

STATE OF NEW HAMPSHIRE
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

SALEM EDUCATION ASSOCIATION,
Affiliated with NHEA/NEA,
Steven L. Mazzadra, Teacher

CASE NO. T-0255:2

and

SALEM SCHOOL DISTRICT,
Paul O. Johnson, Superintendent

DECISION NO. 8000~~1~~5

APPEARANCES

Representing the Salem Education Association:

Thomas L. Adams, Jr., NHEA/NEA Staff
Carol Larson, Teacher
Steven L. Mazzadra, Teacher
Allan J. Zembruski, Teacher
Michael Tuccolo, Teacher
Donald R. Chase, NHEA/NEA

Representing the Salem School District:

Lewis Soule, Esquire
Bernard Campbell
Paul O. Johnson, Superintendent

BACKGROUND

On February 26, 1979, Steven L. Mazzadra a teacher in the Salem School District, represented by Thomas L. Adams, Jr., UniServ Director of NHEA/NEA, filed improper practice charges against Paul O. Johnson, Superintendent and the Salem School Board as follows:

"One: That Paul O. Johnson, Superintendent of the Salem School District and the Salem School Board violated RSA 273-A:5, I Section (a), (c) and (d) when Mr. Johnson belatedly notified me that I had not been transferred to a position as a foreign language teacher at Salem High School and,"

"Two: Superintendent Johnson's recommendation, ratified by the Salem School Board, to eliminate my position as language teacher at Woodbury Junior High School, his vague layoff (non-renewal) notice to me on January 9, 1978, and his tardy notice on August 31, 1978 that he had not honored by request for a transfer was in direct retaliation for my appearance on October 11, 1977 before the Salem School Board, at which time I exercised statutory rights granted to employees by RSA 273-A; and,"

"Three: Superintendent Johnson's and the Salem School Board's action has had a chilling effect on the willingness of employees to exercise rights granted by RSA 273-A and concomitantly has discouraged membership in the Salem Education Association."

In addition to the three charges listed above, there were eighteen (18) assertions of facts in support of the charges.

Hearing in this matter was scheduled for June 27, 1979 but by mutual request of the parties, postponed and rescheduled and held on August 23, 1979.

The complainant by his representative, NHEA UniServ Director Adams, alleged that he was not timely notified of his non-renomination by the Superintendent of Schools, Paul O. Johnson.

The complainant had been employed as a Foreign Culture teacher at Woodbury Junior High, Salem, N. H., and had coached Girls' basketball for three years. He charged the Superintendent with issuing on January 9, 1978 a vague and obscure note on memo paper advising him that his position was being eliminated in the '78-'79 budget. On that same day, he met with Superintendent Johnson who indicated that any final action with respect to the elimination of the position would be taken by the School Board at the District meeting and that, if eliminated, Mazzadra could then apply for transfer to any position for which he was qualified.

Witnesses and exhibits offered substantiated that Mazzadra had been an acceptable teacher who was certified by the State Board of Education as a French teacher. Mazzadra attempted and did apply for what appeared to be two vacant positions at Salem High School and alleged that even though he met the background requirements was not selected. Twelve exhibits were submitted by the representative for the complainant in support of the allegations relative to his competence and untimeliness of the non-renewal.

Mazzadra alleged he was denied a formal hearing by the School Board as his request was not timely filed. The School Board by its Attorney, Lewis Soule, and its Superintendent, Paul Johnson, denied any and all allegations and violations of RSA 273-A:5, I.

The School Board contended it had a right to add or delete courses from the curriculum and that the complainant did not meet the qualifications for either of the two positions at Salem High School for which he applied, and that any and all actions taken by them were timely and appropriate. They offered several exhibits relative to School Board meetings and minutes of the District meeting which affirmed the School Board's order in eliminating Mazzadra's position.

FINDINGS OF FACT

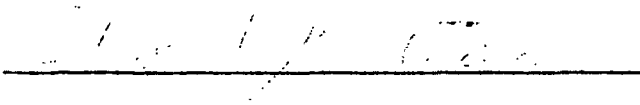
1. Steven L. Mazzadra was notified by memo on January 9, 1978 that the program of foreign language at Woodbury Junior High had been eliminated and that he was given this information at an early date so that he might look for another position. He was advised at that time that he would not be renominated for a position in the '78-'79 school year because of the deletion of the program concerning foreign cultures.
2. Steven L. Mazzadra was on March 13th again notified by the Superintendent of Schools that a notice of his non-renomination for the '78-'79 school year given to him on January 9, 1978 would stand.
3. With respect to his seeking a hearing before the State Board of Education which is provided for under the terms of RSA 189:14, b, request was not timely submitted and the denial of such a hearing was therefore in order.
4. The School Board does in fact have a right to eliminate certain programs of study and in this case had every right to eliminate the foreign culture course taught in the Woodbury Junior High School.
5. Evidence indicated that Mazzadra was counseled by the Superintendent to perhaps consider applying for certain positions at the Salem High School and did so, however, he was not selected for any of the positions available because he did not meet the necessary qualifications for the vacancies then existing.
6. There was no evidence of retaliatory action being taken by the School Superintendent for Mazzadra's pursuing his non-renomination for the '78-'79 school year, before the Salem School Board at its Oct. 11, 1979 meeting.
7. Certain testimony and exhibits were presented at the hearing with respect to Mazzadra's position as basketball coach which really had no bearing in the matter as the position eliminated was not that of basketball coaching but that of foreign culture teacher. Mazzadra did apply on April 19th for a teaching position in French and German and did in May of '78 apply for a position in French and Latin. Evidence at the hearing indicated that Mazzadra was not considered for these positions because he was not properly certified. He was interviewed and the interviewers did not recommend his hiring.
8. Steven Mazzadra did not exhaust all his administrative remedies under RSA 189:14 in a timely manner.

DECISION AND ORDER

After careful consideration of all the evidence and testimony presented at the hearing, the Board finds that:

- A. The action taken by the Respondents, the School Board and Superintendent Johnson was proper under their authority and that Steven L. Mazzadra's non-renewal to a teaching position for the school year 1978-79 was justified.
- B. The Complainant, Steven L. Mazzadra, did fail to prove improper labor practices in accordance with RSA 273-A:5, I, (1).

Having found no unfair labor practice against the Salem School Board or its Superintendent, the complaint is hereby dismissed.


EDWARD J. HASELTINE, CHAIRMAN
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 17th day of January, 1980

By unanimous vote, Chairman E. J. Haseltine presiding; members Cummings, Moriarty, Anderson and Mayhew present and voting. Also present, Executive Director Evelyn C. LeBrun.