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PAUL COOL, Jr.

v.

DOCKET NO. 51-86-247-2

WEBSTER COUNTY BOARD OF EDUCATION

D E C I S I O N

Grievant, Paul Cool, Jr., has been employed by the Webster County Board of Education since 1966 and is presently assigned as a teacher to the Diana School. On August 6, 1986 Mr. Cool filed a level one grievance in which he alleged a violation of W.Va. Code, 18A-4-8b in that he was denied the principalship at Hacker Valley School and indicated his disagreement with the reasons given for his failure to receive that position. A level two hearing was conducted on August 29, 1986 and appealed to the Education Employees Grievance Board on September 25, 1986; a level four hearing was held on April 27, 1987.¹

¹The level four hearing was scheduled several times prior to April 27 but was continued each time by one of the parties. At one point some confusion arose as to whether the grievance had been withdrawn and considerable time was expended in determining the intent of the grievant and his representative. Subsequent to this incident the respondent filed a motion to dismiss based upon the understanding of counsel and Superintendent Dean that the grievance had been withdrawn and that the grievant had since changed his position and was again requesting a level four decision; the motion was denied as it appeared that poor communication created the misunderstanding.

The grievant has been continuously employed by the Webster County Board of Education since 1966 and during that time has held the positions of teacher, administrative assistant, Director of the Chapter I program and assistant principal. In May, 1986 the grievant applied for the position of principal at Hacker Valley School. By letter dated July 23, 1986 Superintendent Martha Dean advised the grievant that he was not awarded the position but as the applicant with the most seniority, and pursuant to W.Va. Code, 18A-4-8b, a statement of reasons were provided.

The specific reasons listed by Superintendent Dean were the principal's dissatisfaction with the grievant's performance as assistant principal, his failure to comply with special education regulations in carrying out his responsibilities as P.A.C. chairman and his resignation from the position in mid-term. The grievant was also provided with suggestions for improvement in order that he might be a viable candidate for future administrative positions.

The grievant argues that those reasons given by the Superintendent are invalid and not supported by evaluations or other documentation. He asserts that he was the most qualified and the most senior applicant and therefore, is entitled to the job under the guidelines provided by W.Va. Code, 18A-4-8b.

Superintendent Dean testified that the qualifications she requires of a principal include certification, the ability to maintain good public relations with the community and staff members and knowledge of applicable laws and policies. She determined that the successful candidate possessed those qualifications while the grievant had exhibited his lack of them while an assistant principal at Webster Springs Elementary School. Julia Hoover, principal at Webster Springs and Kay Carpenter, Director of Special Education, offered testimony as to the grievant's failure to follow policy and poor rapport with parents and staff members.

In addition to the foregoing, it is appropriate to make the following specific findings of fact and conclusions of law.

Findings of Fact

1. The grievant has been employed by the Webster county Board of Education since 1966 and is presently assigned as a teacher at the Diana School.

2. The grievant has previously held the positions of administrative assistant, Director of the Chapter One program and assistant principal at Webster Springs Elementary School.

3. In May, 1986 the grievant applied for but did not receive the position of principal at the Hacker Valley School.

4. The grievant was the applicant with the most seniority and was provided a written statement of reasons why he was not hired for the position and suggestions for improving his qualifications.

5. The grievant asserts that he was the most qualified candidate but offered no testimony or evidence to support that contention.

6. Testimony of Superintendent Dean and other administrators indicates that while an assistant principal the grievant failed to follow program policies and regulations, exhibited a poor working relationship with parents and staff members and requested a mid-term transfer to a teaching position based on his dissatisfaction with his assignment as assistant principal.

Conclusions of Law

1. W. Va. Code, 18A-4-8b requires that a county board of education make decisions affecting promotions on the basis of qualifications. If the applicant with the most seniority is not selected the board must provide a written statement of reasons with suggestions for improving the applicant's qualifications. William W. Slade, Jr. v. McDowell County Board of Education, Docket No. 33-86-050.

2. The grievant has failed to establish either the invalidity of the reasons for his failure to be hired or that he was the most qualified applicant.

3. It is incumbent upon the grievant to prove the elements of the grievance by a preponderance of the evidence. Robert L. Young v. Kanawha County Board of Education, Docket No. 20-87-210-1 and Rosella Damron v. Mingo County Board of Education, Docket No. 29-86-250-4.

Accordingly, the grievance is **DENIED**.

Either party may appeal this decision to the Circuit Court of Kanawha County or to the Circuit Court of Webster County and such appeal must be filed within thirty (30) 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.

DATED: May 28, 1987

Sue Keller

SUE KELLER
Hearing Examiner