

**IN THE OFFICE OF THE SECRETARY OF EDUCATION
COMMONWEALTH OF PENNSYLVANIA**

ANDREA CHRISTINE BUTTERFIELD,	:	
Appellant	:	
	:	
v.	:	Teacher Tenure Appeal
	:	No. 05-11
	:	
DOVER AREA SCHOOL DISTRICT,	:	
Appellee	:	

OPINION AND ORDER

Dr. Andrea Christine Butterfield (“Dr. Butterfield”) appeals to the Secretary of Education (“Secretary”) from the decision of the Board of School Directors of Dover Area School District (“Board”) demoting her from Director of Career Education and Academic Services to an elementary teaching position.

Findings of Fact

1. Dr. Andrea Butterfield is a professional employee of the Dover Area School District (“District”). (N.T. at 7).¹
2. Dr. Butterfield possesses certification in a number of areas including elementary, secondary principal, and superintendent. (N.T. at 150-51; AP Exh. 1).²
3. Beginning on July 1, 2008, Dr. Butterfield was employed as the Director of Career Education and Academic Services, an administrative position in the District. (N.T. at 153; AP Exh. 2).
4. On October 4, 2010, the District adopted a compensation plan for Act 93 employees. (N.T. at 164).

¹ “N.T.” refers to the Notes of Transcript from the demotion hearings held before the Board on August 18, 2011, and September 14, 2011.

² “AP Exh.” refers to exhibits entered into evidence by Dr. Butterfield at the demotion hearings held on August 18, and September 14, 2011. “S.D. Exh.” refers to exhibits entered into evidence by the School District at the demotion hearings.

5. As an Act 93 employee, Dr. Butterfield expressed dissatisfaction with the compensation plan and became involved in a group of Act 93 employees seeking to improve the plan. (N.T. at 178; AP Exh. 26).
6. While preparing the budget for the 2011-2012 school year, the District projected a \$3 million deficit. (N.T. at 17, 34).
7. The District investigated ways to address this budgetary problem and implemented a number of measures to balance the District's budget. (N.T. at 25-30, 34).
8. On February 28, 2011, District Superintendent Robert Krantz ("Superintendent") notified Dr. Butterfield by letter that he would be recommending to the Board that the position of Director of Career Education and Academic Services be eliminated and that Dr. Butterfield be assigned to a classroom teaching position for the 2011-2012 school year. (N.T. at 21, 191; S.D. Exh. 6).
9. On March 7, 2011, Dr. Butterfield notified the Superintendent by email that she would not consent to his recommendation to demote her. (AP Ex. 23).
10. At a regularly scheduled meeting of the Board held on March 7, 2011, the Board voted to eliminate the Director of Career Education and Academic Services position and to demote Dr. Butterfield to a fulltime teaching position, citing reasons of economy. (N.T. at 19; S.D. Exh. 5).
11. On June 21, 2011, the Superintendent assigned Dr. Butterfield to a professional position as a fourth grade classroom teacher at Leib Elementary School for the 2011-2012 school year. (N.T. at 22; S.D. Exh. 8).
12. Dr. Butterfield suffered a reduction in compensation. (N.T. at 9).

13. As a result of Dr. Butterfield's demotion, the District saved a minimum of \$70,000.

(N.T. at 60-61; S.D. Brief at 2).³

14. On July 1, 2011, Dr. Butterfield requested a hearing before the Board pursuant to 24 P.S.

§ 11-1151 regarding her demotion. (N.T. at 9).

15. Hearings were held before the Board on August 18, 2011 and on September 14, 2011.

16. The Board adopted an Adjudication on November 21, 2011, concluding that the demotion was for economic reasons and was not part of a realignment of the staff. (Adjudication at 15).

17. Dr. Butterfield appealed the Board's adjudication to the Secretary, and a hearing was held before a Hearing Officer on January 31, 2012. (Petition of Appeal).

Discussion

Section 1151 of the Public School Code governs matters related to the demotion of a professional employee:

[T]here shall be no demotion of any professional employe either in salary or type of position without the consent of the employe, or, if such consent is not received, then such demotion shall be subject to the right to a hearing before the board of school directors.

