

77 A.D.3d 1399  
Supreme Court, Appellate Division,  
Fourth Department, **New York**.

In the Matter of Michael J. **CRAVATTA** and Civil  
Service Employees Association, Inc., Local 1000,  
AFSCME, AFL–CIO, Petitioners–Respondents,  
v.

**NEW YORK STATE** DEPARTMENT OF  
**TRANSPORTATION**, and Astrid C. Glynn, as  
Commissioner of **New York State** Department  
of **Transportation**, Respondents–Appellants.

Oct. 1, **2010**.

### Synopsis

**Background:** Former Department of **Transportation** employee filed petition seeking to annul determination terminating him from position of highway maintenance worker. The Supreme Court, Erie County, **Paula L. Feroletto, J.**, granted the petition in part, and Department appealed.

**Holding:** The Supreme Court, Appellate Division, held that termination of employee was not disciplinary in nature and thus was subject to neither arbitration clause in collective bargaining agreement nor provision of Civil Service Law governing removal or other disciplinary action.

Reversed.

West Headnotes (1)

### [1] **Labor and Employment**

🔑 Discipline

#### **Officers and Public Employees**

🔑 Restrictions of Civil Service Laws and  
Rules as to Removals

Termination of Department of **Transportation** employee from his highway maintenance worker position following suspension of his commercial driver license (CDL) was not disciplinary in nature and thus was subject to neither arbitration clause in collective bargaining agreement nor

provision of Civil Service Law governing removal or other disciplinary action, where employee was required to maintain a CDL as a condition of his employment. **McKinney's Civil Service Law § 75**.

[Cases that cite this headnote](#)

### Attorneys and Law Firms

**\*\*327** **Andrew M. Cuomo**, Attorney General, Albany (**Julie M. Sheridan** of Counsel), for Respondents–Appellants.

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

### Opinion

#### MEMORANDUM:

**\*1400** 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 **\*\*328 Matter of New York State Off. of Children & Family Servs. v. Lanterman**, 14 **N.Y.**3d 275, 280–282, 899 **N.Y.S.**2d 726, 926 **N.E.**2d 233; **Matter of Felix v. New York City Dept. of Citywide Admin. Servs.**, 3 **N.Y.**3d 498, 505–506, 788 **N.Y.S.**2d 631, 821 **N.E.**2d 935).

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.

### Parallel Citations

77 A.D.3d 1399, 910 N.Y.S.2d 327, 2010 N.Y. Slip Op. 06952

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