

SUPREME COURT OF NEBRASKA

Richardson v. Bd. of Educ. of Sch. Dist. No. 100, Keya Paha County
High Sch. Dist., 206 Neb. 18

290 N.W.2d 803 (1980) · No. No. 42690 · Decided April 8, 1980

SUMMARY

The Nebraska Supreme Court affirmed a judgment requiring a Class VI school district to pay 75 percent of tuition incurred for the plaintiff's children to attend an accredited high school in South Dakota. The court held that the State Board of Education acted in a quasi-judicial capacity and that its unappealed order became final, precluding the school district's collateral attack on the order and the constitutionality of the governing statute.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Hastings, Justice; Krivosha, C.J.; Boslaugh, J.; McCown, J.; Clinton, J.; Brodkey, J.; White, J.; Hastings, J.
JURISDICTION	Nebraska
DECIDED	April 8, 1980
DOCKET	No. 42690
DISPOSITION	affirmed
PROCEDURAL POSTURE	The school district appealed a district court judgment awarding Richardson \$2,010, representing 75 percent of tuition he paid for his children to attend Burke High School in South Dakota pursuant to an order of the Nebraska State Board of Education.
STANDARD OF REVIEW	The Supreme Court treated the action as an action to enforce a final state-agency order and reviewed whether the district court's judgment was supported by the undisputed evidence. It also considered the legal questions of agency authority, appealability, and collateral attack de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Board of Education of School District No. 100, Keya Paha County High School District v. Elmer Richardson

TOPICS

agency adjudication judicial review of agency action appellate jurisdiction administrative procedure act
statutory interpretation

PRACTICE AREAS

administrative law education law appellate procedure constitutional law statutory interpretation

QUESTIONS PRESENTED

1. Whether the State Board of Education acted in a quasi-judicial capacity when deciding an appeal under Neb. Rev. Stat. § 79-1103.05(2), such that its order was subject to judicial review.
2. Whether the school district could collaterally attack the State Board's order in Richardson's action to collect the tuition payment after failing to timely appeal the order.
3. Whether the constitutionality of Neb. Rev. Stat. § 79-1103.05 could be considered in the enforcement action.
4. Whether the district court properly entered judgment for Richardson based on the State Board's order and the amount of tuition paid.

HOLDINGS

1. The State Board of Education acted in a quasi-judicial capacity when hearing and deciding an appeal concerning tuition payment under § 79-1103.05(2), and either party could seek judicial review of its order in the district court by petition in error or direct appeal as provided by law.
2. The school district could not collaterally attack the State Board's order because it had jurisdiction over the parties and subject matter, the district failed to pursue a timely appeal, and the order was therefore final and at most voidable rather than void.
3. The constitutionality of § 79-1103.05 was not properly before the Supreme Court because the school district had not timely appealed the State Board's order and had not complied with the Nebraska Supreme Court's notice and service requirements for constitutional challenges.
4. The district court properly entered judgment for Richardson because the undisputed evidence established the issuance of the State Board's order and the amount of tuition Richardson paid.

KEY QUOTATIONS

“We therefore hold that the State Board of Education hearing appeals as provided for in § 79-1103.05(2) acts in a quasi-judicial capacity and, therefore, either party has the right to appeal to the District Court any such order made, either by a petition in error or by direct appeal as provided by law.” (808)

“The order entered by the State Board not being void, the School District may not at this stage collaterally attack that order by challenging the constitutionality of the statute.” (809)

FACTUAL BACKGROUND

Richardson lived in the northeast corner of the school district, whose high school was approximately 35 miles from his home and substantially more difficult to reach during bad weather. An accredited high school in Burke, South Dakota, was approximately 15 miles from his home. After the school district denied his request to pay tuition for his children to attend Burke High School, the State Board of Education held a hearing and ordered the district to pay 75 percent of the tuition for the 1976-77 school year. Richardson paid the tuition and sued to recover the amount ordered, while the district attempted to challenge the State Board's order and the constitutionality of the governing statute in that enforcement action.

PROCEDURAL HISTORY

Richardson applied to the school district for payment of tuition under Neb. Rev. Stat. § 79-1103.05. After the district rejected the application, Richardson appealed to the State Board of Education, which held a hearing and ordered the district to pay 75 percent of the tuition. The district did not timely appeal that order. Richardson then sued in the Keya Paha County District Court to enforce the order and recover \$2,010; the district court entered judgment for Richardson, and the Nebraska Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Rohrer v. Hastings Brewing Co., 83 Neb. 111, 119 N.W. 27 (1908)
- School Dist. No. 23 v. School Dist. No. 11, 181 Neb. 305, 148 N.W.2d 301 (1967)
- Ruwe v. School District, 120 Neb. 668, 234 N.W. 789 (1931)
- Languis v. DeBoer, 181 Neb. 32, 146 N.W.2d 750 (1966)
- Gretna Public School v. State Board of Education, 201 Neb. 769, 272 N.W.2d 268 (1978)
- School Dist., The City of York v. State Board of Education, 201 Neb. 773, 272 N.W.2d 363 (1978)
- State ex rel. Casselman v. Macken, 194 Neb. 806, 235 N.W.2d 867 (1975)
- City of Phoenix v. Wright, 61 Ariz. 458, 150 P.2d 93 (1944)
- Norlanco, Inc. v. County of Madison, 186 Neb. 100, 181 N.W.2d 119 (1970)

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