comporting with the requirements of Civil Service Law § 207(3)(b).

ORDERED that the order is modified, on the facts and in the exercise of discretion, by deleting the provision thereof requiring the appellants to submit, with any future application to reinstate their right to deduct union dues from the paychecks of their members employed by the plaintiffs, affidavits from the President and each individual member of the Executive Board of Local 100 of Transport Workers Union of America, AFL-CIO, comporting with the requirements of Civil Service Law § 207(3)(b), and substituting therefor a provision requiring that, with any future application to reinstate its right to deduct union dues from the paychecks of its members employed by the plaintiffs, the Union submit a duly-authorized affirmation stating unequivocally that the Union does not assert the right to strike against any government, to assist or participate in any such strike, or to impose an obligation to conduct, assist, or participate in such a strike, and that the Union has no intention, now or in the future, of conducting, assisting, participating, or imposing an obligation to conduct, assist or participate in any such strike, or threatening to do so, against the plaintiffs or any governmental employer; as so modified, the order is affirmed, with costs to the respondents.

For the reasons stated in the decision and order of this Court in the companion appeal (*see New York City Transit Auth. v Transp. Workers Union of Amer., AFL-CIO*, ___AD3d___ [decided herewith]), we modify the order appealed from to the extent indicated herein.

SPOLZINO, J.P., FISHER, CARNI and DICKERSON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court