



**Members**  
James Paul Geary  
Orton A. Jones  
David L. White

**WEST VIRGINIA EDUCATION  
EMPLOYEES GRIEVANCE BOARD**

**ARCH A. MOORE, JR.**  
Governor

**Offices**  
240 Capitol Street  
Suite 508  
Charleston, WV 25301  
Telephone 348-3361

**BROOKIE A. MURRAY**

**V.**

**Docket No. 23-86-269-1**

**LOGAN COUNTY BOARD OF EDUCATION**

**DECISION**

Grievant, Brookie A. Murray, is employed by the Logan County Board of Education and has been assigned to Mallory Grade School as a fourth grade teacher for the past thirteen years. On July 25, 1986 she filed a grievance alleging a violation of W.Va. Code, 18A-4-8b in the selection of the principal of South Man Grade School. A level two hearing was conducted on August 21 and an appeal to level four was filed on September 15; an evidentiary hearing was conducted on December 18, 1986.

Grievant has been a classroom teacher in Logan County for twenty eight years and had teaching assignments at four grade schools during that time. She has an AB degree in elementary education, a masters degree plus thirty six hours in elementary administration

and lacks only the dissertation for a doctorate degree.<sup>1</sup> Along with her teaching responsibilities she has performed various administrative duties, including assisting the principal at Lundale Elementary School with the lunch program and the duty scheduling; being placed in charge at Mallory Grade School in the absence of the principal and in 1980, while the principal was on medical leave, serving as principal upon appointment by the assistant superintendent. Over the years she has received "good" to "outstanding" evaluations and has participated in all of the in-service training programs offered by the board of education.

In June, 1986 a vacancy occurred in the position of principal at South Man Grade School and grievant and four other teachers applied. An interview was conducted by Superintendent Sam Sentelle, associate superintendent Jack Garrett and assistant superintendents Willie Akers and George Klipa. Grievant testified that her interview lasted about twenty five minutes and consisted of questions such as her views on student discipline and hypothetical situations involving irate parents. She was, however, permitted

---

<sup>1</sup> She is certified for elementary school principal, having received the masters degree in 1971 and professional administrative certificate in 1972; the specializations include principal of elementary and junior high school, grades 1-9. (Grievant's Exhibit No. 1).

to expound upon her experience, academic achievements and community activities.<sup>2</sup> She contends that the selection process was arbitrary and that she was more qualified than the successful applicant; that she should be awarded the position.

Mr. Jack Garrett, associate superintendent, has been with Logan County Schools for thirty four years and served on the interview team for the principal position in question.<sup>3</sup> He testified that all five applicants met the qualifications, i.e., a masters degree with elementary principal certificate in school administration, and their seniority ranged from six to thirty years. Dr. Sentelle had established the criteria and the inquiries to the applicants were based on three categories: community rapport, administrative skills and instructional leadership. Each of the evaluators were given a rating sheet upon which each applicant was rated and the three categories were scaled from one to ten points.<sup>4</sup> It was possible for an applicant to receive a total of thirty (30) points from each evaluator

---

<sup>2</sup> Grievant's community involvement, offered as administrative experience, included service as assistant treasurer of her church for six years, financial secretary for three years, service on the church nomination committee, Sunday School teacher for twenty years, vice president of Mallory Grade School PTA and work with the Boy Scouts.

<sup>3</sup> During this thirty four year period Mr. Garrett has served as a classroom teacher, junior high principal, director of federal programs, assistant superintendent, associate superintendent and superintendent of Logan County schools.

<sup>4</sup> The other members of the team had service with Logan County Schools as follows: Dr. Sentelle - 20 years; Mr. Klipa - 32 years and Mr. Akers - 27 years. The evaluators also relied upon their personal knowledge of the abilities of the applicants.

or a combined total of one hundred twenty (120) points from all four evaluators. Of the five applicants interviewed and evaluated for the position, the successful applicant received ninety five (95) points and the grievant received forty nine (49) points, the lowest of the applicants. (Employer's Exhibit No. 1). The two applicants with the most seniority were at the bottom of the point scale; the applicant that received the highest score was recommended to the board of education by Dr. Sentelle and subsequently selected for the position.

Although grievant was not the applicant with the most seniority, she requested a list of reasons she was not selected and Mr. Garrett furnished this letter on July 29, 1986. He acknowledged therein that grievant had given many years of inspired teaching to Logan County children and that the nonselection should not be taken as a dissatisfaction with her outstanding service to children; that "good teachers are not necessarily good principals and good principals are not necessarily good teachers."<sup>5</sup>

He was familiar with grievant's experience at Mallory Grade School and with the evaluations of each of the applicants; he

---

<sup>5</sup> He advised grievant that she had been rated higher in the community rapport and instructional leadership than administrative ability and that a vagueness had been noted in many of her responses to specific administrative problems.

opined that the interview was "objective" in that it helped somewhat but his experience was heavily relied upon and was "subjective" to that extent.<sup>6</sup>

In addition to the foregoing recitation the following specific findings of fact and conclusions of law are appropriate.

