

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

Janet Coyle

v.

Providence School Board

DECISION

Held: The petitioner's claim that her statutory rights under R.I.G.L. 16-13-5 were violated when she was suspended on September 14, 1995 was not proven. The claim is also untimely and barred under the doctrine of res judicata. The request of the Providence School Board for an award of attorney's fees in this matter is denied.

DATE: April 29, 2002

Travel of the Case

Janet Coyle, through her attorney, originally filed a request for hearing before the Commissioner on April 15, 1998. The letter indicated that she sought, and had so far been denied, a hearing before the Providence School Board with respect to her “status” in the Providence school system. When the parties appeared before the undersigned hearing officer on June 11, 1998 the attorney for Ms. Coyle briefly outlined the facts surrounding an ongoing dispute she had had with her employer since early 1994. The filing of criminal assault charges against Ms. Coyle by a student had resulted in her immediate transfer from her position as an elementary school teacher to a non-classroom assignment within the Providence system. When Ms. Coyle was ultimately acquitted of the charges, and at some subsequent point was expected to return to her classroom position, she indicated at that point that she was medically incapacitated from doing so.¹ She sought to be maintained in a non-classroom position in the Providence School System. Although the School Board did not dispute the fact of the petitioner’s medical incapacity, it did not agree that Ms. Coyle’s medical problems entitled her to a position outside of the classroom.

The issue at the June 11, 1998 hearing, was that Ms. Coyle’s request for a non-teaching position had not been heard by members of the School Board or even responded to in writing by the school department. Counsel for the school board argued that the request did not arise in the proper context because it had not been asserted as a request for a transfer under the collective bargaining agreement.² He argued that any such request for transfer must be governed by the terms of the teachers’ contract, and if denied, could be presented by the union as a grievance under the terms of that agreement. Outside the parameters of the collective bargaining agreement, counsel for the School Board asserted that it had no ability to comply with the petitioner’s request for a job other than the one she had prior to the incident, i.e. as a classroom teacher at the West Broadway Elementary School. (See transcript of June 11, 1998 at pages 59-61)

Counsel for Ms. Coyle, although disagreeing with the notion that the request for a reasonable accommodation to his client’s disability under Section 504 was subject to the terms and procedures of the collective bargaining agreement, agreed with counsel for the School Board that any further hearing before the Commissioner’ would be held in abeyance pending Ms. Coyle’s submission of a “clear concise request for transfer to another position that will be acted on by the Providence School Department”. (transcript

¹ The record does not include facts establishing the precise cause of Ms. Coyle’s medical incapacity to return to classroom teaching. A copy of the Superior Court lawsuit she filed against the City of Providence was appended to the Providence School Board’s Motion to Dismiss and this document alleges that she suffered great emotional distress because of her “summary transfer from the classroom” without hearing by the School Board and the opportunity to contest the allegations against her. The record also does not indicate whether Ms. Coyle ever pursued any entitlement she may have had for worker’s compensation benefits.

² Several letters from Ms. Coyle’s attorney during 1997 had requested that she be given such a position as a reasonable accommodation to her handicap under Section 504 of the Rehabilitation Act of 1973.

June 11, 1998 p.67-69) The parties indicated that they would update the hearing officer as to the status of their dispute as soon as what was agreed upon had been accomplished.

On September 10, 1998 the parties appeared again before the undersigned because the grievance based on denial of her request for a position outside the classroom was proceeding somewhat slowly through the grievance process and had not yet been heard by members of the School Board. The School Board responded at the hearing that the grievance process was not traditionally characterized by strict adherence to the timelines set forth in the Agreement. (transcript September 10, 1998, p.24) Additionally, counsel for the School Board reiterated his general position that the issue of the petitioner's transfer to a non-teaching position was governed both substantively and procedurally by the Agreement. Thus, any complaint with respect to compliance with the grievance procedure arose under and was addressed by the contract. In any event, it was not, he argued, an issue or complaint over which the Commissioner had jurisdiction under Title 16 Chapter 39. He requested that the appeal be dismissed based on both lack of jurisdiction and failure to exhaust administrative remedies.

