

Appeal of Barbara Goetz, a Professional Employee, from a decision of the Board of School Directors of the Norristown Area School District, Montgomery County, Pennsylvania

In the Office of the Secretary of Education, Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania

No. 194

OPINION

John C. Pittenger
Secretary of Education

Barbara Goetz, Appellant herein, has appealed from a decision of the Board of School Directors of the Norristown Area School District, Montgomery County, Pennsylvania, terminating her contract and dismissing her as a professional employe.

FINDINGS OF FACT

1. Barbara Goetz, Appellant, was a professional employe of the Norristown Area School District under a professional employe contract.
2. On June 22, 1970, the Board of School Directors discharged the said Appellant for wilful and persistent violation of the school laws, after hearing thereon held on May 19, 1970.
3. The said discharge was based on Appellant's refusal to resign after five months of pregnancy, as required by the School Board regulations.
4. On July 20, 1970, the Appellant filed her appeal from the decision of discharge by the Norristown Area School Board with the Secretary of Education.
5. A hearing on said appeal was held on November 18, 1970.

TESTIMONY

At the hearing held before the Norristown Area School Board on May 19, 1970, the testimony offered was substantially as follows:

William Snyder, Principal of the Norristown High School, stated that the Appellant was a teacher in his school. In December 1969, he spoke to her about her physical condition. On February 16, 1970, he gave her a form to be filled out by her physician. In January 1970, she had advised him that she did not agree with the maternity regulation of the District. On April 1, 1970, the form, duly signed by her physician, was filed. Mrs. Goetz also, at this time, filed a request for a leave of absence to begin April 27, 1970 and to continue until the beginning of the second semester of the 1970-1971 school year. He sent the medical form and request for leave to Mr. Custer. On April 2, 1970, he delivered to her the notice of the Board that after April 10, 1970 a substitute teacher would replace her as teacher of the class. She never submitted a resignation. The maternity regulation of the District requires the resignation of a teacher in her fifth month of pregnancy. Said regulation has been in effect since the formation of the Norristown Area School District. On the basis of the medical report filed by the Appellant, her fifth month of pregnancy terminated about May 19, 1970.

Anna A. Love, Secretary of the School Board, testified that the School Board, at its meeting on April 22, 1970, refused the Appellant's request for a leave of absence.

Dr. Elwin S. Carlin, the Appellant's obstetrician, testified that there was no medical reason for his patient's resignation. She could teach until she went into labor. A pregnant woman is able to cope with the same problems and responsibilities as a non-pregnant woman. There is no inherent danger or impairment of a woman at the end of five months of pregnancy. It is the safest period of the pregnancy.

Barbara L. Goetz, the Appellant, testified that she is in her fourth year of teaching in the District. She was not aware of the maternity regulation until she became pregnant. She objected to the regulation on several occasions. She had advised the principal that the request for her resignation was not in the best interests of the students.

Mr. Snyder was called in rebuttal. He stated that he has been a principal for 15 years. In his opinion, a pregnant teacher places an unfair burden on him to assure the welfare and safety of all the people in the school.

Mr. Harbaugh, the School Board Chairman, testified that all of the problems involved with a pregnant teacher were taken into consideration when the maternity regulation was adopted.

Mr. Snyder again testified, stating that young people may be inclined to imitate, tease or act in a manner that could cause discipline problems in a class being taught by a pregnant teacher. She could not maintain the same level of effective instruction as the period of pregnancy nears the time of delivery. In the instant case, the Appellant's effectiveness as a teacher was not impaired.

Norman W. Kratz, Superintendent of Schools, testified that he has been an administrator in schools for the past 36 years. A pregnant teacher creates administrative problems. Parents also object to pregnant teachers as detrimental to the atmosphere of a learning situation and to the proper and orderly conduct in a classroom.

DISCUSSION

The instant case involves the discharge of a professional employe who refused to comply with the School Board regulation that required the resignation of a teacher who had reached a five month pregnancy.

"A school board may adopt reasonable rules and regulations for its government and control." Section 407 of the Public School Code and Section 510. Violation of such reasonable regulations can subject a teacher to discharge for persistent and wilful violation of the school laws.

In the past, we have upheld maternity regulations of school boards wherein resignation was compulsory. However, when such a regulation becomes untenable by reason of a change in concept of equality of status, to wit: human rights and equal opportunity, we cannot ignore this modern trend. Public opinion, court decisions and legislative action require us to conform with today's society.

On December 18, 1970, the Pennsylvania Human Relations Commission filed of record new guidelines to comply with the 1969 amendment to the Act prohibiting discrimination because of sex. These new guidelines were published on December 19, 1970, in Volume 1, No. 24, of the Pennsylvania Bulletin, Section 2(D) of said guidelines states as follows:

"Employers must provide a female employee who becomes pregnant with a reasonable maternity leave. Such a maternity leave may be a leave of absence without pay. Seniority and pension rights may or may not continue to accrue during maternity leave, but upon return to employment such rights shall not be taken from the employee because she took a maternity leave.

Upon application for return to employment following such a reasonable maternity leave, the employer shall offer her the job she held before going on the leave of absence, or a substantially equivalent position (in pay and skill) if such jobs are vacant and available. If such jobs are not vacant and available, the employer shall offer her any other available position for which she is eligible until such time as the employer can through recognized placement procedures offer her the job she held before or one substantially similar to it."

On January 5, 1971, we requested an opinion of the Attorney General relative thereto and its effect on maternity regulations (requiring resignation) adopted by school boards. On January 21, 1971, we were advised by the Attorney General, as follows:

"It is our opinion that school districts are bound by the regulations of the Human Relations Commission to which you refer. This would appear to mean that the school district cannot discharge a teacher because of pregnancy but must provide her with a reasonable maternity leave and, if she applies, rehire her following the pregnancy."

It is further noted that the Commission's guidelines are applicable to all employers. There can be no exception because of the public nature of the employer. We understand the problems that arise in teacher maternity, but, despite same, a requirement of leave of absence will have to be substituted for a resignation.

In accordance with said Attorney General's Opinion, we find that the School Board regulation requiring resignation by reason of pregnancy is invalid, and any discharge of a teacher by reason of her refusal to comply with said regulation is unwarranted. We recommend that school boards, now requiring resignation of pregnant teachers, amend said regulation in order to comply with the guidelines of the Human Relations Commission as hereinbefore stated.

Accordingly, we make the following

ORDER

AND NOW, to wit, this 22nd day of March, 1971, the Appeal of Barbara Goetz from the discharge decision of the Board of School Directors of the Norristown Area School District is hereby sustained and the said School District is directed to reinstate the said Barbara Goetz forthwith.