

STATE OF CONNECTICUT  
LABOR DEPARTMENT

CONNECTICUT STATE BOARD OF LABOR RELATIONS

IN THE MATTER OF  
CONNECTICUT EDUCATION ASSOCIATION

DECISION NO. 3689-A

-and-

SEPTEMBER 15, 1999

SUZANNE MERSEREAU SEARLES

Case No. TUPP-18,878

A P P E A R A N C E S:

Attorney Martin Gould  
For the Association

Suzanne Mersereau Searles  
Pro Se

**DECISION ON RECONSIDERATION AFFIRMING DISMISSAL OF COMPLAINT**

On April 28, 1999, the Connecticut State Board of Labor Relations (the Labor Board) issued a Decision and Dismissal of Complaint in the above captioned matter dismissing the complaint of Suzanne Mersereau Searles (Complainant or Searles) in which she alleged that the Connecticut Education Association (the Association) had violated the School Board Teacher Negotiation Act (TNA or the Act) by failing to represent her in 1989 or 1990 regarding her discharge from employment with the West Hartford Public Schools. (*Connecticut Education Association and Suzanne Mersereau Searles*, Decision No. 3689 (4/28/99)). In its decision the Labor Board determined that it did not have jurisdiction over the complaint because the alleged misconduct pre-dated the effective date of the governing statute, Public Act 93-426 (codified in part at Conn. Gen. Stat. §§ 10-153a and 10-153e). The Labor Board concluded that Public Act 93-426 does not have retroactive effect.

On May 10, 1999, Complainant filed a timely Petition to Reconsider the decision, pursuant to Conn. Gen. Stat. § 4-181a which was not opposed by the Association and was granted by the Labor Board on May 13, 1999. The parties appeared before the Labor Board for a hearing on Complainant's Petition to Reconsider on August 5, 1999 at which time they were given full opportunity to present evidence, examine and cross examine witnesses and make argument. On the basis of the entire record before us, we make the following determination

upon reconsideration and we affirm our decision in *Connecticut Education Association and Suzanne Mersereau Searles*, Decision No. 3689 (4/28/99).

### **DISCUSSION**

In our original decision in this matter, we discussed the law governing retroactive application of a statute. We noted that the only judicial opinion of which we are aware found that Public Act 93-426 affected substantive rights and therefore, should be applied prospectively only. We further found that, even if Public Act 93-426 were deemed procedural, considerations of good sense and justice dictate that this Public Act not be applied retroactively. We affirm that decision.

During the hearing on reconsideration, Complainant presented no evidence or argument to refute the conclusion that the statute affects substantive rights. Instead, she presented evidence to support her argument that “good sense and justice” mandate retroactive application of the statute in this case. Complainant’s evidence includes a document authored by Association Attorney William J. Dolan refuting allegations filed against him by Complainant with the Statewide Grievance Committee and a copy of the record of Complainant’s appeal from the Connecticut Superior Court’s dismissal of her lawsuit against certain employees of the West Hartford Board of Education in *Suzanne M. Searles v. Natalie Schulman, et al*, Docket No. A.C. 19075.

We do not find anything in the evidence presented by Complainant to support a conclusion that the statute should be applied retroactively in this case. Although we do not doubt that Complainant has suffered extreme hardship due to the circumstances of the last twelve years, there is nothing in this record to support her claim that the Association failed in its duty to represent her. In fact, the record shows that the Association did represent Complainant throughout the termination process and did not cease representing her until after briefs were filed before the hearing tribunal in that matter. Thus, even if we were inclined to believe that we could apply the statute retroactively under appropriate circumstances, such circumstances are not present in this case in which there is no evidence to support the Complainant’s allegations.

**ORDER**

By virtue of and pursuant to the power vested in the Connecticut State Board of Labor Relations by the School Board Teacher Negotiation Act and pursuant to §4-181a of the Uniform Administrative Procedure Act, it is hereby

**ORDERED** that the decision of the Connecticut State Board of Labor Relations in *Connecticut Education Association and Suzanne Searles*, Decision No. 3689 (4/28/99) be and the same hereby is **AFFIRMED**.

CONNECTICUT STATE BOARD OF LABOR RELATIONS

John H. Sauter  
John H. Sauter  
Chairman

Wendella A. Battey  
Wendella A. Battey  
Board Member

David C. Anderson  
David C. Anderson  
Alternate Board Member

**CERTIFICATION**

I hereby certify that a copy of the foregoing was mailed postage prepaid this 15th day of September, 1999 to the following:

Attorney Martin Gould  
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Jaye Bailey Zanta, General Counsel  
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