The executive secretary of the teachers' union testified at the hearing on September 10, 1998 that because he had not received a level III decision, it was his decision to proceed directly to level IV (the School Board) and that he had, in fact, filed the grievance before the Providence School Board with a request for immediate hearing. The parties were in agreement that the grievance process was at least ongoing, and there was a possibility that the matter would be heard at the school board meeting scheduled for September 28, 1998. Counsel for Ms. Coyle limited the issue before the Commissioner to his client's entitlement to a hearing before the Providence School Board. His intent was to present to the Board the reasons why it should or was required to give her the opportunity to work in the Providence school system in a non-classroom position. He indicated that if the Board gave his client a hearing on this issue at its September 28, 1998 meeting, the issue presented to the Commissioner would be moot.

On or about October 15, 1998, the parties provided documentation to the hearing officer indicating that Ms. Coyle's grievance had been heard and denied by the School Board. On November 30, 1998 the hearing officer wrote to the parties indicating that it would appear that the appeal was moot, and directed the parties to notify her in writing if this was not the case. On December 17, 1998 counsel for Ms. Coyle wrote "we do not believe the appeal to the commissioner is moot" and requested time to submit his position in more detail. Thereafter on February 22, 1999 the petitioner's attorney wrote to advise that there was an arbitration pending with respect to "at least some" of Ms. Coyle's labor issues with the school department. He requested that the appeal be held in abeyance pending the outcome of the arbitration proceeding. Receiving no objection from the School Board, the appeal was placed in abeyance. Throughout 1999 and 2000 the appeal continued in abeyance. The hearing officer wrote to the parties indicating that as of January 1, 2001 the appeal would be considered withdrawn unless written confirmation of the existence of an ongoing dispute was provided. On December 20, 2000 counsel for Ms. Coyle requested that the dispute pending before the Commissioner be continued in abeyance, pending the outcome of a lawsuit Ms. Coyle had prosecuted against the

Providence school department. The school department did not object to the request, and the matter was held in abeyance during 2001 when the civil suit, which had been filed in 1995, was tried and then retried before a Superior Court jury. At the conclusion of this litigation, the petitioner and her counsel wrote that Ms. Coyle still wished to proceed with her appeal to the Commissioner, but would be doing so on her own and would no longer be represented by counsel. See letter of Ms. Coyle and Mr. Mann dated June 5, 2001.

Prior to proceeding to schedule the matter for hearing, the hearing officer requested that Ms. Coyle provide an updated statement of her claim. She did so on July 16, 2001, and again on October 19, 2001. Counsel for the school department filed a Motion to Dismiss and supporting memorandum just prior to the hearing of November 15, 2001. Both testimony and documentation were received at the November 15, 2001 hearing and the petitioner submitted a written memo in opposition to the Motion to Dismiss on December 12, 2001. The record closed on December 19, 2001 upon receipt of the transcript.

Issues:

Should the petitioner's claim that on September 14, 1995 she was suspended without the appropriate procedural safeguards set forth in R.I. G.L. 16-13-5 be dismissed under the doctrine of res judicata?

Is the petitioner's claim barred because the propriety of any suspension must be asserted as a grievance under the grievance procedure of the collective bargaining agreement of the Providence teachers and School Board?

Is the petitioner's claim barred under the doctrine of laches or otherwise time-barred ?

Did the Providence School Board violate the petitioner's rights under R.I.G.L. 16-13-5 when she was told not to report to work as of September 14, 1995 and that her status would be treated "similar to a suspension with pay" ?

Findings of Relevant Facts

- In early 1994, Janet Coyle, a Providence elementary teacher, was alleged to have committed an assault and battery upon a student. When these allegations were made by the student, she was transferred from her job as a classroom teacher to a non-classroom position. See Exhibit B of the Providence School Board's Memorandum in Support of Its Motion to Dismiss at page 2.

