

KAREN HARRINGTON AND :
EVE HILLER, :
 :
PETITIONERS, : COMMISSIONER OF EDUCATION
V. :
 : DECISION
BOARD OF EDUCATION OF THE :
SUSSEX COUNTY VOCATIONAL :
SCHOOL DISTRICT, SUSSEX :
COUNTY, :
RESPONDENT. :

SYNOPSIS

Petitioners – both of whom were tenured secretaries employed by the respondent Board – lost their positions due to a reduction in force (RIF) in 2008. Petitioners appealed the Board’s denial of their requests to “bump” into the positions of Accounts Payable Assistant and Payroll/Benefits Assistant in the school business office. The Board contends that the tenure of both petitioners extends only to the position of general secretary, and not to positions in the business office which require training and experience in accounts payable and payroll and benefits.

The ALJ found, *inter alia*, that: petitioners’ assertion that they should have been appointed to either of the positions in the business office – Accounts Payable Assistant or Payroll/Benefits Assistant – is without merit, as petitioners’ tenure rights extend only to secretarial positions; the positions to which petitioners claim entitlement are not secretarial positions in either title or function, and are not included on the secretarial salary guide; the business office positions in question have a significantly higher starting salary, are non-union positions, and are hierarchically higher positions than those in which petitioners were employed; petitioners are not entitled to “bump” into these positions, as such placement would constitute a promotion with responsibilities and duties that were not attendant in their secretarial positions; and it is well settled that tenured school employees asserting priority over non-tenured employees must be fully qualified for the positions sought. Accordingly, the ALJ concluded that there has been no violation of petitioners’ tenure or seniority rights, and dismissed the petition.

Upon a thorough and independent review of the record, the Commissioner concurred with the ALJ that petitioners are not entitled to the positions of Payroll Benefits Assistant or Accounts Payable Assistant. Accordingly, the petition was dismissed.

<p>This synopsis is not part of the Commissioner’s decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.</p>

July 7, 2011

OAL DKT. NO. EDU 9137-08
AGENCY DKT. NO. 186-7/08

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The record¹ of this matter, the detailed Initial Decision of the Office of Administrative Law (OAL) and petitioners' exceptions have been reviewed. Upon such review, the Commissioner concurs with the Administrative Law Judge (ALJ) that the petition must be dismissed.

In this appeal, two tenured secretaries – Karen Harrington and Eve Hiller – allege that when a district reduction in force (RIF) eliminated their positions, they were entitled to transfer into the positions of Payroll Benefits Assistant to the Business Administrator² and Accounts Payable Assistant to the district Business Administrator,³ respectively, which positions were held by non-tenured employees. Petitioners submitted letters to respondent on April 22, 2008, asserting alleged “bumping rights,” but respondent rejected same.

¹ Transcripts of the hearing were not provided to the Commissioner.

² The Payroll Benefits Assistant position was filled on an unspecified date by incumbent Susan Predmore.

³ The Accounts Payable Assistant position was filled in June 2008 by incumbent Andrew Italiano.

Petitioners do not allege that the RIF was improper. Nor do they contend that they have held any positions in the district other than the position of secretary. Rather, they argue that the positions they seek are secretarial positions and that they are qualified for same.

Included in the record are the job descriptions for the petitioners' secretarial positions, and for the accounting and payroll positions which petitioners seek. The testimony – as summarized by the ALJ and unrefuted by the parties – provides detailed descriptions of the tasks required by the payroll and accounting jobs, and performed by Susan Predmore and Andrew Italiano. These responsibilities far exceed those required in petitioners' secretarial positions. Indeed, it is undisputed that petitioners have no experience performing the majority of the duties which are central to the payroll and accounting positions.

A tenured secretary's seniority rights allow him or her to “bump” into another secretarial position held by a non-tenured employee. *See, e.g. Lavine v. Board of Education of the City of Trenton, Mercer County*, Commissioner's Decision No. 232-84, decided July 23, 1984, *aff'd* State Board of Education, December 5, 1984, *aff'd* App. Div., November 18, 1985. However, the ALJ correctly determined – based upon the facts in the instant record – that the payroll and accounting positions sought by petitioners both require different skill sets than petitioners' secretarial positions and are hierarchically above the secretarial positions. Thus, any “bumping rights” held by petitioners cannot extend to the positions which they seek.

Petitioners' assertion that they are entitled to the positions by virtue of the fact that they satisfy some of the minimal requirements set forth in the job descriptions is without merit – both in light of the fact that the sought positions are not secretarial and in light of the evidence that petitioners' training and experience do not provide proper foundations for the

payroll and accounting positions. Also unmeritorious is petitioners' argument that they should be given the positions and afforded on-the-job instruction. In this regard they allege, for instance, that Predmore enjoyed on-the-job training. However, Predmore's experience had included years of executing payroll responsibilities in private sector and non-profit organizations. She needed to learn specific requirements applicable to public entities, but did not need the extensive schooling that Harrington would have needed for the payroll benefits assistant position. Respondent has no obligation to provide same.⁴

In summary, petitioners are not entitled to the positions of Payroll Benefits Assistant and Accounts Payable Assistant. The petition is accordingly dismissed.

IT IS SO ORDERED.⁵

ACTING COMMISSIONER OF EDUCATION

Date of Decision: July 7, 2011

Date of Mailing: July 7, 2011

⁴ Petitioners also contend that no significance should have been attached to the fact that the payroll and accounting positions were non-classified. This argument is not helpful, since union alignment was not the determinative factor in the ALJ's conclusion that the payroll and accounting positions were not secretarial in nature.

⁵ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*. (*N.J.S.A. 18A:6-9.1*)