SAMUEL THOMAS HUGHES,

Grievant,

v. DOCKET NO. 94-22-543

LINCOLN COUNTY BOARD OF EDUCATION,

Respondent.

D E C I S I O N

Grievant, Samuel Thomas Hughes, appealed adverse rulings at the lower levels to Level IV on September 7, 1994, protesting his non-selection for the position of Assistant Principal at Duval High School. Grievant alleges Respondent Lincoln County Board of Education violated W. Va. Code § 18A-4-7a and abused its discretion in filling the position and requests instatement into the position and any compensation and benefits due. Hearing was held on December 1, 1994, and the parties submitted post-hearing briefs on or about December 23, 1994.

The following facts are derived from the testimony, evidence and record developed by the parties.

Findings of Fact

1. Grievant has been employed by Respondent for twelve years as a classroom teacher.

2. Sometime in the Fall of 1993, Respondent posted a position for Assistant Principal at Duval High School (the posting was not offered into evidence).

3. Four applicants, including Grievant and Dwight Coburn, the successful applicant, submitted applications for the position. One applicant subsequently withdrew application.

4. The remaining three candidates were interviewed by Assistant Superintendent Larry Prichard, and their qualifications were reviewed using the first set of criteria set forth in W. Va. Code § 18A-4-7a.

5. At the time of application, Grievant possessed a professional administrative certificate, a Masters' Degree plus 30 hours, and had served 10 years as principal of Huntington Christian

Academy from 1970 to 1982 (Gr. Ex. 3). Grievant had a 3.86 grade point average (Gr. Ex. 4), attended the Governor's Summer Institute for Students at Risk, completed computer training in student programs and the West Virginia Education Information System computer program (Gr. Ex. 5), had satisfactory evaluations, 12 years of teaching seniority, and no years of administrative seniority. Gr. Level IV Ex. 1.

6. At the time of application, Mr. Coburn possessed a professional administrative certificate (See footnote 1) , a Masters' Degree plus30 hours, and no prior administrative experience. Mr. Coburn had a 3.87 grade point average, completed the Principal's Assessment Center Program for prospective principals, and completed training for evaluations of school employees through the W. Va. Center for Professional Development. He had satisfactory evaluations, and 8 years teaching seniority. Gr. Level IV Ex. 1.

7. Assistant Superintendent Prichard testified that Mr. Hughes and Mr. Coburn were "very close" in qualifications and both met the posted minimum qualifications for the position.

8. Mr. Prichard interviewed the applicants, reviewed their respective credentials and recommended to Superintendent Dallas Kelley, who recommended to the Board of Education, that Mr. Coburn be awarded the position of Assistant Principal. The Board adopted the Superintendent's recommendation and awarded Mr. Coburn the position.

Argument

In non-disciplinary matters, in order to prevail, a grievant must establish the truth of his allegations by a preponderance of the evidence. Black v. Cabell County Bd. of Educ., Docket No. 06-88-238 (Jan. 31, 1989). County boards of education are free to determine the weight to be applied to each of the factors listed in W. Va. Code § 18A-4-7a in assessing candidates' qualifications foradministrative positions so long as they do not abuse their discretion. Blair v. Lincoln County Bd. of Educ., Docket No. 92-22-009 (July 31, 1992).

Grievant does not contend that the selection process is flawed. Rather, Grievant contends that Respondent abused its discretion in selecting Mr. Coburn over him for the Assistant Principal position because he was the more qualified candidate. Grievant argues that he should have received more credit for his relevant specialized training, attendance work at the school, and his experience as Principal at the Huntington Christian Academy.

Mr. Prichard testified that the two candidates were very close and he considered their qualifications to be basically equal. Grievant presented no evidence that his training and work warranted more credit than Mr. Coburn's, or that Respondent abused its discretion in concluding that the candidates' training and contributions to their schools were equally weighted.

With regard to Grievant's administrative experience, Mr. Prichard testified that it had been 12 years since Grievant was Principal at the private school and there is so much more involved now in the administration of schools generally, and especially of a public versus a private school, that he gave little credit to Grievant for his private school experience in the "experience relevant to the position" category.

It was not an abuse of discretion to consider Grievant's private school administrative experience not "relevant" to the position. An applicant's greater experience in educationadministration does not necessarily entitle him or her to an administrative post. See Marsh v. Wyoming County Bd. of Educ., Docket No. 94-55-022 (Sept. 1, 1994). Mr. Prichard was correct in his assessment of the skills and knowledge needed to administer a public school in West Virginia. This is not to diminish or in any way belittle private schools or Grievant's experience; it is simply well-known that public schools in West Virginia are subject to many laws and statutory mandates that are not present in the private school setting and experience in one does not necessarily confer "relevant" experience in the other.

Conclusions of Law

1. A county board of education must make decisions on the selection of professional personnel on the basis of qualifications. In making its selection the board must give consideration to appropriate certification, experience relevant to the position, course work and degree level in the relevant field, degree level generally, academic achievement, relevant specialized training, past performance evaluations and other measure or indicators upon which the relative qualifications of the applicants may be fairly judged. County boards have wide discretion in choosing administrators once they have reviewed the criteria in W. Va. Code § 18A-4-7a. Marsh v. Wyoming County Bd. of Educ., Docket No. 94-55-022 (Sept. 1, 1994).

2. Grievant has failed to establish that he was more qualified than the successful applicant for the position in issueor otherwise demonstrate that Respondent abused its discretion or did not comply with the requirements of W. Va. Code § 18A-4-7a.

Accordingly, this grievance is **DENIED**.

Any party may appeal this decision to the Circuit Court of Kanawha County or to the Circuit Court of Lincoln 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 Administrative Law Judges is a party to such appeal, and should not be so named. Any appealing party must advise this office of the intent to appeal and provide the civil action number so that the record can be prepared and transmitted to the appropriate court.

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MARY JO SWARTZ

Administrative Law Judge

Dated: January 27, 1995

Footnote: 1 *The parties had stipulated at the lower levels that both candidates possessed the appropriate certification. At Level IV, Grievant alleged that Mr. Coburn only possessed an internship license and therefore did not meet the minimum posting requirements, citing Shewbridge v. Mercer County Bd. of Educ., Docket No. 94-27-094 (Sept. 28, 1994). The undersigned requesteddocumentation verifying Mr. Coburn's certification which Respondent provided by letter dated December 5, 1994. As the evidence shows that Mr. Coburn possessed a professional administrative certificate at the time of selection, it is not necessary to address Grievant's Shewbridge argument.*