

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Nancy L. Avau, Gail M. Herron and :
and Christine A. McCollum, :
Appellants :
: :
v. : No. 396 C.D. 2008
: Submitted: May 23, 2008
Riverside Beaver County Education :
Association and Pennsylvania State :
Education Association :

BEFORE: HONORABLE BERNARD L. McGINLEY, Judge
HONORABLE ROCHELLE S. FRIEDMAN, Judge
HONORABLE JIM FLAHERTY, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE FRIEDMAN

FILED: June 13, 2008

Nancy L. Avau, Gail M. Herron and Christine A. McCollum (collectively, Employees) appeal from the June 7, 2007,¹ order of the Court of Common Pleas of Beaver County (trial court), which sustained the preliminary objections (POs) filed by the Riverside Beaver County Education Association (RBCEA) and the Pennsylvania State Education Association (PSEA) (together, the Union) and dismissed Employees' Amended Complaint (Complaint) for lack of jurisdiction. We vacate and remand.

¹ We note that the trial court's order is dated June 7, 1997; however, this appears to be a typographical error.

On August 14, 2006, Employees filed the Complaint with the trial court, alleging that the Union failed to properly represent them during the negotiations of a Collective Bargaining Agreement (CBA) between the RBCEA and the Riverside School District (School District) and seeking damages. The Union filed POs asserting, *inter alia*, that the trial court lacked jurisdiction because Employees' unfair representation claims constitute unfair labor practices subject to the exclusive jurisdiction of the Pennsylvania Labor Relations Board (PLRB).²

Citing *Segilia v. Riverside School Service Personnel Association*, 526 A.2d 832 (Pa. Cmwlth. 1987), *overruled by Case v. Hazelton Area Education Support Personnel Association (PSEA/NEA)*, 928 A.2d 1154 (Pa. Cmwlth. 2007), the trial court agreed that it lacked jurisdiction and, therefore, dismissed the Complaint without ruling on the Union's remaining POs. Employees appealed to the Superior Court, which transferred the appeal to this court.

We note that this court recently overruled *Segilia* in *Case*, wherein we held that individual employee claims, like those filed here, alleging that the union breached its duty of fair representation do not qualify as unfair labor practices in violation of the Public Employee Relations Act, Act of July 23, 1970, P.L. 563, *as amended*, 43 P.S. §§1101.101-1101.2301, and, therefore, the court of common pleas, not the PLRB, has jurisdiction over those claims.

² See sections 1201(b)(3) and 1301 of the Public Employee Relations Act (PERA), Act of July 23, 1970, P.L. 563, *as amended*, 43 P.S. §§1101.1201(b)(3) (stating that it is an unfair labor practice for an employee organization to refuse to bargain collectively in good faith with a public employer) and 1101.1301 (stating that the PLRB is exclusively empowered to prevent any person from engaging in unfair labor practices).

Because *Case* clearly controls this matter, we vacate the trial court's order dismissing Employees' Complaint for lack of jurisdiction, and we remand the matter to the trial court to consider the Union's remaining POs.

ROCHELLE S. FRIEDMAN, Judge

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ORDER

AND NOW, this 13th day of June, 2008, the order of the Court of Common Pleas of Beaver County (trial court), dated June 7, 2007, is hereby vacated, and we remand the matter to the trial court to consider the remaining preliminary objections filed by the Riverside Beaver County Education Association and the Pennsylvania State Education Association.

Jurisdiction relinquished.

ROCHELLE S. FRIEDMAN, Judge