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RICHARD SKINNER

v.

DOCKET NO. 17-88-114

HARRISON COUNTY BOARD OF EDUCATION

DECISION

Grievant, Richard Skinner, is employed by the Harrison County Board of Education and is presently assigned as a principal at Chestnut Hills Elementary School and Pierpont Elementary School. Mr. Skinner filed a level four grievance on June 17 in which he alleged that he had not been awarded a principalship for which he was qualified and the most senior applicant. A level four hearing was held on July 19 at which time the grievant presented his qualifications which he argues meets the minimum requirements for the position of principal at North View Grade and Junior High School.

In January 1988 the position vacancy of principal at North View Grade and Junior High School (grades K-9) was posted. Each of the seven applicants was requested to submit an application portfolio which consisted of background information including their experience, training and certification and several essay questions. The applicants were interviewed by a "team" of central office administrators who used a list of standard questions although the interviewers were permitted to pose additional questions. Each team member awarded the applicants points based upon the portfolio and the interview. The applicants were then ranked based upon their earned points. The successful candidate, Susan Collins, received 170 out of a possible 200 points and the grievant was ranked second with 150 points. The interview committee recommended two candidates to Superintendent Robert Kittle: Ms. Collins, based upon her ranking, and the grievant, based upon his seniority. The superintendent reviewed the applicants' personnel files and discussed the candidates with the team members. He subsequently recommended and the board of education approved Ms. Collins for the position.

At the level four hearing Superintendent Kittle indicated that he had determined Ms. Collins to be the most qualified applicant as she had both administrative and teaching experience

at the junior high level which he believed to be necessary at this particular school. The grievant was not certified in administration in grades 7-12 and had very limited experience teaching at that level.

The grievant holds a Masters degree in elementary education (grades 1-8), administrative certification for the elementary/junior high principalship (grades 1-9) and a supervisory certificate which qualifies him for both elementary and secondary principal certificates. His teaching experience includes one year of instructing seventh and eighth grades as part of a federal program, student teaching two semesters at the secondary level and teaching ten years at the elementary level. His administrative experience includes one year as an administrative assistant in a federal program encompassing grades K-12 and principal/teacher at the elementary level for thirteen years.

The grievant argues that he met the minimum qualifications listed on the position posting which did not state that administrative or teaching experience at the junior high level was preferred or required.¹ The grievant states that the selection

¹The minimum qualifications listed on the job description for elementary principal are a Masters degree, five years of experience in education and minimum certification requirements. Although posted as an elementary principalship it was identified as being North View Grade and Junior High School.

process as set forth in county policy GBE does not provide for the interview team or point system, that none of the team members used the same criteria for ranking and neither the criteria for ranking or the point system procedure was made known to him before or during the interview.² The grievant also claims that he was not provided the requested statement of reasons for his non-selection or suggestions to improve his qualifications.

In determining the applicants' qualifications the interview team and Superintendent Kittle considered their education, certification, experience and other information provided in their portfolios and gathered during the interview process. Based on this broad range of information it was determined that Ms. Collins' experience and certification made her the most qualified applicant to meet the needs of this specific school. A board of education is required to hire the most qualified applicant for a professional position. When two or more applicants meet the minimum requirements it must then look to the qualities of each individual to determine if one is more qualified than the others. In making this determination consideration of the requirements of the specific position can correctly be utilized

²As policy GBE neither provides for nor prohibits the use of an interview team or the point system this issue does not merit further consideration.

to determine the most qualified candidate. In the present matter Ms. Collins had experience with both elementary and secondary levels while the grievant had minimal experience above the elementary level. When filling a position that included both elementary and junior high the determination that Ms. Collins was more qualified was logical and reasonable.

By letter of March 15, 1988 Superintendent Kittle advised the grievant that he had not been awarded the position as another candidate was determined to be more qualified. The superintendent informed the grievant that he would be better qualified for a position in a junior high school which combines elementary and secondary levels if he had more experience at the junior high level. This document was in compliance with W.Va. Code, 18A-4-5b.

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 is employed by the Harrison County Board of Education as a principal currently assigned to two schools: Chestnut Hills Elementary and Pierpont Elementary.

2. In January 1988 seven individuals, including the grievant, applied for the position of principal at North View Grade and Elementary School.

3. Each applicant was to submit a portfolio containing information regarding their education, certification and experience and to respond to several essay questions.

4. The applicants were interviewed by a team of four central office administrators who considered the available information and assigned each applicant a score. The four scores were totaled for a composite upon which the applicants were ranked.

5. The interview team recommended two of the applicants to Superintendent Robert Kittle: Susan Collins who was ranked first with 170 out of a possible 200 points and the grievant who was ranked second with 150 points and was the applicant with the most seniority.

6. After reviewing the applicants' personnel files and conferring with members of the interview team, Superintendent Kittle recommended Ms. Collins for the position.

7. By letter dated March 15 Superintendent Kittle stated that Ms. Collins was selected for the position as she had teaching experience at the elementary, junior high and secondary levels and administrative experience in both the elementary and secondary levels.

8. The grievant was advised that he would be better qualified for a position in a junior high school which combines the elementary and secondary levels if he had more experience at the junior high/adolescent levels.

9. The grievant holds a Masters degree in elementary education, administrative certification for elementary/junior high (grades 1-9) and is eligible to be certified as a principal on the secondary level. The grievant has taught in a federal program (social studies, grades 3-9) one year, served as an administrator of a Chapter One program (grades 1-12) one year, student taught at the secondary level two semesters and has worked as an elementary teacher/principal for thirteen years.

10. The successful candidate has served as an elementary special education teacher, librarian and principal and at the secondary level as a special education teacher and assistant principal at Bridgeport High School.

Conclusions of Law

1. County boards of education have substantial discretion in matters relating to the hiring, assignment, transfer and promotion of school personnel so long as it is exercised reasonably and not in an arbitrary and capricious manner. Dillon v. Board of Education of the County of Wyoming, 351 S.E. 2d 58 (W.Va. 1986); Lafayette v. Randolph County Board of Education, Docket No. 42-87-227.

2. Decisions of a county board of education affecting professional promotions must be based primarily upon the qualifications of the applicants with seniority having a bearing on the selection process when the differences in qualification criteria are insufficient to form a basis for an informed and rational decision. Dillon v. Board of Education of Wyoming County, 351 S.E. 2d 58 (1986).

3. The discretionary exercise of a board of education to employ and assign professional personnel for a specialized

position in a designated school should not be disturbed when the action was taken in good faith for the benefit of a school system and was not arbitrary. State ex rel. Hawkins v. Tyler County Board of Education, 275 S.E.2d 911 (W.Va. 1980); Tenney v. Barbour County Board of Education, Docket No. 01-87-166-2; Haines v. Mineral County Board of Education, Docket No. 27-87-275-2.

4. Under W.Va. Code, 18A-4-8b(a), where one candidate for a position is clearly more qualified, the seniority of another applicant will not be sufficient to justify denying the position to the more qualified applicant. Kilmer v. Wayne County Board of Education, Docket No. 50-86-324; Haines v. Mineral County Board of Education, Docket No. 27-87-275 and Myles v. Ohio County Board of Education, Docket No. 35-88-081.

5. The board made an accurate and rational decision that the successful applicant was more qualified for the position in question than was the grievant.

Accordingly, the grievance is **DENIED**.

Either party may appeal this decision to the Circuit Court of Kanawha County or to the Circuit Court of Harrison 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 September 30, 1988

Sue Keller

SUE KELLER
HEARING EXAMINER