

IN THE MATTER OF AN ARBITRATION

BETWEEN :

87654
L655
Ryan

CAMBRIAN COLLEGE
(hereinafter called the "College")

- and -

THE ONTARIO PUBLIC SERVICE
EMPLOYEES' UNION
(hereinafter called the "Union")

BOARD OF ARBITRATION:

E. E. Palmer, Q.C.
Chairman

R. Cochrane

A. S. Merritt

APPEARANCES FOR THE COLLEGE:

R. J. Atkinson & Others

APPEARANCES FOR THE UNION:

J. Mosher & Others

The present arbitration arises out of a grievance filed by Mrs. M. G. Ryan on 10 February 1987, alleging she had been improperly denied appropriate credit for her Bachelor of Education Degree in the basis for the calculation of her salary. This matter was not resolved during the grievance procedure and so forms the basis of the present arbitration, a hearing in relation to which took place in Sudbury, Ontario, on 28 January 1988. At that time the parties agreed the Board was properly composed and had jurisdiction to deal with this matter. It was also agreed that the Board should reserve on any questions of compensation.

The factual background to this case is extremely simple and not in dispute. Thus it would appear that Mrs. Ryan was a Teaching Master at the College. Upon her hiring by the College in this capacity the College used the Classification Plan for Teaching Masters and Counsellors [see Exhibit III] as a basis to determine her starting salary.

In this regard, it is useful to set out the language in question. This reads [see Exhibit III]:

FACTORS

1. Appointment Factors

A) Experience: Relevant Teaching/Relevant Occupational

Relevant occupational experience generally means full years of experience in a field of work related to the material to be taught, or to some allied aspect of it. In determining the number of years to be counted, the College hiring must avoid the extremes of counting either "years of time passed" or "years of entirely non-repetitive experience", and must make a fair assessment of an applicant's experience.

For example, an applicant who had spent some years as a sales clerk before qualifying as an engineer should not expect his sales experience

to count as relevant experience if he is being hired to teach engineering.

Part-time experience should be totalled only if it forms part of a regular programme of development such as a co-operative educational programme.

Double counting must be avoided. For example, if an applicant worked as a graduate assistant while pursuing an advanced degree, he shall not be given full credit for both experience and educational time.

Similarly, relevant teaching experience means full years of teaching experience at a level comparable with the level required by the applicant. Again, double counting must be avoided, for example, if an applicant worked as a graduate assistant while pursuing advanced qualifications.

The values to be given for experience are:

- First 5 years: 1 point per year
- Next 9 years: 2/3 point per year
- Next 12 years: 1/2 point per year

B) Relevant Formal Qualifications

Formal qualifications are those which constitute the norm in institutions of post-secondary education in the Province of Ontario. Only full years of post-secondary education at successively higher levels, and leading to a diploma, professional accreditation or degree, are recognized. For example, a graduate of a three-year technology program in a College would be given 1½ points for each of the three years, regardless of the length of time actually spent by the individual in obtaining the diploma.

No credit is to be given for a year of study in which there was significant duplication of other studies. Therefore, only the highest qualification will be used in computation unless the subject areas are from different disciplines and all relevant to the appointment.

- C.A.A.T. Diploma or Post-Secondary Certificate - per year (level) completed: 1½ points
(Maximum of 4 years)
- University Degree: per year (level) completed: 1½ points
(Maximum of 6 years)
- Formal integrated work/study program such as P. Eng., R.I.A., C.A., C.G.A., Certified Journeyman - per year (level) completed: 1½ points
(Maximum of 5 years)
(Note that years included herein are not also to be included under Factor A)

Quite simply, the grievor, who had both a Bachelor of Arts and a Bachelor of Education Degree, had the former placed under Factor B and the latter under Factor A. This was in accord with the past practice of the Employer in crediting such Degrees, which are not a requirement for employment, as a matter of experience rather than as of formal qualifications. The reasons for this will be set out below. At this point, however, it is simply useful to note that the effect of this was to drop Mrs. Ryan one step in levels of payment. To the validity of this position the Board now turns.

The Union starts its argument by noting that there is no question but that Mrs. Ryan's degree is a relevant factor under the Classification Plan; the College has admitted that. Therefore, the sole question is whether it is placed under Factor A, as the College has done, or B, which the Union claims is the correct position. Initially, they emphasize that common sense would suggest a university degree is more readily characterized as a "formal qualification" than "teaching or occupational experience." This initial impression is buttressed by noting that under Factor B university degrees are specifically noted. Thus, unless some limitation exists to this position, they should succeed.