---

<sup>6</sup> In the proposed findings of fact and conclusions of law filed by grievant on December 23, 1986 it is contended that it was admitted that the interview team relied heavily upon subjective criteria, hearsay and unsubstantiated evaluations of grievant's administrative ability as found in Brumfield v. Kanawha County Board of Education, Docket No. 20-86-126-1. Brumfield is inapposite for there the principal solely conducted the interview and relied upon subjective comments of other teachers. Moreover, the evidence in the instant case does not support the allegations.

In the instant grievance Mr. Garrett had been Superintendent in 1980 when grievant states she was appointed acting principal of Mallory and had directed the assistant superintendent to appoint another teacher, not grievant. When that teacher would not accept Mr. Garrett told Mr. Ellis to use his own judgment. Obviously, informed subjective judgment on the part of the evaluators is still a relevant criterion and, in absence of any evidence of improper motive or influence, is a proper consideration. Higgins v. Board of Education of Randolph County, 286 S.E.2d 682 (W.Va. 1981, Justices McHugh and McGraw dissenting).

## FINDINGS OF FACT

1. Grievant is employed by the Logan County Board of Education as a fourth grade teacher at Mallory Grade School. She is a dedicated teacher who enjoys an excellent reputation among the school officials in Logan County as a teacher.

2. Grievant applied for the position of principal of South Man Grade School and an interview team composed of the Superintendent of Schools and two assistant and one associate superintendents interviewed the five applicants. All of the applicants were qualified for the position.

3. Following the interview the members of the interview team scored each applicant on categories selected by Superintendent Sentelle; the scoring was done individually by each member of the team without joint consultation. Ratings in each category were from zero to ten and when the scores were combined grievant had scored forty nine (49) points out of a possible total of one hundred twenty (120) points.

4. The scores ranged as follows:

Grievant	49 points
Candidate II	51 points
Candidate III	85 points
Candidate IV	91 points
Candidate V	95 points

5. The applicant scoring ninety five (95) points was the applicant recommended to and selected by the board of education; she was not the applicant with the most seniority.

6. Grievant does not contend that there was "favoritism" or "discrimination" involved in the selection process but contends that it was arbitrary and did not take into account her experience and seniority; that it was not an "objective" process. Grievant was not the applicant with the most seniority but was given a list of reasons for her nonselection.

#### CONCLUSIONS OF LAW

1. It is the duty of the superintendent of schools to nominate and recommend all persons to be employed as professional personnel in the county; the county board of education votes whether to approve the nominations. W.Va. Code, 18A-2-1; West Virginia Education Association v. Preston County Board of Education 297 S.E.2d 444 (W.Va. 1982).

2. County boards of education have substantial discretion in the matters relating to hiring, assignment, transfer and promotion but this discretion must be exercised reasonably, in the best interests of the schools and not in an arbitrary or capricious manner. State ex rel. Hawkins v. Tyler County Board of Education, 275 S.E.2d 911 (1980); Beverlin v. Board of Education, 158 W.Va. 1067, 216 S.E.2d 554 (1975).

3. The possession of a graduate degree is one factor to be considered in determining teacher competence, but is not the sole factor. Informed subjective judgment is a relevant criterion in the absence of arbitrary or capricious conduct. Higgins v. Board of Education of Randolph County, 286 S.E.2d 682 (W.Va. 1981). Strickland v. Kanawha County Board of Education, Docket No. 2-86-013.

4. Under W.Va. Code, 18A-4-8b(a), decisions of a county board of education affecting teacher promotions must be based primarily upon qualifications for the job, with seniority having a bearing on the selection process when the applicants have otherwise equivalent qualifications or where the differences in qualification criteria are insufficient to form the basis for an informed and rational decision. Dillon v. Board of Education of Wyoming County, \_\_S.E.2d\_\_, No. 16830, decided by the West Virginia Supreme Court of Appeals, November 20, 1986.

5. In a grievance proceeding it is incumbent upon the grievant to prove the elements of the grievance by a preponderance of the evidence. Grievant has failed to prove by a preponderance of the evidence that the selection process herein was arbitrary or capricious or a clear abuse of discretion as a matter of law.



It is accordingly ORDERED that the grievance is DENIED.

Either party may appeal this decision to the Circuit Court of Kanawha County or Logan County and such appeal must be filed within thirty days of receipt of this decision. (W.Va. Code, 18-29-7). Please advise this office of your intent to do so in order that the record can be prepared and transmitted to the Court.

A handwritten signature in cursive script, appearing to read "Leo Catsonis", is written over a horizontal line.

LEO CATSONIS

Chief Hearing Examiner

Dated: December 30, 1986