

THEODORE PARKER, :

PETITIONER, :

V. : COMMISSIONER OF EDUCATION

STATE-OPERATED SCHOOL DISTRICT : DECISION

OF THE CITY OF NEWARK, ESSEX :

COUNTY, :

RESPONDENT. :

_____ :

SYNOPSIS

Petitioner, former Risk Manager, challenged the District's abolishment of his position which he held for 18 years and sought reinstatement to the position of Insurance/Risk Manager. The District contended statute mandated that State-operated districts abolish central administrative positions as part of the reorganizational process, *N.J.S.A.* 18A:7A-44(c).

ALJ found that pursuant to statute, employees whose positions are abolished *shall* not retain tenure or seniority rights in the abolished position. Thus, the State-operated district is under no obligation to rehire an employee whose position was abolished as a result of reorganization. ALJ found that petitioner had no basis on which to bring a claim for rehire. ALJ granted the District's motion for summary decision. Petition was dismissed. (Petitioner's rights to other non-central positions are properly brought before the N.J. Department of Personnel, Division of Human Resource Management.)

Commissioner adopted findings and determination in initial decision as his own.

SEPTEMBER 16, 1997

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The record of this matter and the initial decision of the Office of Administrative Law (OAL) have been reviewed. No exceptions were filed by the parties.

Upon a careful and independent review, the Commissioner concurs with the findings and conclusion of the Administrative Law Judge that abolishment of petitioner's central administrative position was mandated by *N.J.S.A. 18A:7A-44(c)** as part of the District's reorganization as a State-operated District and, subsequent to this reorganization, the State-operated District was under no obligation to rehire petitioner.

Accordingly, the initial decision of the OAL is adopted as the final decision in this matter for the reasons articulated therein. Summary decision is granted to the State-operated District and the within Petition of Appeal is hereby dismissed.

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

* It is noted that on page 2 of the initial decision this applicable statutory provision is incorrectly referenced as *N.J.S.A. 18A:7A-4(c)*.

SEPTEMBER 16, 1997