24 P.S. § 11-1151.

A demotion occurs when a professional employee is reassigned to a position that has less authority, prestige, or salary. *See Walsh v. Sto-Rox School Dist.*, 532 A.2d 547, 548 (Pa. Cmwlth. 1987). Any rational reason is sufficient to support the demotion of a professional employee, and a demotion will be overturned only if it is shown that the decision was arbitrary. *See Board of Public Education of the School District of Pittsburgh v. Thomas*, 399 A.2d 1148, 1150 (Pa. Cmwlth. 1979). A school district

³ "S.D. Brief" refers to the Brief of Dover Area School District in Opposition to Appellant's Petition of Appeal, filed Jan. 26, 2012. "AP Brief" refers to Appellant's Brief filed on Jan. 4, 2012.

possesses broad discretion in making personnel and administrative decisions that result in demotions and a school board's decision is presumptively valid. *Id.* at 1149. A district's exercise of discretion in a demotion case should stand unless the demoted employee meets the heavy burden of proving that the demotion was arbitrary or based on discriminatory or improper considerations. *See Piazza v. Millville Area Sch. Dist.*, 624 A.2d 788, 790 (Pa. Cmwlth. 1993); *Williams v. Abington Sch. Dist.*, 397 A.2d 1282, 1283 (Pa. Cmwlth. 1979). A demotion is not to be considered arbitrary merely because it does not effectuate a policy in the most effective or efficient manner. *Thomas, supra*, 399 A.2d at 1150. The need to reduce a district's budget is a valid reason for eliminating positions or demoting employees. *Id.*; *School District of Philadelphia v. Twer*, 447 A.2d 222, 226-27 (Pa. 1982).

In determining whether a demoted employee has satisfied his or her heavy burden of proof, the Secretary must perform a de novo review of the record. *See Belasco v. Board of Public Ed. of the Sch. Dist. of Pittsburgh*, 510 A.2d 337, 343 (Pa. 1986). The Secretary's review ensures that the requirements of due process are satisfied. *Id.* at 343; *Katruska v. Bethlehem Center School District*, 767 A.2d 1051 (Pa. 2001). The following principles control the Secretary's inquiry in a demotion case:

- (1) A Board of School Directors may demote a professional employee in position or salary or both without his or her consent;
- (2) the action of the Board in such case is presumptively valid; and
- (3) the demoted employee contesting the Board's action has the burden of proving it to be arbitrary, discriminatory or founded upon improper considerations.

Brownsville Area Sch. Dist. v. Lucostic, 297 A.2d 516, 518 (Pa. Cmwlth. 1972) (citations omitted).

Dr. Butterfield raised a number of issues in her appeal.⁴ Although Dr. Butterfield raised a due process issue, many of her issues concern whether the Board's decision to demote Dr. Butterfield to a teaching position was arbitrary, discriminatory, or founded on improper considerations.

The crux of Dr. Butterfield's argument is that the District's decision to demote her to a teaching position was in "retaliation for her activism concerning Act 93 issues." (Petition of Appeal at 3). On October 4, 2010, the Board adopted a compensation plan for Act 93 employees. (N.T. at 164). Dr. Butterfield believed the plan was not properly adopted pursuant to the requirements of 24 P.S. §11-1164. (Petition of Appeal at 3). Dissatisfied with the Board's compensation plan, Dr. Butterfield made several right-to-know requests between October 6, 2010 and January 19, 2011. (N.T. 47, 172-74). Dr. Butterfield also became actively involved in the District's Act 93 meet and discuss meetings and assumed a leadership role within the Act 93 group. (N.T. at 248). On February 14, 2011, she sent a letter signed by several members of the group to the Department of Education ("Department") requesting the Department to intervene and to provide mediation for the Act 93 dispute. (N.T. at 180, 246; AP Exh. 18).

⁴ Dr. Butterfield raises the following issues in her Petition of Appeal:

- (1) Were a number of findings of fact in the Adjudication . . . not support [sic] by substantial evidence?
- (2) Was Dr. Butterfield deprived of due process by the hearing provided her by the Dover Area School Board?
- (3) Was not Dr. Butterfield's demotion arbitrary, discriminatory or founded on improper consideration?
- (4) Was not Dr. Butterfield demoted to illegally evade the requirements of 24 P.S. §11-1125.1?
- (5) Was not the testimony of the Superintendent concerning the reasons for the elimination of Dr. Butterfield's administrative position and for demoting her to a teaching position deceptive and not credible?
- (6) Was not the elimination of Dr. Butterfield's administrative position and her demotion contrary to the policies of D.A.S.D?
- (7) Was not the Adjudication in other ways contrary to law?

See Appellant's Petition of Appeal at 3-4.

