

STATE OF RHODE ISLAND

COMMISSIONER OF EDUCATION

AND

PROVIDENCE PLANTATIONS

ANDREW POLOUSKI AND
JAMES GLEASON

V.

CHARIHO SCHOOL COMMITTEE, ET AL

DECISION

Held: School Committee could
change de facto tenure
system for coaches.

Until May 19, 1992, the Chariho School Committee had an unwritten but consistent policy of annual reappointment, absent cause, for persons who held the positions of athletic director or coach. Under a prior ruling of the Commissioner of Education this situation would have created a "de facto" tenure system for these positions and absent good cause, those holding such positions would be entitled to keep them. Magliocco vs. Middletown School Committee, June 14, 1990.

On May 19, 1992, by an amendment to its contract with NEA-Chariho, the school committee changed this policy and practice effective as of the 1994-95 school year, by requiring that certain positions, including the athletic director and coaches, be posted as vacancies at least once every three years and that evaluations of performance be done on an annual basis. The amendment further provided that such vacancies would "be assigned as per Article XIII" of said collective bargaining agreement. Article XIII states in pertinent part:

"E. If more than one (1) teacher has applied for the same position, the teacher best qualified for that position shall be appointed, and qualifications being substantially equal, seniority in the school system shall control. Reference to experience will not be made in postings of vacancies ... Experience may not be used in judging qualifications between applicants. Expertise may be used in judging qualifications between applicants.

F. To fill vacancies, the following procedure will be applied by the Superintendent, in the order noted:

- 1.
- 2.
3. The position will be posted and teachers expressing a desire for a voluntary transfer will be placed next according to the provision of this Article.
4. A candidate from outside the bargaining unit will be appointed by the Committee.

The petitioners in this case Andrew Polouski and James Gleason held coaching positions under the system which was in effect until May 19, 1992. When the school committee elected not to reappoint them to these coaching positions for the next year they appealed this decision to the Commissioner contending that they had "de facto" tenure to the positions now at issue.

In Magliocco vs. Middletown the Commissioner ruled that a system of de facto tenure could be created for coaching positions. The Commissioner however was careful to point out in Magliocco that:

"... (w)e do not mean to imply ... that a school committee previously utilizing such a system could not change this system. We can foresee that as a result of this decision, school committees and superintendents will scrutinize very carefully the "practices and understandings" present in employing coaches. They may decide to take all steps possible to terminate such a system to preserve the flexibility they should enjoy under our statutory scheme.

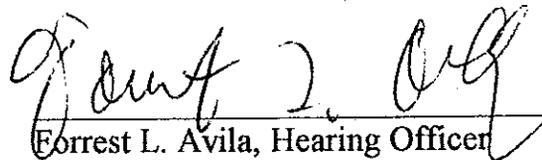
We find in the present case that the school committee's action of May 19, 1992 terminated any de facto tenure to coaching positions which might have existed in the Chariho School system. After this date petitioners could not have had a reasonable expectation of automatic reappointment. Under these circumstance we find nothing wrong in the school committee's decision to appoint others to the coaching positions at issue.

We also note that we find no merit in petitioners' equal protection argument. At a minimum the use of teachers as coaches helps integrate sports with academics and insures continuity of supervision. Such concerns provide a rational basis for employing teachers as coaches. Since a "suspect classification" is not involved here a rational basis suffices to sustain the classification. Power v. City of Providence, 582 A.2d 895 (R.I. 1990) and Boucher v. Sayeed, 459 A.2d 87

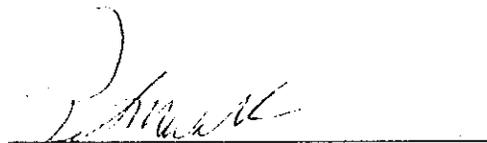
(R.I. 1893). We also find that collective bargaining agreement, which reserved coaching positions to teachers, did not exceed the proper scope of collective bargaining, Belanger v. Matteson, 349 A.2d 124 (R.I. 1975); Barrington School Committee v. Labor Board, 388 A.2d 1369 (R.I. 1978).

Conclusion

The appeal is denied and dismissed.


Forrest L. Avila, Hearing Officer

Approved:


Peter McWalters, Commissioner

7/7/95
Date