The only such restriction, it is argued, is found in the second paragraph under Factor B:

No credit is to be given for a year of study in which there was significant duplication of other studies. Therefore only the highest qualification will be used in computation unless the subject areas are from different disciplines and are all relevant to the appointment.

The Union claims the foregoing is inapplicable to the present situation. In their view, the Bachelor of Education degree

can only be taken after having a Bachelor of Arts. It is thus a higher degree and, as such, meets the requirements of Factor B. In support of this position, the Union refers to Re Cambrian College (Pepin Grievance), unreported (Samuels, 1986).

Accordingly, the Union requests that this grievance succeed.

The College's opposition to this argument takes two forms. First, they claim that under Factor B one only places the highest relevant qualification, unless there exist facts which bring it into the exception set out above. This is supported by the words, "only the highest classification will be used...". Second, the College notes that the grievor was hired to teach English and that a Bachelor of Education is not necessary to teach this subject, although it is relevant to teaching in a general way. As put by the College, it is relevant, but not relevant as formal qualifications. Finally, the College claimed that the Pepin award was wrong as it displayed that the relevant contractual language had not been analyzed.

Therefore, the College requested that this grievance be dismissed.

Notwithstanding the College's approach to this case, the Board prefers the position taken by the Union and we adopt their reasoning. While one wonders about the delay in bringing this grievance, there can be little doubt that prima facie degrees fall into Factor B, nor that a Bachelor of Education degree leads on and requires a Bachelor of Arts degree as a prerequisite. In this sense, then, it is a "higher" degree. Once it is accepted that it is "relevant" to her job, in the opinion of the Board, that is the

end of the question. Educational experience is not teaching or occupational experience. To characterize it in this way would be to put a meaning on the language in question which it cannot bear. Thus, while one can accept that in the abstract the College has acted reasonably, its actions do not find support in the relevant provisions of the Classification Plan.

Hence, this grievance succeeds.

DATED at Lynden, Ontario, this 16th day of May 1988.




E. E. Palmer, Q.C.

I concur/~~dissent~~



R. Cochrane

I ~~concur~~/dissent



A. S. Merritt

DISSENT

With all due respect to my colleagues on the Board of Arbitration, I find that I must dissent with the opinion expressed in the award, particularly as to the value to be given to the Bachelor of Education degree.

As pointed out in the award and as stated by both counsels, there is really no dispute as to the facts of the case. The grievor's experience is as set out in the award; it is when one comes to assess her placement, that the parties part company.

The Union is asserting that the Bachelor of Education degree should fall under Factor B: Relevant Formal Qualifications, while the College believes that in placing it under Factor A: Experience, as it has always done, it is fulfilling its obligations. In other words, the Union says it is a relevant formal qualification, while the College says it is relevant experience.

As set out in the award, one of the key statements to be interpreted is found in the first paragraph under Factor B: "...only the highest qualification will be used in computation unless the subject areas are from different disciplines."

The second significant excerpt from the Collective Agreement is to be found in the second paragraph under Factor B: Relevant Formal Qualifications which is: "...only full years of post-secondary education at successively-higher levels ... are recognized."

It is obvious from these statements that the Collective Agreement envisages that a progressively more difficult or higher level of achievement must be completed before an applicant can qualify to have an extra degree such as a Bachelor of Education degree recognized for

higher placement. In this regard, the words "highest" and "successively higher levels" are of the utmost significance. The question then devolves into whether a Bachelor of Education degree does in fact qualify under the terms set out. Is it the higher qualification and has a person, who has achieved it after a Bachelor of Arts degree, now achieved a "successively higher level" of education?

In regard to the matter, it would seem to be useful to spend some time examining what is encompassed in a Bachelor of Education degree instead of taking it at simple face value. First of all, I should like to point out that in the award it is asserted on pages 4-5 that "In their [the Union] view, the Bachelor of Education degree can only be taken after having a Bachelor of Arts" and later on page 5 "...that a Bachelor of Education degree leads on and requires a Bachelor of Arts degree as a prerequisite." These bald statements, for which no evidence was given, are in fact not true in every case. It has always been the policy and continues to this day for a person in a technical or a vocational field to be admitted to a Faculty of Education for teacher training with only a Grade 12 or Grade 13 education, including relevant work experience. For example, a teacher may become an Honour Technological Studies Specialist without ever receiving a Bachelor of Arts degree, albeit he must have some (5) university courses to his credit.