- Ms. Coyle was tried and acquitted in the District Court of the criminal charge against her prior to the beginning of school year 1995-1996. See Exhibit B, supra and Tr. p.36.
- On September 14, 1995 Janet Coyle, reported to work at the school department's Placement Center on West Fountain Street, where she had been assigned since early 1994. Tr. November 15, 2001³ pp.14-17. Respondent's Exhibit B of the Memorandum In Support of Its Motion to Dismiss;
- On reporting to work, Ms. Coyle was notified in writing that effective immediately, she was not to report to work until such time as her "pending matter is resolved". Appellant's Ex. A.
- The written notification provided to Ms. Coyle on September 14, 1995 indicated that her status would be treated "similar to a suspension with pay". Appellant's Ex.A.
- Ms. Coyle testified that she did not know what the reference to "pending matter" referred to and that she subsequently received no further explanation for her suspension and did not receive a statement of cause or a hearing before the Providence School Board. Tr. pp.36-37. She asked her union to "look into it", but received no explanation. Tr. p.37. Her suspension with pay was ongoing at least through the 1995-1996 school year.⁴
- The executive director of the Providence Teachers' Union testified that upon Ms. Coyle's suspension on September 14, 1995 he did not inquire as to the reasons for such status, nor did he request a hearing before the school board because her suspension was "with pay". Given his understanding of the legal entitlements of teachers in such status, and the practice of the teachers' union in not objecting to this type of suspension, he did not raise the issue with the school department. Tr. pp.71-82.
- Ms. Coyle was medically unable to return to classroom teaching after the incident in early 1994 in which she was accused and charged with assaulting a student. She suffered from post-traumatic stress disorder. See Respondent's Exhibit B.⁵; Tr. p.32.
- Ms. Coyle's civil suit against the city of Providence was filed in July of 1995 (H.O. Ex.1). In the lawsuit she sought damages for emotional distress and economic loss alleged to be caused by the Providence school department's "summary transfer" of her from her job as a classroom teacher without a hearing or meaningful opportunity

³ all further references to the transcript are to the transcript of the November 15, 2001 hearing.

⁴ At some point in the 1996-1997 school year it would appear that her status changed. The record is not fully developed on this point, and Ms. Coyle does not contest at this hearing any such subsequent action.

⁵ Exhibit B is a copy of the civil action filed on Ms. Coyle's behalf against the city of Providence based on the school department's summary removal of Ms. Coyle from the classroom and her transfer to a non-teaching assignment.

to contest the allegations against her. She also alleged that the school department had been negligent in conducting an inadequate investigation of the allegations against her and had violated her civil rights in denying her due process of law in the course of transferring her from her classroom position. See Respondent's Exhibit B.

- Ms. Coyle's claims against the city of Providence, based on the actions of its school department, were tried twice, the final time with a defendant's verdict on all counts of the complaint. See letter of Ms. Coyle's counsel dated April 2, 2001.

Positions of the Parties

Janet Coyle

Ms. Coyle takes the position that her suspension from her non-classroom assignment on September 14, 1995 violated R.I.G.L. 16-13-5 in that she was not provided with a reason for the suspension and did not receive a hearing before the Providence School Board. She argues that it was this suspension that led to a series of events that ultimately gave her no choice but to retire from her position as a Providence teacher. As a result, she lost a substantial amount of salary and receives a reduced pension because her teaching service was abruptly cut short.

She seeks to differentiate this claim from the matter litigated in Superior Court. She characterizes the latter action as a tort claim for compensatory damages, including damages for pain and suffering. The claim before the Commissioner, she argues, "is based on the status of Janet Coyle as a long standing Providence School Department teacher". She limits her claim for damages before the Commissioner to lost wages. She also asserts that her claim is not time-barred because there is no statute of limitations applicable to appeals to the Commissioner of Education.

