

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Jamison v. Board of Education of the County of Monongalia, 226 W. Va. 503

702 S.E.2d 840 (2010) · No. No. 35498 · Decided October 14, 2010

SUMMARY

The Supreme Court of Appeals of West Virginia considered whether a school employee holding two half-time positions was entitled to mileage reimbursement for travel between workstations. The court held that the applicable county policy and West Virginia Code § 18A-2-14 did not exclude such reimbursement and strictly construed the school personnel provisions in favor of the employee. It reversed the circuit court and remanded with directions to provide reimbursement for documented qualifying travel.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per Curiam; Justice Workman; Judge Keadle, sitting by temporary assignment; Justice Benjamin
JURISDICTION	West Virginia
DECIDED	October 14, 2010
DOCKET	No. 35498
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the Circuit Court of Kanawha County's affirmance of the denial of an employee grievance seeking mileage reimbursement for travel between two half-time school positions.
STANDARD OF REVIEW	Factual findings underlying a final order of the West Virginia Educational Employees' Grievance Board are reviewed for clear error and supported by substantial evidence, with deference to factual inferences and credibility determinations. Conclusions of law and the application of law to facts are reviewed de novo.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Nancy Jamison v. Board of Education of the County of Monongalia

TOPICS

employment law

administrative law

statutory interpretation

appellate procedure

standard of review

PRACTICE AREAS

employment law

administrative law

education law

employee benefits

QUESTIONS PRESENTED

1. Whether the Board's travel policy required mileage reimbursement for Jamison's travel between two half-time workstations.
2. Whether West Virginia Code § 18A-2-14 required reimbursement for Jamison's use of a personal vehicle to travel between her two school assignments.
3. Whether the distinction between an employee with two independent half-time positions and an employee with one full-time position involving two workstations precluded reimbursement.

HOLDINGS

1. Under the narrow facts of the case, the Board's policy and the statute required reimbursement for Jamison's travel between her two workstations because neither expressly excluded employees with two half-time positions, and school personnel regulations and laws must be strictly construed in favor of the employee.
2. The Board could not impose an unstated exception to its reimbursement policy; if it intended to prohibit reimbursement for travel between two half-time positions selected by an employee, it was required to write the policy to reflect that intent.

KEY QUOTATIONS

"School personnel regulations and laws are to be strictly construed in favor of the employee." (702 S.E.2d at 842)

"If the Board sought to prohibit reimbursement to personnel traveling between two half-time positions based upon the employee's exercise of discretion in selecting those two positions, the policy should have been concisely written to reflect that intent." (702 S.E.2d at 844)

FACTUAL BACKGROUND

Jamison worked as a Secretary III in two independent half-time positions, spending part of each day at Brookhaven Elementary and the remainder at Cheat Lake Middle School. After the federal program underlying her prior Central Annex assignment ended, the Board assigned her to Brookhaven, and she continued traveling between the two schools in her personal vehicle. The Board reimbursed that travel for six years before discontinuing reimbursement for the 2006-07 and 2007-08 school years.

PROCEDURAL HISTORY

Jamison filed a grievance after the Monongalia County Board of Education stopped reimbursing her daily travel between Brookhaven Elementary and Cheat Lake Middle School. The grievance was denied at Level I and by an

administrative law judge at Level III. The Circuit Court of Kanawha County affirmed, holding that the Board's travel-reimbursement policy did not apply because neither position required her to perform duties at the other location. The Supreme Court of Appeals of West Virginia reversed and remanded with directions to provide reimbursement.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Circuit Court of Kanawha County was directed to provide Jamison reimbursement for mileage expenses for the 2006-2007 and 2007-2008 school years and for any subsequent time periods for which she could present proper documentation.

CASES CITED

- Randolph County Board of Education v. Scalia, 182 W. Va. 289, 387 S.E.2d 524 (1989)
- Martin v. Randolph County Board of Education, 195 W. Va. 297, 465 S.E.2d 399 (1995)
- Holmes v. Board of Education of Berkeley County, 206 W. Va. 534, 526 S.E.2d 310 (1999)
- Morgan v. Pizzino, 163 W. Va. 454, 256 S.E.2d 592 (1979)
- Sexton v. Boone County Board of Education, W. Va. Educ. & State Employees Grievance Bd., Docket No. 94-03-044 (June 22, 1994)
- Wheeler v. Lincoln County Board of Education, W. Va. Educ. & State Employees Grievance Bd., Docket No. 96-22-535 (July 15, 1997)
- Powell v. Brown, 160 W. Va. 723, 238 S.E.2d 220 (1977)
- State ex rel. Hawkins v. Tyler County Board of Education, 166 W. Va. 363, 275 S.E.2d 908 (1980)