

PATRICIA DESMOND, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE CITY OF : DECISION
 ASBURY PARK, MONMOUTH COUNTY, :
 :
 RESPONDENT. :
 _____ :

SYNOPSIS

Petitioning vice principal alleged the Board improperly dismissed her.

The ALJ found that when petitioner applied for positions of vice principal in respondent's District, and throughout her employment there, she did not possess a valid principal certificate and her submission of an application and resume stating that she held a "Supervisor/Principal" certificate constituted a knowing, material misrepresentation of fact to the Board. Citing *N.J.S.A. 18A:26-2* and *N.J.S.A. 18A:27-2*, the ALJ determined that petitioner's employment contract was void *ab initio* and, accordingly, tenure rights never attached. The ALJ found nothing in the record to support petitioner's contention that she was dismissed in retaliation for her cooperation with a Monmouth County Prosecutor's Office investigation or that the Board had a policy, created by past practice, of permitting various employees to obtain certifications while holding jobs that required those particular certifications. The petition was dismissed.

The Commissioner affirmed the Initial Decision for the reasons expressed therein and ordered that any employment relationship between petitioner and the Board be dissolved effective April 27, 1998, the date upon which the Board received notification from the County Office that petitioner had been assigned to the position of vice principal without the appropriate principal certification.

February 3, 2000

OAL DKT. NO. EDU 10959-98
AGENCY DKT. NO.514-11/98

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The record of this matter including the transcripts and the Initial Decision of the Office of Administrative Law have been reviewed.¹

Upon his independent review, the Commissioner determines to affirm the well-supported conclusion of the Administrative Law Judge (ALJ) finding that petitioner made a knowing and material misrepresentation of the facts when she listed her certificates held as “Supervisor of Instruction/Principal, K-12,” and “Supervisor/Principal” on her resume and employment application, respectively. (Respondent’s Exhibits 2 & 5) Although the District failed to fulfill its obligation to verify petitioner’s certificates, the District’s negligence cannot excuse petitioner’s actions.

Since petitioner has never held a principal certification, the Commissioner agrees with the ALJ that, under *N.J.S.A. 18A:26-2* and *N.J.S.A. 18A:27-2*, petitioner’s employment, if it

¹ Petitioner’s exceptions, filed on January 7, 2000, were untimely and, therefore, not considered.

ever existed, ceased when the County Office advised the District that petitioner did not hold a principal certificate. The Commissioner further agrees that, because petitioner's contract was void *ab initio*, tenure rights never attached. (Initial Decision at 36)

Additionally, there is nothing in the record to support petitioner's claims of retaliation. Nor is there any evidence to support her contention that the District has a past practice of "allowing various employees to obtain their certificates." (Amended Complaint at 12)

Accordingly, the Initial Decision in this matter is adopted for the reasons expressed therein. Any employment relationship between petitioner and the Asbury Park Board of Education is dissolved effective April 27, 1998, the date upon which the Board received the notification from the County Office that petitioner had been assigned to the position of vice principal without the appropriate principal certification.²

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

Date of Decision: February 3, 2000

Date of Mailing: _____

² This decision, as the Commissioner's final determination in the instant matter, may be appealed to the State Board of Education pursuant to *N.J.S.A. 18A:6-27 et seq.* and *N.J.A.C. 6:2-1.1 et seq.*, within 30 days of its filing. Commissioner decisions are deemed filed three days after the date of mailing to the parties.