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JOHN CHRISTIAN

v.

Docket No. 17-87-146-2
17-87-147-2

HARRISON COUNTY BOARD OF EDUCATION

D E C I S I O N

Grievant, John Christian, was first employed as a teacher by the Harrison County Board of Education in 1972. On July 1, 1983 he received certification as a principal, grades K through 12, and first worked as an assistant principal on August 20, 1985. In March 1987 Mr. Christian was given notice he would be placed on a transfer list for the 1987-88 school term and was subsequently transferred from his position as assistant principal at North View Grade and Junior High School to the position of teacher and high school band director at Bridgeport High School. He was given a hearing on the proposed transfer on April 28, 1987 and then filed two grievances on May 5, 1987. The parties stipulated to the facts of the case and submitted it for decision at Level IV on those stipulations, the record of the transfer hearing and briefs.

The Harrison County Board of Education was apparently experiencing funding problems in early 1987 and began developing a plan for a reorganization of its school system and certain assistant principal positions were targeted for elimination. As those positions were eliminated, the persons holding them were allowed to displace or "bump" less senior employees. A Mr. Dennis Zahradnik whose assistant principal position was eliminated at Broadway Junior High School was accordingly transferred into grievant's position. Grievant alleges his seniority was calculated improperly by the Board and further claims Mr. Zahradnik is not qualified to be assistant principal at North View Grade and Junior High School as he is not properly certified.

In regard to grievant's first allegation, the applicable law is found in W.Va. Code, 18A-4-8b(a) which provides:

The seniority of professional personnel shall be determined on the basis of the length of time the employee has been professionally employed by the county board of education. For purposes of establishing seniority as hereinafter provided, when an employee holds valid certification or licensure in one or more areas, the seniority shall accrue in each area.

(Emphasis added)

It has previously been held that no professional employee of a board of education can attain principal's seniority, even if the principal's certificate is held, until an initial employment as a principal by that board of education. Oshel/Faulkner v. Mason County Board of Education, Docket No. 26-87-136-3. Once that employee is so hired he or she accrues principal's seniority retroactively from the date

of the initial hiring if a principal's certificate was held at that time and if not, then from the date the principal's certificate was attained. Also see generally, Martin v. Mason County Board of Education, Docket No. 26-87-156-3. The Harrison County Board of Education followed this procedure in grievant's case by calculating his principal's seniority accrual from July 1, 1983, the date he received his principal's certificate. (T.10) He was actually first employed as an assistant principal on August 20, 1985 and thus had four years seniority as such.¹ The Board's actions in this regard were proper and likewise in its calculation of Mr. Zahradnik's seniority as a principal. He attained his principal's certificate on July 1, 1981 and has continuously been employed as an assistant principal since August 4, 1981. Mr. Zahradnik was obviously the more senior employee and although grievant asserts in his brief that there were other less senior assistant principals/principals employed at the time by the Harrison County

¹Grievant's position in this particular part of his grievance is somewhat confusing as he contends in his brief that the Board should have granted him principal's seniority from the date he was first hired as an assistant principal. This calculation method would result in a total of only two (2) years seniority and hardly supportive of his claim that he was not one of the least senior assistant principals in the county.

Board of Education there was simply no evidence presented to support this claim.²

Grievant's second allegation that Mr. Zahradnik is not qualified to be assistant principal at North View is also not supported by the record or applicable law. Mr. Zahradnik is certified in biological science 7-12, physical education 1-12 and principal 7-12 and according to grievant he should also hold a valid principal's certificate in grades 1-6 as North View provides curriculum for those grades in addition to grades 7-12. The record and stipulations however show Mr. Zahradnik had been issued an authorization under State Board

²The parties did submit copies of computer printouts labeled "Harrison County Board of Education Professional Seniority List" which contained names of various employees, their endorsement dates and board starting dates. These documents tend to support the Board's claim that grievant was one of the least if not the least senior assistant principal in the county at the time of the reduction in force. The printouts also contained unexplained notations and no indication which were eliminated and were generally of little probative value for either party's position.

of Education Policy 5113 which in part reads:

A. ANNUAL AUTHORIZATIONS

1. Definition and Purpose

The authorization enables the superintendent to staff a position in specializations identified annually by the State Board when the employee is assigned to a position which may include grade levels not covered by the professional endorsement or when personnel have worked in positions for an extended time prior to the adoption of program standards.

2. Conditions for Issuance

Personnel must: a) be assigned to the position for which the superintendent requests and recommends the authorization, and b) meet any prerequisite certificate and/or experience required for the specific endorsement.

