

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

1078

CA 10-00770

PRESENT: SCUDDER, P.J., CENTRA, PERADOTTO, SCONIERS, AND PINE, JJ.

IN THE MATTER OF MICHAEL J. CRAVATTA AND
CIVIL SERVICE EMPLOYEES ASSOCIATION, INC.,
LOCAL 1000, AFSCME, AFL-CIO,
PETITIONERS-RESPONDENTS,

V

MEMORANDUM AND ORDER

NEW YORK STATE DEPARTMENT OF TRANSPORTATION,
AND ASTRID C. GLYNN, AS COMMISSIONER OF NEW
YORK STATE DEPARTMENT OF TRANSPORTATION,
RESPONDENTS-APPELLANTS.

ANDREW M. CUOMO, ATTORNEY GENERAL, ALBANY (JULIE M. SHERIDAN OF
COUNSEL), FOR RESPONDENTS-APPELLANTS.

Appeal from a judgment of the Supreme Court, Erie County (Paula L. Ferroletto, J.), entered May 15, 2009 in a proceeding pursuant to CPLR article 78. The judgment, insofar as appealed from, granted in part the petition.

It is hereby ORDERED that the judgment insofar as appealed from is unanimously reversed on the law without costs and the petition is dismissed in its entirety.

Memorandum: Supreme Court erred in granting in part the petition seeking to annul the determination terminating petitioner Michael J. Cravatta from the position of Highway Maintenance Worker 2 by reinstating Cravatta to that position for the period of August 16, 2008 until September 22, 2008. As a condition of his employment, Cravatta was required to maintain a New York State Class B Commercial Driver License (CDL). Cravatta was properly terminated after his CDL was suspended because he lacked one of the credentials required for his position. Cravatta's termination was not disciplinary in nature and thus was subject to neither the arbitration clause in the collective bargaining agreement nor the provisions of Civil Service Law § 75 (see *Matter of New York State Off. of Children & Family Servs. v Lanterman*, 14 NY3d 275, 280-282; *Matter of Felix v New York City Dept. of Citywide Admin. Servs.*, 3 NY3d 498, 505-506).

Entered: October 1, 2010

Patricia L. Morgan
Clerk of the Court