Neutral Citation Number: [2014] IEHC 423

THE HIGH COURT

JUDICIAL REVIEW

[2013 No. 651JR]

BETWEEN

MARY McENEANEY

APPLICANT

AND

CAVAN AND MONAGHAN EDUCATION AND TRAINING BOARD AND MARTIN O'BRIEN

RESPONDENTS

JUDGMENT of Kearns P. delivered on the 19th day of September, 2014

The applicant is a permanent whole-time teacher of Home Economics and Science with the first named respondent at Largy College, Clones, Co. Monaghan.

In these proceedings the applicant challenges the validity of a decision made by the respondents on the 17th August, 2013 to transfer her from teaching duties at Largy College in Clones, Co. Monaghan to St. Mogues's, Bawnboy, Belturbet, Co. Cavan.

The original order granting leave was made by the High Court (Laffoy J.) on the 23rd August, 2013, and by order of the High Court (Hedigan J.) dated the 18th November, 2013, the applicant was permitted to amend her statement of grounds to include the additional contention that the further decision of the respondents made on the 25th October, 2013 whereby she was placed on administrative leave was also null and void and of no force or effect.

Against a background where it is accepted that a significant number of complaints had been made about the applicant's teaching performance, the applicant contends that her legitimate expectation that the respondents would apply the procedures set out in circular 59/2009 in order to determine any complaints regarding her competence was breached by the respondents.

BACKGROUND

The first respondent is a statutory body established by the Education and Training Boards Act 2013 and charged inter alia with establishing and maintaining recognised schools, centres for education or training facilities in its functional area. The second named respondent is an officer of the first respondent under the Education and Training Boards Act 2013 and charged with discharging the functions of the first named respondents.

The applicant was appointed as a member of staff of Co. Monaghan Vocational Education Committee pursuant to the powers conferred on the Committee by s.20 of the Vocational Education (Amendment) Act 2001. Section 20 (3) of that Act provides that the terms and conditions of a member of the staff of a vocational education committee shall, with the consent of the Minister, be such as may be determined from time to time by the Vocational Education Committee concerned.

By circular 59/2009, the Department of Education and Science notified the Vocational Education Committees that new procedures had been agreed for dealing with the sort of issues which have arisen in this case. The procedures were entitled "Towards 2016/Revised Procedures for Suspension and Dismissal of Teachers/Vocational Education Committee". In brief, the relevant part of the procedures relating to teachers experiencing professional competence issues provides for an informal process, followed by a formal process. The formal process commences with a written report by the Principal and a response by the teacher. If necessary, the Principal will be charged with writing an improvement plan allowing no less than three months for the teacher to improve. If matters have not been resolved, there is then an external review by the Chief Inspector or members of his staff, who report to the CEO. The teacher is entitled to reply. A disciplinary process may then follow which may result in a final written censure, deferral of an increment, withdrawal of an increment or increments or suspension in accordance with the Vocational Education Committee Acts. This procedure allows the teacher the right to address complaints against him or her.

The applicant commenced work with Co. Monaghan Vocational Education Committee in Largy College in 1999. Her appointment was made permanent in 2002. In early 2013 the plaintiff was the subject matter of five complaints made by parents and pupils against her. Those complaints having been made, the applicant was supplied with Circular 59/2009 and was informed that it would apply to her in dealing with the complaints.

CIRCULAR 59/2009

The background statement at the start of the circular states as follows:-

> "While no procedures can be definitive about the range of circumstances which might give rise to the initiation of disciplinary procedures in general these are likely to be related to misconduct, a threat to the health and safety of students and/or sustained failure to perform adequately the professional duties and responsibilities expected of a teacher.
>
> The following agreed procedures provide for two separate and independent strands which should be utilised in appropriate circumstances:-
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> 1. Procedures relating to professional competence issues
>
> 2. Procedures relating to work, conduct and matters other than professional competence."

Part 3 relates to teachers experiencing professional competence issues. The preamble states:-

> "There may also be instances where concerns are raised regarding a teacher's professional competence through parental complaints. In such cases the concerns will be addressed by the Principal in the first instance in accordance with agreed complaint procedures. The principal will consider the nature of the complaint before determining whether the issue falls to be considered under the procedures relating to professional competence. If the procedures relating to professional competence are subsequently invoked the parent who made the complaint will be so advised and informed of the final outcome of the process.
>
> It follows that the approach to dealing with matters of professional competence should involve a number of stages moving from informal stages to formal stages which may at the end of the process have recourse to disciplinary action (up to and including dismissal). This must of course have regard to the right and duty of the VEC to act immediately in matters of serious misconduct or where it considers that a threat exists to the health, safety and welfare of students."

Stage 1 of the process is, as already noted, the "informal stage". This requires the principal to furnish a copy of the agreed procedures to the teacher so that the teacher may familiarise himself/herself with the various stages of the process. This was done in this case. The principal must then seek to explore with the teacher the underlying cause and where possible agree the steps that need to be taken to address the matter. In this context the principal must advise the teacher of available internal and/or external supports and endeavour to assist the teacher in accessing those supports. It is the express intention of the circular that issues be resolved through dialogue between the principal and the teacher to the satisfaction of the principal.

