

Pa.: Veteran Should Have Received Preference in Hiring

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By BLR® —Business & Legal Resources

A U.S. Air Force veteran claims that a school district violated state law by not giving him preference in the hiring process.

What happened. In 1995, “David” retired from the Air Force after more than two decades of service. He had a bachelor’s degree in legal studies and master’s degrees in geography/regional planning and secondary education, as well as a Pennsylvania teaching certificate. He participated in the U.S. Department of Defense’s “Troops to Teachers” program, which pays a school district hiring a veteran a percentage of the veteran’s teaching salary for five years.

David applied for an advertised social studies teacher position with the Chartiers Valley School District in 1997. He and three other nonveteran applicants each received a rating of 4 out of 5, but only the other three applicants were referred to the school board for interviews, because David’s rating was “4W,” which meant “weak/want more data.” The district’s student teacher was hired for the job.

David received a rating of 3 for another social studies teacher position in 1999 and was not referred to the school board. He filed suit, alleging that he was qualified for the positions but was not hired because the district, as a public employer, failed to give him the veteran’s preference mandated by the Veterans’ Preference Act.

Initially, the suit was dismissed, but the appeals court reversed, and the Pennsylvania Supreme Court remanded the case to determine whether David had the appropriate qualifications and whether there was a flaw in the hiring process that precluded him from reaching the final steps of the hiring process.

The trial court found that David was qualified and that the school district did not have objective criteria for the job and had violated the act by not giving him preference. It ordered the district to place David in a teaching position as of July 1997 and to make him whole for lost wages and benefits. The school district appealed.

What the court said. The Commonwealth Court of Pennsylvania affirmed, agreeing that David was qualified for the job and that a flaw in the hiring process prevented him from being interviewed by the school board. “The School Board would have been required to hire ... [David], the only veteran among the final three applicants, had he reached the final step in the hiring process.”

Merrell v. Chartiers Valley School District, Pa. Common. Ct., No. 1445 C.D. 2011 (June 4, 2012).

Professional Pointer: The Veterans’ Preference Act requires public employers to give preference to eligible veterans in the hiring process—but only if the veterans are qualified for the position.

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