Providence School Board

Counsel for the school department argues that the claim presented to the Commissioner is a theory of recovery that was, or could have been, advanced in the Superior Court proceeding. He views her claim before the Commissioner as a claim that the school department was negligent in failing to apprise the petitioner of the reasons for her suspension with pay from her teaching position following her arrest in 1994. Counsel also identifies the basis of the appeal as the failure to provide Ms. Coyle with a pre-suspension hearing pursuant to R.I.G.L. 16-13-5. These are the same claims presented to a jury in the Superior Court trial and they have been fully litigated, he argues.

The School Board also takes the position that all disputes arising out of the suspension of a teacher must be grieved under the collective bargaining agreement and arbitrated, if language of the Agreement provides for such a process. He has submitted a copy of the relevant provisions of the 1992-1995 Agreement between the teachers' union

and the Providence School Board which he argues require that all suspension disputes be grieved and, if not resolved, submitted to arbitration. In support of the argument that the grievance and arbitration procedure described in the Agreement provide the exclusive remedy for such disputes, the School Board directs us to the language of R.I.G.L. 16-13-5 (c) which states:

Nothing contained in this section shall be construed to prohibit or at any time to have prohibited a school committee from agreeing, in a collective bargaining agreement, to the arbitration of disputes arising out of the suspension of a teacher pursuant to subsection (a) of this section.

Finally, the school department submits that a claim raised seven years after its accrual should be time barred, either under the equitable defense of laches, or by application of the three-year statute of limitations contained in R.I.G.L. 9-1-25, which provides a three-year time period for bringing a claim sounding in tort against the state, a political subdivision thereof, or any city or town. The School Board requests that the matter be dismissed and that it be awarded attorneys' fees for the costs it has incurred in responding to Ms. Coyle's appeal to the Commissioner.

DECISION

As is customary, we will rule both on the Motion To Dismiss filed by the School Board as well as the merits of Janet Coyle's appeal. We must observe at the outset that the claim on which she presented evidence at the November 15, 2001 hearing is a very different claim from that which was initially presented to the Commissioner in 1998 and even different from the revised claim Ms. Coyle presented as late as July 17, 2001 when she was asked to submit an updated outline of the basis of her appeal. We perceive the evolution of Ms. Coyle's claim to be a function of the status of other pending legal matters she has had ongoing with the Providence School Department since 1998. At a point in time at which all other theories of recovery and avenues of redress and remedy have been exhausted, Ms. Coyle now asserts a claim here. Her focus is on one specific action taken by her employer - her "suspension" with pay from the non-classroom position to which she had been transferred after the 1994 incident. This was not the action prompting her 1995 Superior Court complaint⁶, which asserted civil liability for her summary transfer to the non-teaching position in 1994, the alleged failure of the school department to properly investigate the incident, and violation of her due process rights. However, the 1995 "suspension" of which she now complains is an integral part of a series of connected transactions stemming from Ms. Coyle's initial transfer from her classroom position in early 1994. In fact, a portion of the damages she sought to recover in the Superior Court action is now being attributed to her "suspension" rather than to her transfer from her classroom position.

We view the claim that Ms. Coyle suffered lost wages because of her September 14, 1995 suspension to be interconnected with the claim that she asserted in her Superior

⁶ the September 14, 1995 "suspension" occurred after the July, 1995 filing of the Superior Court action.

Court suit. Both actions allege that she suffered substantial economic loss because of her abrupt transfer in 1994 from her classroom position and her resulting medical incapacity. Her claim before the Commissioner attributes one component of her economic losses to the 1995 “suspension”. While the claims asserted in the lawsuit were broader and the nature and scope of the damages sought went beyond the claim for lost wages, we view the claim before the Commissioner as an alternate theory of relief on which the petitioner could have proceeded in the Superior Court. The claims are so interrelated that the doctrine of res judicata precludes the assertion of this new theory of recovery.