Stage 2 provides for the initiation of a formal process where stage 1 proves unsuccessful in resolving an impasse. Should this stage be reached, the principal will advise the CEO of his concerns and provide a written report, a copy of which is furnished to the teacher who is afforded an opportunity to provide a written response as part of the process of consideration of the matter. If the CEO believes there are sufficient grounds to warrant the initiation of the formal process, the principal is then charged with defining the required improvement plan for the teacher. The principal must meet with the teacher concerned to discuss the improvement plan which should specify perceived deficiencies in the teacher's performance and the required improvement expected. Section 2.8 provides:-

> "Normally, it would be expected that the required remediation of professional competence issues would take place within the time frame set down in the improvement plan which should be no less than a three month period excluding holiday periods."

Following the conclusion of the time period provided for improvement, the principal will furnish a written report to the CEO and the teacher setting out his views on the outcome. Where the required improvement has been brought about, the formal process will then conclude. Where the CEO decides that the required improvement has not been brought about, the formal process moves on to stage 3, namely that of "external review". This involves the CEO requesting the Chief Inspector to arrange for a review of the individual teacher.

It is unnecessary to go into further detail of the procedures at this juncture, other than to note that the circular envisages that several steps must be taken which have the object of assessing (including independently assessing) and indeed improving the teacher's performance before any disciplinary process may commence on professional competence issues.

The applicant contends however that these procedures, although commenced, were never followed in her case.

Instead, by referral document dated the 11th January, 2013, the respondent referred the applicant for medical assessment by Dr. Robert Ryan, a specialist in occupational medicine attached to Medmark, to determine if the applicant was fit for work. While it is conceded that the applicant has an underlying history and condition of depression, the applicant maintains there were no grounds for instructing her to attend for medical examination at that time, and that the respondent's requirement was an attempt to "medicalise" an issue which should have been dealt with under the aforementioned procedures designed to address complaints regarding teachers' competence. Dr. Ryan's report dated the 5th February, 2013 was inconclusive, but later having spoken with the applicant's treating consultant psychiatrist, Dr. Ryan wrote to the respondent on the 20th February, 2013 stating that "at this point" the applicant could be considered medically fit to teach and fit to engage with the school management in the normal way. He suggested that the performance issues that had arisen, along with the applicant's own grievances, be dealt with along normal management lines.

The formal procedures for dealing with issues regarding competence were not however invoked. Instead, a meeting took place on the 27th February, 2013 at which the plaintiff, accompanied by her trade union representative, met with representatives of the respondents. During the course of that meeting, it appears that the applicant's own trade union representative, allegedly without her consent or instructions, suggested that the applicant engage in "team teaching". While both the respondent and the applicant's trade union representative were keen for her to accept this proposal, she felt it would undermine her in the eyes of her pupils and render it impossible for her to teach at Largy in the future. Further, "team teaching" is not an option contemplated by circular 59/2009. The applicant became extremely stressed during this meeting and ultimately wrote a note to her trade union representative stating that she felt "suicidal" and the process, such as it was, was then halted.

Following that meeting she was certified unfit for work by her own doctors until the 19th March, 2013. However, the respondent required the applicant to be certified fit for work by its own doctors before permitting her to return. By report dated the 9th April, 2013 Dr. Ryan certified the applicant as being unfit to work. He accepted there was a conflict of opinion between himself and the plaintiff's doctors on this issue and suggested that the views of an independent psychiatrist be sought in order to reach a final determination.

The applicant met with a Pauline Grogan of the respondent's human resources department on the 29th April, 2013. She urged the respondents to allow the applicant to return to work. Having met the CEO on the 17th June, 2013 the applicant was given a commitment that she would be referred to Dr. Ryan for a further review.

It is common case that around this time the applicant, on the advice of her union representative, sought a transfer from Largy College. It was intended by all parties that if the transfer went ahead, this would dispose of all the complaints against the applicant. By email dated the 27th June, 2013 the CEO wrote to the applicant stating that he was actively seeking a transfer but that in the meantime it would be necessary to plan for the applicant's return to Largy College. He asked her to consider what supports she would require.

The applicant attended Dr. Ryan once more on the 28th June, 2013. In his report dated the 9th July, 2013 he concluded that it was "no longer necessary or tenable" for him to certify the applicant to be medically disabled from employment. In a reference to the possibility of a transfer, Dr. Ryan stated that while this option might not address all the concerns that had arisen, it might

nonetheless offer the applicant a fresh start in a new environment, allowing her to leave historic issues behind her. He concluded by stating that the applicant would require supports whether she was transferred from her school or not. He did not, however, state that the transfer was required as an accommodation to permit her to return to work.

