IN THE COURT OF APPEALS OF IOWA

FILED
JUN 25 1985
CLERK SUPREME COURT

LE MARS EDUCATION ASSOCIATION,	)	
Petitioner-Appellant,	)	
vs.	)	Filed June 25, 1985
PUBLIC EMPLOYMENT RELATIONS BOARD,	)	
Respondent-Appellee,	)	263
and LE MARS COMMUNITY SCHOOL DISTRICT,	)	5-105 84-1091
Intervenor-Appellee.	)	

Appeal from the Iowa District Court for Plymouth County - Dewie J. Gaul, Judge.

Petitioner appeals a judicial review decision which affirmed the respondent's ruling that the termination of a teacher did not violate his rights under Iowa Code chapter 20. AFFIRMED.

Becky S. Knutson and Charles E. Gribble of Sayre & Gribble, Des Moines, Iowa, for petitioner-appellant.

Thomas J. Miller, Attorney General of Iowa, and Amy Mills, Assistant Attorney General, for respondent-appellee.

James C. Hanks and Janet J. Brown of Klass, Whicher & Mishne, Sioux City, Iowa, for intervenor-appellee.

Heard by Snell, P.J., Schlegel, and Sackett, JJ.

SCHLEGEL, J.

The Le Mars Education Association (Association) appeals a judicial review decision which affirmed the Public Employment Relations Board's (PERB) ruling that the termination of Ronald Ritchie did not violate his rights under Iowa Code chapter 20. The Association argues PERB's ruling is not supported by substantial evidence. We affirm.

Ronald Ritchie was a long-time teacher of social studies in the Le Mars Community School District. Ritchie was also a member of the Le Mars Educational Association. In the fall of 1981 Ritchie was serving as chief negotiator for the Association. During negotiations with the school district, Ritchie was notified that his continuing teaching contract would be terminated. The reason given for termination was that declining enrollment necessitated the reduction of one social studies teaching position in the school district. The school district chose to terminate Ritchie and retain a teacher who had less seniority, but who coached two athletic teams.

This action began when the Association filed a prohibited practice complaint before PERB. An evidentiary hearing was held, and the hearing officer ruled that Ritchie had been terminated for a legitimate business reason in compliance with the collective bargaining agreement. That ruling was upheld by PERB on appeal, and by the district court on judicial review. The Association has appealed the district court decision.

I. Standard of Review. Review of this administrative agency action is at law, not de novo. City of Davenport v. PERB, 264 N.W.2d 307, 311 (Iowa 1978). Under the Iowa Administrative Procedure Act, the agency decision must be affirmed if supported by substantial evidence. See Iowa Code § 17A.19(8)(f) (1981). Evidence is substantial when a reasonable mind would accept it as adequate to reach a conclusion. City of Davenport, 264 N.W.2d at 311. The possibility of

drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's finding from being supported by substantial evidence. Id.

II. The Termination. In determining whether Ritchie's termination violated his rights under Iowa Code chapter 20 (1981), PERB applied what is known as the Wright Line test. That test, as modified by the United States Court of Appeals, has two prongs. NLRB v. Wright Line, 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989, 102 S. Ct. 1612, 71 L. Ed. 2d 848 (1982). First, there must be a prima facie showing sufficient to support the inference that the employer's opposition to protected conduct was a "motivating factor" in the decision to terminate. 662 F.2d at 901-02. Second, when a prima facie showing has been made, the employer must come forward with credible evidence to rebut the prima facie case. Id. at 904. The employer must present evidence the termination would have taken place even in the absence of protected conduct. Id. at 902.

PERB ruled that the Association made a prima facie showing that Ritchie's termination was prompted in part by illegal motivation. However, PERB went on to rule that the decision to terminate Ritchie was a legitimate business decision, and therefore legal. The Association argues that there is not sufficient evidence that Ritchie would have been terminated had he not been an Association negotiator.

The evidence in the record shows that Ritchie was a well qualified, competent teacher. The evidence also shows that the school district could have maintained Ritchie's employment by assigning him to teach a psychology class. Additionally, Ritchie had more seniority than a social studies instructor who was retained by the district. When this evidence is viewed together with the prima facie showing of wrongful motive, a de novo review could result in a finding of illegal termination. Our review, however, is not de novo.

There is substantial evidence to support the PERB ruling. A reasonable mind could conclude from all the evidence that Ritchie would have been terminated even if he had not been involved with the Association.

The district had a bona fide reason for terminating some teachers: a reduction in the student population. The evidence shows that the social sciences department was an appropriate candidate for staff reduction. The only question remaining, therefore, is whether Ritchie would be the one of four social science teachers terminated if Association activities were not considered.

Ritchie was terminated even though the school district retained a social studies teacher with less seniority than Ritchie. The school district purposely retained that teacher because he served as assistant basketball coach and head softball coach.

Under the procedures set out in the school district's master contract the district administration could consider both seniority and coaching duties in deciding which teacher to terminate. The contract does not give greater weight to either factor. Although Ritchie and the other teacher were considered equal when other relevant factors were considered, the district administration gave more weight to coaching duties than to seniority.

Based upon the evidence presented, a reasonable person could conclude that the administration would give greater weight to coaching duties than to seniority even if Ritchie's Association activities were not considered. There was testimony that some coaching positions were unfilled even in 1981 while Ritchie was still employed. The witnesses presented by the district consistently expressed the idea that preservation of extracurricular activities, athletic and otherwise, was an important goal of the administration.

The ruling by PERB was supported by sufficient evidence and must be affirmed.

AFFIRMED.