On February 28, 2011, the Superintendent notified Dr. Butterfield that he intended to recommend that the Board eliminate the Director of Career Education and Academic Services position and assign Dr. Butterfield to a classroom position. (N.T. at 21, 191; S.D. Exh. 6). On March 7, 2011, the Board voted to eliminate the administrative position and approved Dr. Butterfield's demotion to a classroom position, citing economic reasons. (N.T. at 19; S.D. Exh. 5). Thereafter, the Superintendent assigned Dr. Butterfield to a fourth grade teaching position at Leib Elementary School. (N.T. at 22; S.D. Exh. 8).

Dr. Butterfield argues that the proximity in time between her Act 93 activities and her demotion is suspect and gives rise to an inference of causation. (Hearing Transcript at 11).⁵ Dr. Butterfield argues that an inference of causation is permitted because she had been engaged in a "protected" activity, which was closely followed by an adverse employment action. (Hearing Transcript at 11-12). However, other than pointing to the fact that the Act 93 activities and the Board's decision to demote her were close in time, Dr. Butterfield has failed to demonstrate a causal connection between her activities with the Act 93 committee and the Board's decision; thus, she has not met her heavy burden of showing that the demotion was arbitrary or founded on improper considerations. Dr. Butterfield has not provided any evidence that the Board's decision was based on anything other than budgetary concerns.

The District asserts that its demotion of Dr. Butterfield was a matter of economic necessity. (N.T. at 10, 20). The District anticipated a \$3 million budget deficit for the 2011-2012 school year. (N.T. at 17, 34). The District implemented a number of measures to deal with its projected budgetary shortfall. (N.T. at 26-27). The District revamped its busing schedule, closed the Kralltown Elementary School, did not fill 12.5 professional teaching positions, reduced or eliminated five support staff positions, reduced a special education supervisor

⁵ "Hearing Transcript" refers to the transcript of the appeals hearing held on Jan. 31, 2012.

position, and reduced department budgets and the athletic budget throughout the District. (N.T. at 26-27).

Furthermore, the District determined that by eliminating Dr. Butterfield's administrative position and reassigning her to a fourth grade teaching position, the District would save a total of \$76,451. (S.D. Brief at 2; N.T. at 20). At the demotion hearing, the Superintendent testified that the Director of Career Education and Academic Services position was cut because it was "nonessential" and the elimination of the position would save the district money. (N.T. at 17). The responsibilities of that position were distributed to guidance counselors in the District's schools without any increased cost to the District. (N.T. at 16-18). Accordingly, the District presented sufficient evidence to establish that the demotion was based on the need to reduce the district's budget, a valid reason for eliminating positions or demoting employees. *See School District of Pittsburgh v. Thomas*, 399 A.2d 1148 (Pa. Cmwlth. 1979). Dr. Butterfield has not provided contrary proof that the Board's decision was based on any arbitrary or improper considerations.

Dr. Butterfield further argues that the District's budget deficit was less than anticipated and that the District's budget decisions were premature. (AP Brief at 7). She points to the fact that her administrative position was eliminated before Governor Corbett proposed his budget and that the legislature subsequently appropriated \$424,000 more to the District than anticipated. (AP Brief at 7, 10). However, the District properly noted that it cannot wait for the Governor's budget before it begins to make decisions regarding anticipated budget shortfalls. (N.T. at 35-37). Pursuant to 53 P.S. §§ 6926.101 *et. seq.*, school districts must start preparing their budgets early in the school year. Furthermore, waiting to implement changes until after the Governor has proposed his budget and the legislature has appropriated funds, which in this case was not until

summer, would be imprudent. Here, in the early stages of its budget preparation, the District projected a \$3.9 million deficit. (N.T. at 34, 88-90). Contributing to this deficit was the District's projection of a \$1.5 million cut in its state subsidy, based on preliminary reports from the Governor. (N.T. at 89). While Dr. Butterfield is correct in pointing out that the District received \$424,000 more from the state subsidy than anticipated, this subsidy was still \$1.1 million less than the previous year. (N.T. at 114-119). Accordingly, the District faced a budget deficit even after the state adopted its new budget and appropriated funds to the District. Furthermore, the Commonwealth Court has noted that even if an "anticipated deficit never materialized . . . the fact that the Board's 'reasons turn out at some future point in time to have been erroneous does not enter into a determination of whether the demotions were arbitrary as long as the facts upon which the demotions were based were reasonably believed to have been accurate.'" *Board of Public Education of the School District of Pittsburgh v. Thomas*, 399 A.2d 1148, 1149 n.2 (Pa. Cmwlth. 1979).

