

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER
OF
EDUCATION

Anthony Martin

v.

North Providence School Committee

DECISION

Held: The appellant is entitled to credit for his semester of service as a regular teacher in 1996. However, recognition of the half year's credit will occur only when added to other service to total an additional full year and be recognized at the beginning of the school year. Therefore, he is not entitled to advance on the salary schedule in the middle of the school year.

DATE: November 15, 1999

Travel of the Case

This matter was appealed to Commissioner Peter McWalters on November 25, 1998. Initially the dispute centered on the alleged failure of the School Committee to afford Mr. Martin a hearing. He sought to have the School Committee consider his claim that his placement on the salary schedule did not comply with law in that he was not advanced to the next higher step at the beginning of the second semester of the 1997-1998 school year. After assignment to the hearing officer, the parties agreed to stipulate to the facts of the case and submit the legal issue for resolution at this level. Counsel for the parties submitted memoranda of law to the hearing officer and the record in the case closed on July 8, 1999 upon receipt of the transcript of the hearing.

Issues

- Is Anthony Martin entitled to credit for purposes of determining his placement on the salary schedule for a single semester in 1996 in which he was employed as a regularly-appointed teacher in the Providence school system ?
- If he is entitled to credit for this service, was Anthony Martin entitled to advance to Step 3 of the salary schedule in January of the 1997-1998 school year?

Findings of Relevant Facts

- During school year 1993-1994 Anthony Martin served as a regularly-appointed teacher of music in the Providence school system. Stipulation of fact dated January 22,1999.
- He was placed at Step one of the salary schedule in effect for Providence teachers for that year.
- During the period January to June,1996 Mr. Martin served as a regularly-appointed music teacher in the Providence public schools and was placed at Step 2 of the salary scale during this period. Stipulation of fact dated January 22,1999.
- In September of 1997 Mr. Martin was hired as a regularly-appointed teacher in the North Providence school system. During school year 1997-1998 he was compensated at Step two of the salary schedule. During school year 1998-1999 he was again employed as a regularly-appointed teacher and was compensated at Step three of the salary schedule. Stipulation of fact dated January 22,1999.
- Mr. Martin remains employed as a music teacher in North Providence at the present time. Stipulation of fact dated January 22,1999.
- Other than the teaching service described above, Mr. Martin has no other in-state public school teaching experience. Stipulation dated January 22, 1999.

Positions of the Parties

Petitioner

In the memorandum submitted on his behalf, the Petitioner takes the position that effective with the beginning of the second semester of the 1997-1998 school year, he should have been advanced to Step three of the salary schedule in effect for regularly employed teachers in the North Providence school system. He argues that R.I.G.L. 16-7-29 requires that all periods of service as a regular teacher be creditable. He had accrued a single semester of service during the 1995-1996 school year. At the conclusion of the first semester of the 1997-1998 school year, he had an additional one year of teaching service and argues that he should have been advanced to Step three at that time.

The petitioner notes the basic logic of receiving credit for his semester of service in 1996. Recognition of such service would be consistent with the principle recently established in decisions of the Commissioner which accord credit for a year of service for each full year of part-time teaching service. Counsel points out that in some cases the part time teacher, who advances a step on the salary schedule, may actually work fewer days during the entire year than the petitioner worked during the semester at issue. Mr. Martin seeks to be credited for his substantially equivalent half-year of service, and have his compensation adjusted each January when he accrues another additional year of service. Without such recognition, his semester of full-time service will have no impact on his placement on the salary schedule.

Counsel also points out that a substitute teacher receives credit for each school year in which he or she is employed for at least one hundred and thirty-five days, even though the substitute is not considered regularly employed until the one hundred and thirty-sixth day of service. The Petitioner, on the other hand, was regularly employed from the first day of his appointment in January of 1996; yet his 90 days of regular teaching service for that entire semester have received no credit for compensation purposes. This situation, which is argued to be fundamentally unfair, would be corrected by giving him credit for his additional semester of service and advancing him to Step three as of January of 1998.