3. Areas of Specialization

An Annual Authorization may be issued in the following areas of specialization provided the applicant:

a) Principal of Two Schools on a Single Campus

1) Issuance

Holds a Professional Administrative Certificate endorsed for principal and is assigned to grade levels not covered by the principal's endorsement provided the assignment is for two schools on a single campus delivering early, middle and/or adolescent programs.

It is clear Mr. Zahradnik's authorization under this policy enabled him to serve as assistant principal of North View and contrary

to grievant's assertion, W.Va. Code, 18A-2-9 requires nothing more.

The pertinent part of that section provides:

Upon recommendation of the county superintendent of schools, the county board of education shall, when needed, employ and assign, through written contract, assistant principals who shall work under the direction of the school principal. Such assistant principals shall hold valid administrative certificates appropriate for their assignments.

Mr. Zahradnik had the appropriate certificate and was the more senior assistant principal and the Harrison County Board of Education was properly following the requirements of W.Va. Code, 18A-4-8b(a) by initiating the transfers of both employees in its reduction in force action.

In addition to the foregoing, the following findings of fact and conclusions of law are made.

FINDINGS OF FACT

1. Grievant was first employed by the Harrison County Board of Education as a teacher in 1972.

2. Grievant received certification as a principal grades K through 12 on July 1, 1983 and first worked in the capacity of assistant principal on August 20, 1985.

3. The Harrison County Board of Education calculated grievant's seniority as assistant principal from the date he received his principal's certificate crediting him with approximately four (4) years as such.

4. During the 1986-87 school term the Harrison County Board of Education, because of funding problems, targeted certain professional personnel positions for possible elimination including several assistant principal positions.

5. In March 1987 grievant was notified he might be transferred from his job as assistant principal at North View Grade and Junior High School.

6. Grievant was given a hearing before the Harrison County Board of Education on April 28, 1987 and was subsequently transferred to the position of teacher and high school band director at Bridgeport High School.

7. Mr. Dennis Zahradnik was then transferred from his position as assistant principal at Broadway Junior High School to grievant's former position at North View Grade and Junior High School.

8. Mr. Zahradnik is certified in physical education 1-12, biological sciences 7-12 and principal 7-12 and holds a valid authorization issued pursuant to West Virginia State Board of Education Policy 5113 to perform the duties of assistant principal at two schools on a single campus delivering early middle and/or adolescent programs; in March 1987, according to the Board's calculations, Mr. Zahradnik had approximately seven (7) years principal's seniority.

9. North View Grade and Junior High School provides curriculum for elementary students (grades 1 through 5), middle school students (grades 6 through 8) and adolescent students (grade 9).

CONCLUSIONS OF LAW

1. W.Va. Code, 18A-4-8b(a) allows assistant principals whose positions are eliminated in a reduction in force action to displace or "bump" less senior assistant principals within a county school system. State ex rel. the Board of Education of Kanawha v. Casey, 349 S.E.2d 436 (W.Va. 1986).

2. The Harrison County Board of Education properly calculated the seniority of both grievant and Mr. Zahradnik and determined the latter to be the most senior of the two employees. Oshel/Faulkner v. Mason County Board of Education, supra; Martin v. Mason County Board of Education, supra.

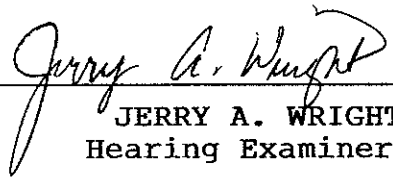
3. State Board of Education Policy 5113 enables a superintendent of schools to fill a position, upon authorization from the State Board of Education, in specializations identified annually by the State Board of Education when the employee is assigned to a position which may include grade levels not covered by his or her professional endorsement and such authorization may specifically be issued to a principal/assistant principal of two schools on a single campus delivering early, middle, and/or adolescent programs.

4. North View Grade and Junior High School delivers early, middle and adolescent programs and Mr. Zahradnik's authorization to perform the duties of assistant principal at the school is appropriate and otherwise in accordance with the provisions of W.Va. Code, 18A-2-9.

5. The actions the Harrison County Board of Education took in the transfer of the grievant to the position of teacher at Bridgeport High School conformed to the requirements of W.Va. Code, 18A-2-7 and W.Va. Code, 18A-4-8b(a).

Accordingly, the grievance is **DENIED**.

Either party may appeal this decision to the Circuit Court of Harrison County or the Circuit Court of Kanawha County and such appeal must be appealed within thirty (30) days of receipt of this decision. (W.Va. Code, 18-29-7) Please inform this office of your intent to do so in order that the record can be prepared and transmitted to the Court.


JERRY A. WRIGHT
Hearing Examiner

DATED: March 2, 1988