

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

DONNA LALIBERTE ET AL. :

vs. :

PAWTUCKET SCHOOL COMMITTEE :

DECISION

July 29, 1992

Held: R.I.G.L. 16-7-29 requires a school committee to establish and implement a salary schedule with an annual step advancement for certified personnel; the Pawtucket Teachers' Alliance is joined as a party and the proceeding is continued to determine the validity of provisions of collective-bargaining agreement vis-a-vis R.I.G.L. 16-7-29.

Introduction

This matter concerns an appeal to the Commissioner of Education by Donna LaLiberte, Brenda Warnock, Loriann Lancellotti, Sharon Allard, and Julia Charpentier regarding "a decision and/or doing of the Pawtucket School Committee with respect to the R.I.G.L. 16-7-29." (January 23, 1992 letter of appeal).¹

Appellants assert that the School Committee violated R.I.G.L. 16-7-29 by denying them a step increase on the salary schedule for the 1991-1992 school year.

For the reasons set forth below, we continue this proceeding to provide for the involvement of the Pawtucket Teachers' Alliance, Appellants' collective-bargaining representative.

Background

Appellants are certified teachers in the Pawtucket school system. As such, they are represented for collective-bargaining purposes by the Pawtucket Teachers' Alliance. At the end of the 1990-1991 school year, Appellants' teaching service ranged from one to 9 years. For the 1990-91 school year, Appellants occupied steps 1 through 9 on the salary schedule.

Effective September 1, 1991, the School Committee and the Pawtucket Teachers' Alliance entered into a 3-year collective-bargaining agreement. (School Committee Exhibit 1). Article VIII of the agreement, entitled "Monetary Compensations," provides in Section 1(1) that "[e]ffective September 1, 1991, the salary

1 The Commissioner designated the undersigned hearing officer to hear this appeal. It was heard on March 5, 1992. Following the receipt of the transcript, the parties submitted legal memoranda.

schedule shall be established pursuant to Appendix A."

Appendix A is entitled "Pawtucket School Department Teacher Scale 1991-1992." The upper left portion of the document reads "APPENDIX A - FREEZE
NO STEP."

Appendix A sets forth Steps 1 through 10, and Steps +20, +25, +30, with corresponding salary amounts.

The remainder of Section 1(1) of the contract states that

Any teacher employed in the Pawtucket School Department as of September 8, 1991, who would have received a step increase during the 1991-1992 School Year will receive severance payment of one thousand (\$1,000) dollars to be paid when that individual leaves the employ of the Pawtucket School Department.

Article VIII also provides for salary schedules for the 1993-1994 and 1994-1995 school years. The schedules, contained in Appendices B and C of the contract, respectively state in the upper left portion "4.2% WAGE INCREASE
ONE STEP" and "4.9% WAGE INCREASE
ONE STEP."

For the 1991-1992 school year, each of the Appellants remained on the same step of the salary scale she had occupied in the previous school year.

Positions of the Parties

In his opening statement at the hearing, Appellants' counsel described the basis of this appeal as being "that pursuant to the provisions of 16-7-29, Rhode Island law mandates a step increase for [Appellants] with respect to the '91-'92 school year." (Transcript, p. 25). Appellants assert that their claim in this matter is purely statutory, and not at all contractual. Appellants thus contend that the step freeze is statutorily

improper, that it must be removed, and that their salaries must be increased.

In its memorandum, the School Committee reiterates its request made at the hearing that the Pawtucket Teachers' Alliance be included in this proceeding as a party respondent. The School Committee contends that the Teachers' Alliance is a necessary party because (1) this appeal requires an interpretation of the collective-bargaining agreement, to which the Alliance is a party, and (2), if the appeal is sustained, the potential relief to be granted Appellants will involve the Alliance.²

As for the merits of the appeal, the School Committee does not dispute that, aside from the deferred compensation, the Appellants received the same rate of pay in the 1991-1992 school year that they received in the 1990-1991 school year. The School Committee argues that R.I.G.L. 16-7-29 requires the establishment of a salary schedule with no more than 12 annual steps which recognizes years of service, experience, and training. It contends that the statutory language regarding annual steps is permissive in nature, and that there is no requirement for an annual step increase. The School Committee asserts that the salary schedule for the 1991-1992 school year complies with the requirements of R.I.G.L. 16-7-29, and that the monetary compensation received by teachers in the 1991-1992 school year has not been

2 Appellants oppose the School Committee's request to include the Alliance as a party respondent, contending that the responsibility to pay teachers' salaries is solely that of the school committee.

frozen, but has been increased at each step by the provision of \$1,000 deferred compensation. Consequently, teachers' experience and service are being recognized, and the fact that the compensation is being deferred in no way contradicts R.I.G.L. 16-7-29.

Discussion

The issue of the participation of the Pawtucket Teachers' Alliance in this proceeding was held in abeyance at the hearing while the parties developed the evidentiary record regarding this appeal. The relevant facts in this matter are set forth above. Appellants claim that the collective-bargaining agreement violated R.I.G.L. 16-7-29 by freezing teacher advancement on the steps of the salary schedule for the 1991-1992 school year, and that the School Committee, as the entity responsible for the payment of teacher salaries, should be ordered to increase those salaries consistent with the statute.

