



REPLY TO:
401 Davis Avenue
Suite 315
Elkins, WV 26241
Telephone: 636-1123

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

**WEST VIRGINIA EDUCATION AND
STATE EMPLOYEES GRIEVANCE BOARD**

GASTON CAPERTON
Governor

Offices
240 Capitol Street
Suite 515
Charleston, WV 25301
Telephone 348-3361

THOMAS RAMSEY

v.

DOCKET NO. 28-88-234

MINERAL COUNTY BOARD OF EDUCATION

DECISION

Grievant, Thomas Ramsey, is employed as a teacher by the Mineral County Board of Education (Board). Mr. Ramsey filed a level four grievance appeal on December 5, 1988 in which he alleged the Board improperly denied him the position of principal at Burlington Elementary School since he is equally or better qualified and has more seniority than the successful applicant. The matter had been denied at level two and the Board waived consideration at level three. A level four hearing was conducted on May 31.

The record reveals that the position of principal at Burlington Primary School was posted September 21-28, 1988 with nine individuals applying for the position. An interview team consisting of Superintendent Shirley Ball and Assistant Superintendents Samuel Kalbaugh and Pat Mason reviewed the applicants and Superintendent Ball ultimately recommended, and the Board approved, Garrett Carskadon for the position.

A comparison of the grievant's and Mr. Carskadon's credentials establishes that the grievant has completed a Masters degree plus thirty hours and approximately eighteen years experience. He has been employed by the Mineral County Board of Education for fourteen years, five of which he served as a principal and/or assistant principal. Mr. Carskadon has seventeen years total experience, three of which he was employed by the Mineral County Board of Education, has earned ninety-three graduate hours and is presently pursuing a doctoral degree. At the time of his appointment he had no administrative experience.

In response to the grievant's request for the reasons why he was not awarded the position, Superintendent Ball cited Mr. Carskadon's advanced training and community involvement in the Burlington area as outstanding. Superintendent Ball's letter to the grievant recites Mr. Carskadon's involvement in the Burlington community to include:

Burlington Ruritan (presently Treasurer)
St. James Episcopal Church (presently Senior Warden)
Member of Mineral County Farm Bureau
Chairman of Mineral County Historic Landmark Commission
Chairman of Headsville Cemetery Board
Hiram Lodge AF & AM, Cumberland Consistory of Scottish Rite, and Ali Ghan Shrine
President of Burlington School P.T.A.
Burlington Community - Children's Home Advisory Board¹

¹The grievant lists his activities as the P.T.A., church and Naval Reserves, none of which are located in the Burlington area.

At the level four hearing the Board continued to assert that the successful applicant's education and community involvement supported the decision that Mr. Carskadon was the most qualified applicant for the position.

W.Va. Code §18A-4-8b provides that decisions affecting the promotion and filling of professional positions shall be based upon qualifications. While there is no specific definition of qualifications, it would necessarily include education, experience and evaluations of past performance. However, less quantifiable criteria such as elan, enthusiasm, leadership and talent should also be considered. Higgins v. Board of Education of Randolph County, 268 S.E.2d 682 (W.Va. 1982). An applicant's involvement in community activities in the area of the school's location may relate to establishing good public relations and may be considered when evaluating candidates for a position.

The applicants have approximately the same total number of years of experience. Each has exceeded the other in education and administrative experience. While both applicants are involved to some extent in community activities, Mr. Carskadon's work in the Burlington area would be beneficial to school-community relations and enhances his qualifications for this specific position.

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

Findings of Fact

1. Grievant is currently employed as a teacher by the Mineral County Board of Education.

2. The grievant and eight other individuals applied for the position of principal at Burlington Elementary School in September 1988. The position was subsequently awarded to Garrett Carskadon.

3. The grievant has approximately eighteen years total experience, fourteen of which were earned in Mineral County, five assigned as a principal and/or assistant principal. He has earned a Masters degree plus thirty hours and is involved in the PTA, church and the Naval Reserves.

4. Mr. Carskadon has seventeen years total experience of which three were earned in Mineral County. He has earned two Masters degrees and is presently enrolled in a doctoral program. He had no administrative experience prior to this appointment. He is a native of Burlington, currently resides in the area and is involved in many community activities.

Conclusions of Law

1. Decisions affecting the promotion and filling of any classroom teacher's position shall be made on the basis of qualifications with seniority having a bearing on the selection process only when the applicants have otherwise

equivalent qualifications or where differences in qualification criteria are insufficient to form the basis for an informed and rational decision. Dillon v. Board of Education, 351 S.E. 2d 58 (W.Va. 1986).

2. County boards of education have substantial discretion in matters relating to the hiring, assignment, transfer and promotion of school personnel but this discretion must be exercised reasonably and in a manner which is not arbitrary and capricious. State ex rel. Hawkins v. Tyler County Board of Education, 275 S.E.2d 908 (W.Va. 1981).

3. It is incumbent upon a grievant to prove all the allegations constituting the grievance by a preponderance of the evidence. Butler v. McDowell County Board of Education, Docket No. 33-88-208 (March 31, 1989); Lucas v. Mercer County Board of Education, Docket No. 27-88-180 (December 15, 1988; Helton v. Kanawha County Board of Education, Docket No. 20-87-028-1 (October 26, 1988).

4. The Board's determination that the higher educational level and extensive community activities in the area of the school resulted in the successful applicant being more qualified than the grievant, who had more administrative experience, was proper and not arbitrary or capricious.

Accordingly, the grievance is **DENIED**.

Either party may appeal this decision to the Circuit Court of Mineral County or to the Circuit Court of Kanawha County and such appeal must be filed within thirty (30) days of receipt of this decision. (W.Va. Code §18-29-7) Neither the West Virginia Education and State Employees Grievance Board nor any of its Hearing Examiners is a party to such appeal, and should not be so named. Please advise this office of any intent to appeal so that the record can be prepared and transmitted to the appropriate Court.

DATED:

August 29, 1989

Sue Keller

SUE KELLER

SENIOR HEARING EXAMINER