

IN THE MATTER OF THE TENURE :
HEARING OF UMA SWAMINATHAN, :
SCHOOL DISTRICT OF THE : COMMISSIONER OF EDUCATION
TOWNSHIP OF PISCATAWAY, :
MIDDLESEX COUNTY. : DECISION

SYNOPSIS

In August 2004, petitioning school district certified tenure charges of incapacity and conduct unbecoming against respondent – a tenured middle school social studies teacher – alleging chronic failure to meet professional expectations, and unprofessional and hostile reactions to supervision by district personnel. Respondent denied the charges and contended that she is a victim of racism based upon her Asian Indian heritage. The matter was transmitted to the OAL in September 2004 and – after multiple delays – hearings commenced in November 2005. Settlement negotiations occurred during the summer of 2006, but were unsuccessful. Subsequently, petitioner requested leave from the ALJ to withdraw tenure charges, and submitted certification indicating that the continued financial cost and diversion of resources necessary to sever the employment relationship with respondent could no longer be justified. In the fall of 2006, the OAL transmitted the case file – marked “WITHDRAWAL” – to the Commissioner for review. In October 2006, the Commissioner remanded the matter to the OAL for further proceedings, or for a settlement or withdrawal that meets the standards required pursuant to *N.J.A.C. 6A:3-5.6(a)*, stating that petitioner was obligated to provide a reasonably specific explanation of why it was in the public interest not to pursue the tenure charges previously certified. The school district subsequently renewed its request for leave to withdraw the tenure charges, based on a proposed reassignment of respondent to a newly created position in which she would provide individualized instruction to high school students on long-term suspension.

On remand, the ALJ found that the rationale provided by the petitioning school district in its renewed request for leave to withdraw the tenure charges now satisfies the six standards required by *N.J.A.C. 6A:3-5.6(a)*, and provides satisfactory explanations concerning: the district’s need for a teacher to provide educational services to students on long-term suspension; why the respondent would be suitable for this position; and how her reassignment would best serve the public interest. The ALJ concluded that: the district’s request to withdraw tenure charges should be granted; any back salary and seniority to which respondent is entitled should be restored to her; and the matter should be dismissed.

The Commissioner concurred with the findings of the ALJ; adopted the Initial Decision as the final decision; granted petitioner’s application to withdraw the tenure charges against respondent, provide her back salary as appropriate, and recognize any tenure and seniority rights; and dismissed the matter.

<p>This synopsis is not part of the Commissioner’s decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.</p>

July 5, 2007

OAL DKT. NO. EDU 8539-06
(EDU 8108-04 on Remand)
AGENCY DKT. NO. 289-8/04

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The Initial Decision on Remand (Initial Decision) of the Office of Administrative Law (OAL), the exhibits appended thereto, and the record of this case have been reviewed. The Commissioner adopts the Initial Decision as the final decision in this matter for the reasons set forth by the Administrative Law Judge (ALJ).

Accordingly, the Commissioner grants petitioner's application to withdraw the tenure charges certified against respondent, provide any back salary to which she is entitled under Title 18A, and recognize any tenure and seniority rights which respondent has accrued pursuant to *N.J.S.A. 18A:28-5* and *N.J.A.C. 6A:32-5.1*. This matter is hereby dismissed.

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

Date of Decision: July 5, 2007

Date of Mailing: July 5, 2007