The initial issue raised by this appeal concerns the proper construction of R.I.G.L. 16-7-29, which states

Every community shall establish and put into full effect by appropriate action of its school committee a salary schedule recognizing years of service, experience, and training, beginning at a minimum of not less than four thousand dollars (\$4,000) and rising to a maximum of at least six thousand dollars (\$6,000) for all certified personnel regularly employed in the public schools and having no more than twelve (12) annual steps, with no annual step providing an increase of more than three hundred dollars (\$300). The term "school year" as applied to the salary schedule shall mean the ten (10) calendar months beginning in September and ending the following June.

This issue clearly is one "arising under any law relating to schools or education" within the province of the Commissioner

under R.I.G.L. 16-39-1 and 2. Furthermore, the resolution of this question of statutory construction does not require the involvement of the Pawtucket Teachers' Alliance.

We construe R.I.G.L. 16-7-29 as requiring a school committee to establish and implement a salary schedule consisting of up to 12 annual steps for certified personnel recognizing their years of service, experience, and training. By implementation of the salary schedule, we mean that certified personnel must actually advance along the annual steps of the schedule on a yearly basis.

We find the statute to be clear. It speaks of "annual steps," not merely "steps." Certified personnel who are retained by a school district from year to year are entitled to advance along the steps of the salary schedule each of those years until they exhaust the number of steps on the schedule.³ In this manner certified personnel are compensated concomitant with the extent of their service, experience, and training in relation to the other certified personnel in the particular school system. As a teacher accumulates greater service, experience, and training from year to year, he or she annually advances a step on the salary scale to reflect his or her increased professional development. It is our belief that this construction of the language of R.I.G.L. 16-7-29 is consistent with the nature and object of the statute, and thus, is in accord with the intent of the Legislature.

Having construed the statute as requiring an annual step advancement along the salary schedule, we must consider the

3 While the statute requires an annual step advancement, it does not require an annual salary increase for certified personnel.

effect of this statutory construction on the teachers' appeal herein.

In Berthiaume et al. v. School Committee of the City of Woonsocket, 397 A.2d 889 (R.I. 1979), the Rhode Island Supreme Court examined R.I.G.L. 16-7-29 in holding that per diem substitute teachers employed in excess of 135 days in a school year are "regularly employed" for purposes of placement on the school committee salary schedule. The Court in Berthiaume stated that, under R.I.G.L. 16-7-29, "each community is free to adopt its own schedule as long as the lowest salary level does not fall below the \$4,000 minimum." Ibid. at 893. The Court recognized that, by enacting R.I.G.L. 28-9.3-1 to 16 (i.e., the Teachers' Arbitration Act, which grants certified teaching personnel the right to bargain collectively concerning terms and conditions of employment), the Legislature "intended to provide one means whereby the statutorily mandated salary schedule could be established." Ibid.

As previously described, the collective-bargaining process was precisely the mechanism by which the salary schedule at issue herein was established. The results of that process, i.e., Article VIII and Appendix A of the contract, have been set forth. It remains to be decided whether those collective-bargaining provisions are in conflict with our construction of R.I.G.L. 16-7-29. For it is well established that a provision of a collective-bargaining agreement which is in conflict with a specific provision of Rhode Island education law is invalid. Warwick Teachers Union on behalf of Mary Conway, Richard Dickson

and Mary Phillips vs. Warwick School Committee, Commissioner's Decision, January 15, 1988. See also Vose v. Brotherhood of Correctional Officers, 587 A.2d 913 (R.I. 1991).

Prior to deciding the collective-bargaining agreement's validity vis-a-vis the statute, we find that we must involve the Pawtucket Teachers' Alliance in this proceeding. The Teachers' Alliance negotiated the collective-bargaining agreement with the School Committee on behalf of Appellants and other bargaining unit members, it is a party to the agreement, and it administers the agreement on a day-to-day basis.³ Our further action in this proceeding clearly will affect the interests of the Teachers' Alliance. Furthermore, if this appeal is sustained, the Teachers' Alliance may be included in the remedy. We therefore will join the Teachers' Alliance as a party to this proceeding.

Conclusion

Pursuant to R.I.G.L. 16-7-29, a school committee must establish and implement a salary schedule with an annual step advancement for certified personnel. Before determining whether provisions of the collective-bargaining agreement at issue herein are in conflict with R.I.G.L. 16-7-29, it is necessary to join Pawtucket Teachers' Alliance as a party to this appeal. We hereby join the Pawtucket Teachers' Alliance as a party, and continue this matter for further proceedings consistent

3 We note that in the Warwick School Committee case, in which the Commissioner found that the teachers' placement on the salary schedule pursuant to the collective-bargaining agreement was invalid under R.I.G.L. 16-7-29, the Warwick Teachers Union was a party.

with this decision.

Paul E. Pontarelli

Paul E. Pontarelli
Hearing Officer

Approved:

Janice M. Baker for -
Peter McWalters
Commissioner of Education

July 29, 1992