

ONOFRIO MEZZINA, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE : DECISION
 CITY OF HOBOKEN, HUDSON COUNTY, :
 :
 RESPONDENT. :
 _____ :

SYNOPSIS

Petitioner's position was eliminated in a reduction in force (RIF) prior to the start of the 2009-2010 school year. He contends that the Board's failure to renew his contract was a termination of employment and violated his tenure and seniority rights as a janitorial/maintenance employee. The Board asserts that petitioner was properly removed pursuant to a RIF and that he did not have tenure in his position.

The ALJ found that: petitioner held a unique position with requirements that replicated his education and work experience, and was very different from that of the district's janitorial employees; accordingly, petitioner's position was not within the general category of employees protected by *N.J.S.A. 18A:17-3* and *N.J.S.A. 18A:17-4*; and petitioner did not have tenure pursuant to *N.J.S.A. 18A:17-3* and does not have any rights to employment with respondent pursuant to *N.J.S.A. 18A:17-4*. The ALJ denied petitioner's appeal and dismissed the case.

Upon a thorough and independent review of the record, the Commissioner adopted the Initial Decision of the OAL as the final decision in this matter.

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.

March 18, 2011

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. Petitioner’s exceptions and the Board’s reply thereto – filed in accordance with the requirements of *N.J.A.C. 1:1-18.4* – were fully considered by the Commissioner in reaching his determination herein.

Petitioner’s exceptions charge that the Administrative Law Judge (ALJ) reached inappropriate conclusions of law because he erroneously failed to adopt or give proper weight to a number of petitioner’s proposed findings of fact which petitioner claims were supported by hearing testimony and documentary evidence. In so arguing, petitioner recasts and reiterates his advancements made below. As it is determined that petitioner’s exception presentation raises no *relevant or material* arguments/issues left unaddressed by the ALJ, it merits no further discussion here.

Upon full consideration of the record in this matter – which included transcripts of the hearing conducted at the OAL on September 22 and 27, 2010 – the Commissioner, specifically concluding that the ALJ’s factual findings and resultant conclusions of law are

comprehensive and fully supported by the record, agrees with the ALJ that petitioner's position was not within the general category of employees protected by *N.J.S.A.* 18A:17-3 and *N.J.S.A.* 18A:17-4; that petitioner did not have tenure pursuant to *N.J.S.A.* 18A:17-3; and, therefore, he does not have any rights to employment with the Hoboken Board of Education pursuant to *N.J.S.A.* 18A:17-4.

Accordingly, the recommended decision of the OAL is adopted for the reasons clearly articulated therein and the instant petition of appeal is hereby dismissed.

IT IS SO ORDERED.*

ACTING COMMISSIONER OF EDUCATION

Date of Decision: March 18, 2011

Date of Mailing: March 21, 2011

* This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L.* 2008, *c.* 36 (*N.J.S.A.* 18A:6-9.1).