

ELMIDE MELEANCE,	:	
	:	
PETITIONER,	:	
	:	
V.	:	COMMISSIONER OF EDUCATION
	:	
BOARD OF EDUCATION OF THE	:	DECISION
CITY OF ORANGE, ESSEX COUNTY,	:	
	:	
RESPONDENT.	:	
	:	

SYNOPSIS

Petitioner, Teacher of the Handicapped, alleged the Board violated her tenure rights when it did not renew her contract and it did not accord her the salary and benefits to which she was entitled under her contract from September 1992 to the present. In September 1997, by order granting partial summary decision, those portions of the petition seeking back pay and adjustment to leave time for September 1992 to November 1992 were dismissed as time barred by the 90-day limit in *N.J.A.C. 6:24-1.2*.

ALJ found that since petitioner did not become a naturalized citizen of the United States until January 8, 1997, she was not in compliance with the requirement in *N.J.S.A. 18A:28-3* that no teaching staff member shall acquire tenure unless he or she is a citizen. Thus, petitioner did not have tenure in the position of teacher during the time frame referenced in the petition and the Board did not violate her tenure rights. The Board's motion for summary decision was granted; petition was dismissed.

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

December 17, 1997

OAL DKT. NO. EDU 11547-96
AGENCY DKT. NO. 474-10/96

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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 careful and independent review of the record in this matter, the Commissioner initially concurs with the Administrative Law Judge (ALJ) that the portion of the within petition, filed in October 1996, which seeks back pay and leave time adjustment based on the period from September 1992 to November 1992 is time barred by *N.J.A.C. 6:24-1.2(c)*, and was, therefore, appropriately dismissed by the ALJ's granting of Partial Summary Decision on September 12, 1997. Furthermore, in that it is undisputed that petitioner was not a United States citizen until January 8, 1997 and, consequently, had not satisfied the statutory requirements necessary to acquire tenure, pursuant to *N.J.S.A. 18A:28-3*, prior to that date, the Commissioner also agrees with the ALJ that there could have been no violation of her tenure rights during the time period covered by this petition.

Accordingly, the initial decision of the OAL is adopted for the reasons expressed therein and the within Petition of Appeal is hereby dismissed.

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

December 17, 1997