

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

TIMOTHY COEN

V.

PORTSMOUTH SCHOOL COMMITTEE

Order Granting Motion to Dismiss

Held: Petitioner's claim based on a contractual agreement with the superintendent is dismissed for lack of jurisdiction.

Date: October 10, 2008

Introduction

This matter concerns an alleged contractual agreement between Mr. Timothy Coen and the Portsmouth School Department.¹

Background

In 2007, Mr. Coen retired as a teacher and head football coach for the Portsmouth School Department. The appeal alleges that in 2004 Mr. Coen entered into “a contractual agreement [with] the former Superintendent of Schools [Mr. Ryan], which agreement was performed by Mr. Coen and then denied by Superintendent Lusi resulting in a substantial loss of pay and retirement benefits to Mr. Coen.” According to the appeal, which was filed under Rhode Island General Law 16-39-2, “Ms. Lusi reneged on the agreement although she had a copy of the written agreement and could have taken it to the School Committee if it was not de facto approved by them.”

The Portsmouth School Committee has moved to dismiss the appeal for lack of jurisdiction.

The agreement in dispute appears to involve the assignment of an additional class to Mr. Coen and his remaining as head football coach during the 2004-05, 2005-06 and 2006-07 school years.

Positions of the Parties

The School Committee asserts that it is well established that the Commissioner of Education lacks jurisdiction over disputes “wherein the right to be vindicated arises solely under contract . . .” Because no school law is involved in this dispute, the Commissioner cannot provide any relief to Petitioner. The School Committee’s motion to dismiss states that “[a]t its meeting on or about March 14, 2006, the Portsmouth School Committee considered the matter, and concluded that there had been no valid contract as to the extra class period.”

Citing McSally v. Board of Regents,² Petitioner’s objection to the motion to dis-

¹ The Commissioner of Education designated the undersigned hearing officer to hear and decide the appeal.

² 121 R.I. 532, 401 A.2d 438 (1979).

miss states that

[w]ithout a clearly defined record that the Committee ever considered the facts relative to Coen's claim and did, either on March 14, 2006 or at some other date, consider and act on the Ryan-Coen agreement, the jurisdiction of the Commissioner to remand this matter to the Committee for its minutes and for the record is without question.

The response further states that Petitioner does not request the construction or application of an education statute, but that he "needs the record of the alleged March 14, 2006 hearing on the matter" and therefore is a "person aggrieved by any decision or doing of any school committee" under §16-39-2. Petitioner "requests that the Commissioner remand this matter for full and complete consideration of its substantive merits and adherence to §16-2-9.1(10) that a record be made of same."³

Discussion

Although Petitioner's objection to the motion to dismiss recasts his original appeal to a significant extent, it is clear to us that Petitioner's claims in this matter are based solely on a 2004 "contractual agreement" with the superintendent. As we stated in the matter of Dennis Smith v. Tiverton School Committee, a case which involved, in part, an administrator's alleged verbal agreement with the superintendent,

it is clear that this dispute is not one over which the Commissioner has jurisdiction, since it does not arise under any law relating to schools or education as required by R.I.G.L. 16-39-1 and 16-39-2. As an employment dispute between a school administrator and a school district, a dispute which focuses upon the terms and conditions of employment and seeks the enforcement of the terms of the Administrators contract, the subject matter of this dispute is exclusively based on contract. A long line of Commissioner's decisions confirms that this office has no jurisdiction over disputes which arise under collective bargaining agreements or are governed exclusively the terms of contracts entered into by school committees.⁴ [citations omitted].

³ R.I.G.L. 16-2-9.1(10) states that school committees shall "[a]ct only through public meetings since individual board members have no authority to bind the board."

⁴ Decision of June 26, 2000, p. 6.

We further stated in the Smith case that

appellant seeks to recoup additional monies from his employer under two different legal theories, neither of which bring this matter within the purview of the Commissioner under R.I.G.L. 16-39-1 or 16-39-2. First, he seeks to enforce the terms of a verbal agreement with the Superintendent that he would be paid “per diem” and be compensated at the per diem rate for five additional days. Secondly he complains that the action of the School Department violated the terms of the Administrators Contract, and requests the Commissioner to provide a remedy for this contractual violation. As we have discussed, these claims are clearly contractually based and do not “arise under” a law or regulation relating to schools or education.⁵

To the extent Petitioner’s appeal concerns the production of records by a public body, it again fails to “arise under” a law relating to schools or education. Finally, as to Petitioner’s remand request, we note that in the McSally case the Commissioner stated that appellant William R. O’Brien “was entitled to a hearing by the School Committee with an adequate record preserved by the School Committee and a written copy of the School Committee’s decision.”⁶ The absence of such a record and decision caused the Commissioner to remand the matter to the school committee. The Rhode Island Supreme Court held that

When the commissioner concludes that the prior proceedings and record developed therein are so inadequate that he cannot determine whether the legal requisites were complied with, and there is no indication that the school committee ever reached a decision on the contested matter, he has the inherent authority to remand the matter to the school committee.⁷

We have no authority to order a remand in this case for the development of an adequate record because, as stated above, the Commissioner lacks jurisdiction over the underlying dispute. Due to the contractual nature of Petitioner’s claim, there were no “legal requisites” under Rhode Island school law with which the School Committee was required to comply.

⁵ Ibid., p. 7.

⁶ William R. O’Brien v. Warwick School Committee, January 12, 1977, p. 2.

⁷ 401 A.2d at 440. Subsequent to the Supreme Court’s decision, the Commissioner, relying on recent decisions addressing the issue, found his above-quoted statement in the O’Brien decision to be no longer tenable. See William R. O’Brien v. Warwick School Committee, April 1, 1981.

Petitioner does not raise a matter arising under any law relating to schools or education under Rhode Island General Law 16-39-1 or 16-39-2.

Conclusion

The motion to dismiss for lack of jurisdiction is granted.

Paul E. Pontarelli
Hearing Officer

Approved:

Peter McWalters
Commissioner of Education

Date: October 10, 2008