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JULIAN MARTIN

v.

Docket No. 22-87-254-1

LINCOLN COUNTY BOARD OF EDUCATION

D E C I S I O N

Grievant, Julian Martin, has been employed as a teacher by the Lincoln County Board of Education for the past ten years and was also employed as the girls basketball coach at Duvall Junior High School for the 1980-81 and 1981-82 school terms. Mr. Martin filed the present grievance when he was denied the position of boys basketball coach at Duvall. He received an adverse decision after a Level II hearing and the Board waived participation at Level III. A Level IV evidentiary hearing was held on February 9, 1988.

There is no factual dispute in this case and the parties agree the position in question was posted in the summer of 1987 and only grievant and Mr. Jerry Huffman applied. No interviews were held and Mr. Huffman was awarded the job. By letter dated September

2, 1987 grievant requested an explanation for not being selected and by letter dated September 27, 1987 Superintendent Harold Smith indicated he was not chosen because he had previously resigned as the girls basketball coach in 1982 and had refused a subsequent offer to coach boys basketball at the school. At the Level IV hearing Mr. Charles McCann, Assistant Superintendent, testified Mr. Hoffman had no coaching experience and was just hired as a teacher at the beginning of the 1987-88 school term. (T.__) He also acknowledged that grievant is at least equally qualified as Mr. Huffman and the Board had simply taken the position that it need not follow procedural guidelines concerning seniority contained in W.Va. Code, 18-4-8b when it filled extracurricular activity positions. (T.__)

Grievant testified he did resign his position as girls basketball coach at Duvall in 1982 for personal reasons but only after he had fulfilled his obligations under his contract. (T.__) He also indicated he had been offered another coaching position but at the time was unable to accept it. It is the grievant's contention that all extracurricular positions should be filled on the basis of qualifications as required by W.Va. Code, 18A-4-8b(a).

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

FINDINGS OF FACT

1. Grievant, Julian Martin, has been employed by the Lincoln

County Board of Education as a teacher for the past ten years and was also employed as girls basketball coach at Duvall Junior High School during the 1980-81 and 1981-82 school terms.

2. During his service as coach at Duvall grievant received favorable evaluations of his performance.

3. During the summer of 1987 the Board posted the position of boys basketball coach at Duvall and grievant and Jerry Huffman were the only two persons who applied.

4. The Board conducted no interviews of the applicants and made no determination on which applicant was the more qualified.

5. Jerry Huffman has no coaching experience and was first hired as a teacher by the Board at the beginning of the 1987-88 school term.

6. By virtue of his previous coaching and teaching experience grievant was the most qualified and more senior applicant.

CONCLUSIONS OF LAW

1. W.Va. Code, 18A-4-16 allows school boards and school

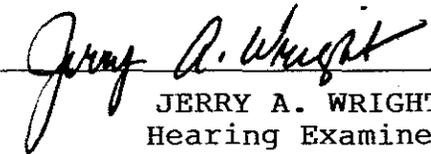
employees to enter into contracts for the performance of extracurricular activities and there is nothing in the language of that section of the W.Va. Code which operates to deprive employees of their procedural employment rights. Smith v. Logan County Board of Education, 342 S.E.2d 685 (W.Va. 1985); Friend v. Nicholas County Board of Education, Docket No. 34-87-286-4; Shoemaker v. Hampshire County Board of Education, Docket No. 14-87-256-2.

2. The requirement of W.Va. Code, 18A-4-8b that the filling of any classroom teacher's position be done on the basis of qualifications is a procedural employment right of school employees and must be followed when a coaching position is filled.

3. The Lincoln County Board of Education did not follow the requirements of W.Va. Code, 18A-4-8b when it filled the position of boys basketball coach at Duvall Junior High School.

Accordingly, the grievance is **GRANTED** and the Lincoln County Board of Education is hereby **ORDERED** to instate grievant, Julian Martin, in the position of boys basketball coach at Duvall Junior High School and to further compensate him for any wages lost due to the improper filling of the position.

Either party may appeal this decision to the Circuit Court of Lincoln County or the Circuit Court of Kanawha County and such appeal must be filed within thirty (30) days of receipt of said 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 23, 1988