The Petitioner argues that there is no evidence of administrative burden or inconvenience if he were given credit for a semester's experience as a regular teacher, and in recognizing this service through step advancement in the middle of the school year. Calculations to determine a teacher's entitlement to a step advancement during the school year can easily be made and salaries adjusted accordingly through the use of computer programming. Even if there were some administrative inconvenience occasioned by recognizing segments of school years and implementing step advancements throughout the year for regular teachers, such inconvenience cannot serve as an excuse for denying teachers their statutory right.

North Providence School Committee

Counsel for the School Committee's threshold argument is that the service required to be recognized under R.I.G.L. 16-7-29 must meet the definition of "school year" as set forth in the statute, i.e.:

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.

By including the definition of school year in the statute, counsel argues that the General Assembly intended to restrict creditable service to that which begins in September and ends the following June. Crediting the petitioner's service of one semester in the Providence school system is contrary to this clear statutory restriction. If the semester served by the Petitioner in 1996 entitled him to advance on the salary schedule in January of 1998, the School Committee argues that it would alter the definition of service to that performed within a calendar year, rather than a school year, in clear contravention of the statute.¹

Additionally, the School Committee notes that recent decisions of the Commissioner² affirm the notion that creditable service under R.I.G.L. 16-7-29 is limited to service for a complete school year. The logic in restricting creditable service to full years (even if part-time) is that it is only such consistent service that affords a teacher the experience which the General Assembly sought to compensate by a teacher's advancement on the salary schedule.

Finally, it is asserted that if the Petitioner's argument is accepted, teachers throughout the state will become entitled to step advancement as they accrue additional years of service by "tacking" portions of years (or even days) of service together. Districts will face the administrative burden of advancing members of the regular teaching staff on the salary schedule at innumerable points throughout the school year. This is clearly not the type of system contemplated by the statute and would be an interpretation of the statute which leads to an absurd result, the School Committee argues.

DECISION

In construing R.I.G.L. 16-7-29 and applying this statute to the facts in Mr. Martin's case we deal for the first time with the issue of whether portions of years of regular teaching service are creditable and if so, when they must be recognized in determining a teacher's placement on the salary schedule. There is no precedent in Rhode Island on this issue, and guidance from decisions in other states is of limited value, given the idiosyncratic nature of statutes of this type. Clearly, if the issue were tenure and the successful completion of the

¹ We find this argument somewhat confusing since the semester in question was not directly followed by in-state, public school teaching service in the 1996-1997 school year. The appellant is seeking to tack this single semester to the first semester of the 1997-1998 school year.

² Kathy E. Tipirneni v. Warwick School Committee, June 19, 1998; Adeline Lyons v. Warwick School Committee, June 3 1998; Lynne A. Bigos v. Scituate School Committee, March 19, 1993.

probationary period, the strictures imposed on the length and nature of the teacher's employment have been clear and consistent. Other than de minimis absences, service must be for the full year to be creditable. See *Dunn v. Middletown School Committee*, decision of the Commissioner dated July 26, 1976; *Brunetti v. Woonsocket School Committee*, decision of the Commissioner dated April 24, 1992; *Asadoorian, et al. v. Warwick School Committee*, decision of the Commissioner dated August 12, 1994, aff'd by the Rhode Island Supreme Court in 691 A2d 573 (R.I. 1997). These rulings are consistent with the notion that the award of tenure, and the concomitant rights and responsibilities attached to it, must be based on a teacher's satisfactory service over a sustained period of time. Until the 1997 amendment to Section 16-13-3 by the General Assembly, it was also required that service of the probationary period take place over three successive years.³

