

MAINE STATE LEGISLATURE

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March 29, 1972

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Maine State Retirement System

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Retirement - Former State College Teachers

SYLLABUS:

A faculty member of Gorham State College of the University of Maine, who was a teacher at that College prior to the April 26, 1968 University merger, and who elected pursuant to the merger act to remain in the State Retirement System, was not a "teacher" within the meaning of the last paragraph of 5 M.R.S.A. § 1128, and hence, is not entitled to the increased retirement benefit conferred upon such a "teacher."

FACTS:

A member of the faculty of Gorham State College of the University of Maine is currently employed there under a valid contract. Such person was a teacher at Gorham State College and a member of the Maine State Retirement System prior to April 26, 1968, and within six months of that date she duly elected to continue her membership in the Maine State Retirement System, pursuant to the provisions of Chapter 229, Private and Special Laws, 1968, which became effective April 26, 1968, which was amended by Chapter 66, Private and Special Laws, 1969, effective October 1, 1969. It is assumed that prior to the date on which the latest general salary adjustment became effective as to state employees, she submitted a letter of intent to retire upon the fulfillment of that contract, which letter was countersigned by her appointing authority and in possession of the Board of Trustees, Maine State Retirement System.

QUESTION:

Whether a faculty member of the University of Maine, formerly a teacher in a Maine State College, who elected to remain in the State Retirement System after incorporation of state colleges into the University of Maine, is entitled to the increased retirement benefit provided in the last paragraph of 5 M.R.S.A. § 1128.

ANSWER:

No.

REASONS:

The last paragraph of 5 M.R.S.A. § 1128 reads:

"Notwithstanding anything to the contrary, any teacher who is teaching under a valid contract during any school year in which a

general salary adjustment to state employees becomes effective and which results in a retirement allowance adjustment as provided in this section, may continue to teach until such time as said contract is fulfilled and may then apply for a retirement allowance, the effective date of which can be no earlier than the day following completion of the contractual obligations. The amount of the retirement allowance shall be increased by that percentage that had been applied to retirement allowances during said school year. This provision shall apply only if the teacher submits a letter of intent to retire upon fulfillment of said contract and which letter shall be countersigned by the pertinent superintendent of schools, headmaster of an academy or other comparative appointing authority, and in possession of the board of trustees no later than the date on which the general salary adjustment is effective to state employees."

This paragraph first became effective October 1, 1969.

The determining factor in the question posed is whether or not the subject person is a "teacher" within the meaning of the above-quoted paragraph. Prior to the University merger, the statutory provisions governing the Maine State Retirement System defined "teacher" and "public school" as follows:

"Teacher. 'Teacher' shall mean any teacher, principal, supervisor, school nurse, school dietitian, school secretary or superintendent employed in any public school, including teachers in unorganized territory." 5 M.R.S.A., § 1001, sub-§ 25.

"Public school. 'Public school' shall mean any public school conducted within the State under the authority and supervision of a duly elected board of education, superintending school committee or school directors, and any school which received any direct state aid in 1950, and municipal tuition funds amounting to at least the amount of such state aid, during the same year." 5 M.R.S.A. § 1001, sub-§ 18.

The definition of "teacher" has not been changed since that date and the definition of "public school" was amended, effective September 23, 1971, by adding at the end thereof:

"except that Maine Wesleyan Seminary & College, commonly known as Kents Hill School, as of the effective date of this Act, shall be excluded from such coverage as is extended by the Maine State Retirement System."

It is further noted that the "teacher" mentioned in the last paragraph of 5 M.R.S.A. § 1128 must have her letter "countersigned by the superintendent of schools, headmaster of an academy or other comparative appointing authority. . . ." It seems clear from such language that the legislature did not intend to give a different meaning to the word "teacher" in this paragraph than it had already expressly provided in 5 M.R.S.A. § 1001, subsection 25.

It is apparent from the foregoing that the word "teacher" as expressly defined both before and after the University merger does not include a "teacher in a State College."

It is true that prior to the University merger the word "employee" was defined in 5 M.R.S.A. § 1001, as including "teachers in the state teachers' colleges." However, the operative word in the last paragraph of 5 M.R.S.A. § 1128, which has been quoted in its entirety above, is "teacher." That paragraph confers its special benefit not upon the entire broad group called "state employee" but upon a narrow category of that group which has been explicitly defined by the governing statute. Since the subject individual is not in the special category, she is not entitled to the benefit conferred thereon by the last paragraph of 5 M.R.S.A. § 1128. Since she was not in that category at the time of the merger, she obviously has not lost any benefit as a result of that event.

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