Dr. Butterfield similarly argues that the District misconstrues the savings it achieved by demoting Dr. Butterfield. This argument is without merit. In demoting Dr. Butterfield, the District saved over \$20,000 in a salary reduction alone, which is sufficient to justify the District's demotion for reasons of economy. (N.T. at 20, 60-61, 99-101). Additionally, by assigning Dr. Butterfield to a vacant 4th grade position, the District saved over \$52,000 by not hiring another teacher to fill that position. (N.T. at 20, 60-61, 99-101). Thus, the District saved over \$70,000 in demoting Dr. Butterfield to a classroom position. Case law in this state makes clear that demotions resulting in any cost savings are permissible. *See, e.g., Thomas, supra*, 399 A.2d at 1150; *Kaczmarcik v. Carbondale Area Sch. Dist.* 625 A.2d 126, 130 (Pa. Cmwlth. 1993).

Dr. Butterfield also argues that the District's manner of demoting her deprived her of exercising her seniority rights under §1125.1 of the Public School Code. (Petition of Appeal at 2; AP Brief at 12). Dr. Butterfield claims that she asked to be considered for vacant administrative positions and further requested that she be allowed to exercise her bumping rights. (Petition of Appeal at 6). Contrary to Dr. Butterfield's claims, § 1125.1 of the School Code, which sets forth seniority rights and requirements for professional staff realignment, is inapplicable in the instant case. In *Gibbons v. New Castle Area School District*, 543 A.2d 1087 (Pa. 1988), the Pennsylvania Supreme Court indicated that § 1125.1 applies to staff realignment cases but not to ordinary demotion cases. More recently in *Kemp v. City of Pittsburgh Public School District*, 933 A.2d 130 (Pa. Cmwlth. 2007), the Commonwealth Court noted that § 1125.1 applies "only to changes in employment status that result from situations in which suspension is allowed under Section 1124." In *Kemp*, similar to the instant case, the district demoted administrative employees due to budgetary shortfalls. *Id.* at 131. The employees wanted to exercise their bumping rights. The court concluded that because the demotions were motivated solely by a budget deficit and because none of the enumerated reasons in 24 P.S. § 1124 of the School Code justified suspension, the demotions fell within § 1151 and not § 1125.1. *Id.*; see also *Hritz v. Laurel Highlands School Dist.*, 648 A.2d 108 (Pa. Cmwlth. 1994). On this matter, the facts of the instant case are indistinguishable from *Kemp*. None of the § 1124 reasons for suspension are present in this case. Accordingly, Dr. Butterfield was not entitled to bumping rights. The Board's decision to demote Dr. Butterfield was a "pure demotion" and governed by § 1151, not § 1125.1.

Conclusion

Dr. Butterfield has not met her heavy burden of showing that the District's decision to eliminate the Director of Career Education and Academic Services position and to demote her to an elementary teaching position was arbitrary, discriminatory, or based on improper motives. Dr. Butterfield has failed to show any connection between the District's decision to demote her and her activities with the Act 93 committee. On the contrary, the reasons provided by the District for Dr. Butterfield's demotion are valid. The District demonstrated that it relied solely on reasons of economy in making its decision. Further, Dr. Butterfield was not entitled to bumping rights because § 1125.1 of the Public School Code is inapplicable under the circumstances of this case.

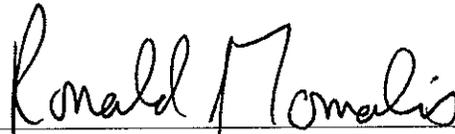
Accordingly, the following Order is entered:

IN THE OFFICE OF THE SECRETARY OF EDUCATION
COMMONWEALTH OF PENNSYLVANIA

ANDREA CHRISTINE BUTTERFIELD	:	
Appellant	:	
	:	
v.	:	Teacher Tenure Appeal
	:	No. 05-11
DOVER AREA SCHOOL DISTRICT	:	
Appellee	:	

ORDER

AND NOW, this 2nd day of May, 2012, it is hereby ordered that Andrea Christine Butterfield failed to meet her burden of proving that her demotion was arbitrary, discriminatory, or founded upon improper considerations. The decision of the Board of School Directors of the Dover Area School District is affirmed.



Ronald J. Tomalis
Secretary of Education

Date mailed: May 2, 2012