Our initial point of reference in deciding this dispute is the language of the statute itself, which requires districts to have in effect a salary schedule "recognizing years of service, experience, and training, for all certified personnel regularly employed in the public schools and having no more than twelve (12) annual steps". The statute goes on to state "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". It is the School Committee's argument that this language limits credit to service for a complete school year. We do not give the same construction to this language. First, if the General Assembly sought to limit service credit to full or complete years of service, it could have used language which clearly conveyed this intent. Secondly, the notion that creditable service must be for a full year is not implicit in the context of this statute, as it is in the tenure situation. The argument that teaching service must extend from September to June of any school year in order to be creditable is also contrary to the conclusion reached by our Supreme Court in *Berthiaume v. School Committee of the City of Woonsocket*, 121 R.I. 243, 397 A2d 889 (1979). In *Berthiaume*, the court found that a substitute teacher who taught for a period of one hundred and thirty-five (135) days (not one hundred and eighty (180) days or from September to June) is entitled to a year of service credit under our statutory scheme. It would be illogical to entitle a substitute teacher to a full year's credit for a 135 day period of service⁴, and deny any credit whatsoever to the regular teacher employed for a full semester. While we agree with the School Committee that "school year" as defined in the statute is not the equivalent of "calendar year" we do not agree that the purpose of such distinction was to limit creditable service to that rendered from September to the following June of any school year.

It is true that recent decisions of the Commissioner, previously cited, have determined that regularly employed part-time teachers are entitled to advance one year on the salary schedule for each year of part-time service. It is incorrect to argue that these same decisions stand for the proposition that teaching for the entire school year is required for accrual of service credit. This issue was not raised in any of the cited cases because in each instance the part-time teacher was employed for the entire school year. The issue in each of the cases cited in the memorandum of the School Committee was whether part-time service for an entire school year was creditable and whether the part-time teacher advanced on the salary schedule at the same rate as his or her full-time counterparts. The import of these cases is that

³ With the amendment the probationary period may now be served over five successive school years.

⁴ During which time the substitute is not even considered regularly employed

there is logic and fairness in giving credit to portions of years served by a regular teacher, such as the Petitioner, if Section 16-7-29 is construed to give a full year's credit to a teacher employed part time for an entire school year. In some instances the part-time teacher may actually be employed for less time over the entire school year than the full-time teacher was employed for a single semester.

Based on the above analysis, we construe R.I.G.L. 16-7-29 to require service credit for portions of school years served by a regular teacher. An entirely separate issue, however, is whether 16-7-29 mandates step adjustments throughout the school year. The appellant argues not only that his semester of service is entitled to credit, but also that his total service should have been recognized in the middle of the 1997-1998 school year. Thus, the appellant's claim is to be distinguished from that of a teacher who seeks to "tack" portions of years together to accumulate an additional year for credit at the beginning of the school year. This is an important distinction, because if Mr. Martin's position on this issue is accepted, school districts would be required to make individual adjustments to teachers' salaries throughout the school year, and in some cases throughout the fiscal year.⁵ when an additional year of creditable service is accumulated. We reject this interpretation of Section 16-7-29.

We interpret the statute to require recognition of accumulated years of service by a school district pursuant to a "salary schedule" containing no more than twelve (12) annual steps. The concept of teachers advancing on the salary schedule throughout various points in the year is inconsistent with the notion of "annual" steps, which we interpret as a single annual advancement of all teachers who are eligible, by virtue of their accumulated creditable service, at the beginning of the school year. We take administrative notice of the fact that a school district budget, which in most cases is part of a municipal budget, contains projections of staff salaries on a fiscal year basis. School budgets contemplate salary levels for certified professional staff which are level throughout the fiscal year. Midyear (or more frequent) adjustment of teacher salaries would be inconsistent with the concept of a "salary schedule" as that term is found in R.I.G.L. 16-7-29, and more consistent with a system of individualized salary adjustments based on total accumulated years of service. We find that the Petitioner's claim to a midyear step adjustment is not supported by 16-7-29. Thus, although his semester of service from January to June of 1996 is creditable, he is not entitled to recognition of that service after the salary schedule for the year has been implemented. His appeal is denied.

Kathleen S. Murray, Hearing Officer

APPROVED:

Peter McWalters, Commissioner

Date

⁵ for those teachers who elect an option to receive their salaries over a twelve month period