The interrelated nature of these claims is illustrated by the petitioner’s statement with respect to her September 14, 1995 suspension that:

The suspension from my job that day led to a series of events that ultimately led to my forced retirement, causing a loss of approximately \$31,000 in salary. In addition, the negligence of the Providence School Department caused the loss of future pension earnings that will never be recovered, as my teaching service was abruptly cut short when impacted by the suspension. Tr. p.14

The petitioner is unable to separate allegations of improper suspension from allegations of negligence, claims for lost wages from claims of reduced pension benefits. We do not believe they can be separated. The claim she is attempting to assert before the Commissioner is barred by res judicata, as a matter that was or should have been raised in the Superior Court lawsuit.

The second ground on which the School Board’s Motion is based is that Ms. Coyle has only one forum in which to contest the propriety of her 1995 suspension, i.e. the grievance and arbitration process set forth in the collective bargaining agreement. This argument is without merit. R.I.G.L. 16-13-5 (c) makes clear that the parties to a collective bargaining agreement may provide for the arbitration of suspension disputes, but it does not say that when they do so, the teacher is deprived of any statutory remedies or avenues of redress. We do not interpret this section as the respondent does, i.e. to deprive a suspended teacher from pursuing his or her statutory remedies simply because the parties to a collective bargaining agreement have provided another possible and alternate remedy. In any event, as a retired teacher, Janet Coyle is presently no longer a member of the union and could not invoke the grievance procedure at this time.

We agree that the claim that a September 14, 1995 suspension violated the provisions of R.I.G.L.16-13-5 is untimely. The petitioner was actively engaged in asserting her rights in many forums over the course of time starting in 1995. She also had the benefit of legal counsel’s advice during that time. Nonetheless, she waited until October 19, 2001 to identify the 1995 “suspension” as the basis for a separate claim. Although it is true that appeals to the Commissioner are not governed by a specific statute of limitations, they must be brought within a reasonable time. Especially given the fact that Ms. Coyle has had an appeal actually pending before the Commissioner since 1998 and did not raise the issue she now seeks to raise during that entire time, it

would be manifestly unfair to permit her to retrieve this issue. In addition, when her appeal was set forth on the record in two hearings held in 1998, i.e. June 11 and September 10, 1998 there was no mention of this issue. It is our finding that this claim is untimely and has been waived.

Based on the foregoing analysis, the Motion to Dismiss of the Providence School Board is granted and the petitioner's claim is denied and dismissed. Should our analysis be set aside and it be determined that we should have addressed the merits of this matter, we find as follows. Ms. Coyle's removal from her non-teaching assignment on September 14, 1995 was not accompanied at that time by any loss of her regular salary and benefits as a Providence teacher. The notice she received at that time indicated that her status would be "similar to a suspension with pay". Although she was instructed not to report to work, Ms. Coyle received the concurrent notice that she would be paid her salary. Based on these facts, we find that she was not "suspended" within the meaning of R.I.G.L. 16-13-5. Therefore, the requirements of a pre-suspension hearing, statement of cause, and hearing and appeal before the school board, as set forth in this statute, did not come into play at this time.

Our interpretation of 16-13-5 is reinforced by the testimony of the executive director of the Providence Teachers' Union who stated that when he was notified by Ms. Coyle of her September 14, 1995 suspension with pay he did not request a statement of cause or a hearing before the School Board. He further testified that historically the payment of a teacher while "suspended" does not trigger the protections provided in 16-13-5. Based on the facts and arguments presented in this case, we find that Janet Coyle was not suspended on September 14, 1995 within the meaning of R.I.G.L. 16-13-5. Therefore, on its merits, her appeal is denied and dismissed.

The authority for an award of attorneys' fees that has been cited does not establish a basis for such award in hearings before the Commissioner. The request for an award of attorneys' fees is denied.

APPROVED:

Kathleen S. Murray, Hearing Officer

Peter McWalters, Commissioner

April 29, 2002
Date