STATE BOARD OF EDUCATION

STATE OF GEORGIA

EDDIE HENDERSON and GEORGE LESLIE EDMONDSON,	*	
Appellants,	*	
vs.	*	CASE NO. 1976-17
FULTON COUNTY BOARD OF EDUCATION,	*	ORDER
Appellee.	*	

On March 31, 1976, Appellants were given notices of discharge by their immediate supervisor. They asked for and were granted a hearing before the Fulton County Board of Education (hereinafter "Local Board"). On May 14, 1976, the Local Board ordered that Appellants not be discharged. Appellant Henderson was reinstated with back pay as of May 1, 1976, and Appellant Edmondson was to be reinstated on July 1, 1976. Appellant Henderson therefore suffered a one-month suspension without pay, and Appellant Edmondson suffered a three-month suspension without pay.

The Appellants were both steamfitters who worked in the maintenance department. As such, they were not under contract with the Local Board. The Local Board nevertheless granted a hearing under the provisions of Ga. Code Ann. Ch. 32-21c and the local rules promulgated pursuant thereto. It is from the decision reached by the Local Board after this hearing that the Appellants have appealed to the State Board of Education. As grounds for their appeal, Appellants urge that the hearing by the Local Board was procedurally defective and that their suspension without pay was illegal because it was based upon union activities.

The threshold question in this case is whether the State Board of Education has jurisdiction to review the decision of the Local Board since it "is settled law that the judgment of a tribunal of limited jurisdiction must show upon its face such facts as are necessary to give the tribunal rendering the same jurisdiction, or else such a judgment is void." Boney v. County Bd. of Educ. of Telfair County, 203 Ga. 152, 155, 45 S.E. 2d 442 (1947).

Ga. Code Ann. Section 32-910 provides that a local board of education "shall constitute a tribunal for hearing and determining any matter of local controversy in reference to the construction or administration of the school law" and "either party shall have the right to appeal to the State Board of Education."

The only school law applicable in this situation is Ga. Code Ann. Section 32-2101c, which pertains to terminations, suspensions, and demotions, and under which the Local Board stated that it was conducting the hearing. By its terms, Section 32-2101c and its requirements for a hearing are applicable only to the termination, suspension, or demotion of an employee "having a contract for a definite term." The Appellants, however, did not have a contract for a definite term. Section 32-2101c, therefore, was not applicable and there was no requirement under Section 32-2101c for the Local Board to grant the hearing to Appellants.

Both the Appellant and the Appellee urge that since a hearing was conducted and a decision was made by the Local Board, an appeal can be taken to the State Board of Education under the provisions of Code Ann. Section 32-910. The parties, in effect, have agreed to the jurisdiction of the State Board of Education even though state school law is not involved. The State Board of Education, being a body of limited jurisdiction, however, cannot assume jurisdiction in a matter which is outside its statutory responsibility even if the parties agree to such jurisdiction. See, e.g. Smith et al. v. Upshaw, 217 Ga. 703 (1962). There being no other grounds for jurisdiction shown, the State Board of Education, therefore, must hold that the appeal in the instant case be dismissed. Harrison v. Chattooga County Board of Education, 1976-7.

It is not the purpose of, nor is there a requirement imposed by, Code Ann. Section 32-910 that the State Board of Education review every action taken by a local board of education. The fact that there is a hearing conducted by the local board of education is not the determining factor. For example, a local school board could conduct a hearing for the purpose of establishing the local budget and millage rate, but an appeal to the State Board of Education would not be available. A local board can hold a hearing in any circumstances it desires, but there must be some interpretation or administration of state school law involved before an appeal can be taken to the State Board of Education.

When state school law is not involved, there is neither the necessity nor the duty for the State Board of Education to become involved, notwithstanding the merits of a claimed wrong. The legislature has provided for the review of local board actions only in a limited area and there is no indication that the legislature intended for every action of a local school board to be subject to review by the State Board of Education. When the interpretation and administration

of school law is at issue, the State Board of Education can provide a more efficient means for the resolution of controversies on a uniform basis throughout the State. But where, as here, normal employer-employee relationships are at issue and school law is not involved, an appeal to the State Board of Education is not warranted or statutorily authorized.

Accordingly, it is ordered that this appeal be dismissed.

This the 13th day of January, 1977.

Richard Neville
Vice Chairman for Appeals