Thus, this person, upon completing teacher training at a Faculty of Education, receives a Bachelor of Education degree without ever having or needing a Bachelor of Arts degree. Obviously then, it is not now nor has it been in the past the intention of the Faculty

that a Bachelor of Arts degree must be a prerequisite for getting a Bachelor of Education degree in all cases.

This is not to say that most arts courses do not require a Bachelor of Arts degree for entrance into the Faculty of Education in order to proceed towards a Bachelor of Education degree, but it does show that the year spent at the College is basically for training to be a teacher and that what is significant is the experience or education that one brings to the Faculty. The trainee will not be moving to a higher level of education.

What actually occurs at a Faculty of Education is training, as can be seen from examining Exhibit 5 where we find no progress towards "higher" qualifications in the true or pure sense of the word. What we do find are such courses as "The Individual Student and the School Program" and "English for the Slower Learner". Contrast this with Exhibit 4 where we note the progression of difficulty in the English courses taken from the first year to the fourth year and where for example we are introduced to such a highly-specialized course as "Four Eighteenth-Century Authors".

In my opinion, this is what was meant by the language set out in the Collective Agreement when it states that "only the highest qualification will be used....." There is no doubt that the courses needed for a Bachelor of Arts degree are much more academically demanding than those leading to a Bachelor of Education degree and that those leading to a Bachelor of Education degree are simply training courses.

One also has to wonder how, if this award were accepted, a college should treat a teaching applicant who has, for example, a 4-year B.A. in

English, and a one year M.A. in English and a B. Ed. degree? Is the B. Ed. degree then the highest qualification? Is it to be counted in placement? How does one justify counting it under such terms as "successively higher levels" and with only the highest qualification to be accepted? Clearly the B. Ed. degree is not at a higher level than the M.A.

What would a placement officer now do with the Bachelor of Education degree? Obviously, he cannot now count it under formal qualifications since only the Bachelor of Arts and Master of Arts degrees could be counted under the language "successively higher qualifications." The only place he could count it if he wished to be fair to the applicant is under Relevant Teaching Experience where the College has contended all along it should be placed.

In regards to Cambrian College (Pepin Grievance) unreported (Samuels 1986), it should be pointed out that there is a marked difference between the two cases. In the Pepin case, it is stated on page 4 that "[the grievor's] teaching certificate which recognizes training in pedagogy is for a different discipline from the grievor's B.A. which is Francais." In the present case, the grievor's training was in the same discipline as her B.A., i.e. English.

The case for treating the Bachelor of Education degree as experience is also highlighted when one further examines Exhibit 5. Note that a large part of the work in achieving the Bachelor of Education degree is for what is called "Practice Teaching". Here, the student puts in ten weeks learning to teach in a classroom situation, a work or

apprenticeship program supervised by an experienced teacher. It would seem to comprise about 35% of the program for the year and since it is an integral part of the training, must be successfully completed in order to gain a Bachelor of Education degree.

In this situation, the prospective teacher makes use of the knowledge acquired in gaining a Bachelor of Arts degree or in a practical vocational setting. The teacher does not acquire new or additional knowledge in the chosen field of study at a higher level of attainment. The teacher experiences training in methodology as a sort of apprentice for a year, with no suggestion that even more difficult courses in the subject discipline will be studied. Exhibit 5 shows that what is studied are courses in how to teach, such as "Teaching; an Interpersonal Process" and "Psychology Applied to Education", so as to prepare the student for practice teaching and the profession of teaching itself. What the teacher actually teaches to the students he has already learned.

The year at the Faculty of Education is, however, excellent relevant experience comprising as it does so much practical experience in the classroom. The Bachelor of Education degree is given for achieving a certain degree of competence in a training course; indeed I believe that the year spent at the Faculty is generally referred to as a year of "teacher training." It is not, therefore, a year when one moves "successively higher" in one's academic studies; it is for job preparation and therefore at best the Bachelor of Education degree is equivalent only to a Bachelor of Arts degree. Consequently, I believe that the grievance should be dismissed.