

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

ROBERTA A. CHADWICK, et al

vs.

PAWTUCKET SCHOOL
COMMITTEE

D E C I S I O N

February 27, 1989

This matter is now before us on the question of remedy. The Rhode Island Board of Regents has found ". . . that the three-named teachers were entitled to be recalled for the 1986-87 school year." We find that if these three teachers had been recalled when they should have been they would have returned on one-year appointments as long-term substitutes who would have received a contract in that capacity with full benefits and full pay. The issues which we must resolve concern back pay, seniority, and related matters. At the outset, however, we point out that we do not decide today the question of whether the school year which appellants missed would count towards the acquisition of tenure.

With regard to contract seniority, we find that the appellants are entitled to have one-year of seniority added to what they have accrued. We also require the School District to make the appropriate employer contribution to the State Retirement Fund for each of the appellants.

With regard to medical benefits, we find no evidence in the record to show what amount, if any, should be paid to Carol Westgate (page 11 of her deposition). We, therefore, deny her claim for medical benefits. We also find that Roberta A. Chadwick did not incur any medical benefit expenses (page 23 of September 14, 1988 Transcript) during the year she was out of school. To the extent that she makes a claim for such benefit payment, the claim is denied.

With regard to Oscar R. Tassone, we find from his uncontradicted testimony that he paid \$2500.00 for such benefits. We, therefore, order the School District to reimburse him for this amount.

While the case with regard to Mr. Tassone is a close one, we find that all three appellants attempted to mitigate their damages. We, therefore, find that they are entitled to recover back pay. The record establishes that Mr. Tassone would have earned \$29,719 for teaching during the 1986-87 school year. Ms. Chadwick would have earned \$24,899 during the 1986-87 school year. Ms. Westgate was at the top pay step with a Master's Degree but the record does not show the dollar value of such a position. We give Appellant Westgate leave to file a supplement to the record to show what she would have been paid. This information shall be filed within ten (10) days of the date of this decision.

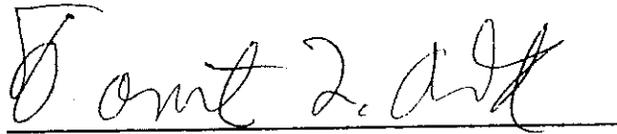
We think that the amounts paid to the appellants under the State's unemployment program must be deducted from the award of back-pay which we make to the appellants. This deduction includes both the payment made for the summer period (June 24, 1986 - August 30, 1986) and the payments made for the 1986-87 school year. To rule otherwise would be to award the appellants a windfall. We, therefore, find based upon material submitted by the School Committee (letter of September 21, 1988) that Appellant Tassone received \$4397.36, that Appellant Westgate received \$4114.00, and that Appellant Chadwick received \$5025.00 in unemployment compensation. These sums are to be deducted from the awards of back-pay granted to the appellants.

We find that Mr. Tassone earned \$4145.00 as a substitute teacher during the 1986-87 school year. We find that Ms. Chadwick earned \$4275.00 as a substitute teacher during the 1986-87 school year. These sums must be deducted from their awards of back-pay.

With regard to other potential offsets, the record is either devoid of their dollar amount or it demonstrates that they were earned outside of normal teaching hours. They, therefore, cannot be included in our computations.

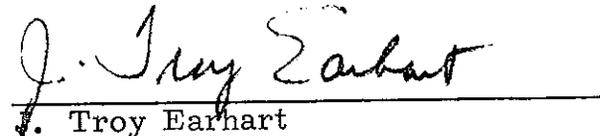
Conclusion

The appellants are to be awarded back-pay, seniority, medical benefit payments and retirement credits in accordance with the terms of this decision. We also award interest at the statutory rate on the monetary awards we have made.



Forrest L. Avila, Esq.
Hearing Officer

Approved:



J. Troy Earhart
Commissioner of Education

February 27, 1989