Events then took a peculiar turn when the applicant, having applied for a transfer on the advice of her trade union, then withdrew her application for a transfer. Understandably perplexed, the respondents continued to press the applicant to accept a transfer. At a meeting on the 2nd August, 2013, it was made clear to the applicant that she had two options, either to return to Largy College and have a full investigation into the complaints or accept the transfer to Bawnboy where she would be teaching a smaller class. By letter dated the 7th August, 2013 the applicant wrote to the second named respondent stating that she did not wish to transfer schools. She accepted that a return to Largy College would mean she would have to address a number of complaints and confirmed her willingness to address the complaints which had been furnished to her in January 2013.

One further meeting took place between the applicant and respondent on the 16th August, 2013. Mr. O'Brien, the second named respondent, indicated to her that the option of remaining in Largy College was no longer open to her and that if she did not go to Bawnboy she would be considered as having "walked off the job". The following day the applicant again confirmed she did not wish to transfer schools and looked forward to resuming her duties in Largy College in September 2013.

By email dated the 17th August, 2013 the second named respondent informed the applicant that he had decided to transfer the applicant from Largy College to St. Mogue's post primary school in Bawnboy which lies within the respondent's functional area. The CEO stated that the transfer was being carried out "with due regard to the employer's duty of care and in the applicant's best interest". He went on to say that the transfer had been "carefully planned in the context of providing reasonable accommodation/support for you and for other stakeholders". He went on to say that the transfer was intended to have immediate effect and that the applicant was requested to attend at Largy College to remove her belongings. He also said that the principal of Largy College had now been directed to make alternative arrangements for the students previously scheduled to be taught by the applicant for the school year. He went on to say that the applicant had been assigned a mentor to support and advise her and concluded his email by notifying the applicant of a meeting with himself and the principal of St. Mogues.

In making the transfer direction, the respondent relied upon s.20.1 of memo V7, characterising the transfer as a "change in headquarters" for the applicant, a power which did not depend for its exercise on Circular 59/2009. By letter dated the 21st August, 2013 the solicitors for the applicant wrote to the second named respondent calling upon him to rescind his decision. When he declined to do so the applicant brought the present judicial review proceedings, obtaining leave on the 23rd August, 2013 from the High Court (Laffoy J.). As part of her order, Laffoy J. included the following:-

> "That the proposed decision by the second named respondent herein on or by the 17th day of August, 2013 to transfer the applicant from Largy College, Clones, Co. Monaghan to St. Mogues, Bawnboy, Belturbet, Co. Cavan hereinbefore referred to be stayed until the determination of the application for a judicial review or under further order or until the stay of proceedings shall have lapsed by reason of the applicant's failure to serve an originating notice of motion herein within the proper time."

While the applicant intended to return to work in Largy College and notified the respondents to this effect, she was by letter to her solicitors dated the 13th September, 2013 informed as follows:-

> "If she insists on a return to Largy College then our clients will have no alternative but to put her on administrative leave with pay pending the final outcome of the above proceedings."

This in fact is what has occurred and the applicant has, up to and including the date of the hearing before this Court, remained on administrative leave with pay.

The respondents, in a letter written to the applicant on the 25th October, 2013, stated by way of clarification of their position:-

> "We would like also to clarify that her being placed on administrative leave with full pay is not contingent upon the outcome of these proceedings, but rather is contingent upon a situation being arrived at whereby the applicant is, in the view of the Chief Executive Officer, in a position to fulfil such duties as may be assigned to her. For the avoidance of any confusion, we would confirm that the necessity to place your client on administrative leave stems from the ongoing concerns expressed in the replying affidavits and that a resolution of these proceedings, even by way of an order invalidating the decision of the CEO of the 17th August, 2013, will not necessarily lead to a return to the same teaching duties as previously had been assigned to her. Any decision in that regard will be taken by the Chief Executive Officer who may exercise other functions in that regard and in light of all relevant circumstances."

THE RESPONDENTS' CASE

In relation to the decision to transfer the applicant to a different school and the complaint that this could not have lawfully occurred unless the respondents had invoked and fully implemented circular 59/2009, the respondents contend that having initially set about invoking the provisions of the circular in January 2013, it "rapidly became apparent that this would have been inappropriate". The respondents refer to the fact that the applicant's trade union representative at a meeting on the 27th February, 2013 expressly requested the respondents on behalf of the applicant not to go down that road and the respondents agreed not to do so. Further, the applicant herself, having received advice, subsequently sought a transfer to a different school. As any process or procedures under the circular had thereby been put to one side at the applicant's request, no question of a mechanical implementation of the circular could thereafter arise. Furthermore, the respondents have proper authority to direct the transfer of a teacher from one headquarters to another as occurred in this case. There is no question of the transfer in this case amounting to a penalty of any sort.

Likewise it is contended that the placing of the applicant on administrative leave with pay does not amount to a penalty, nor is there any basis for the suggestion that the placing of the applicant on administrative leave amounts to a finding in respect of the complaints which had never been investigated in the case of the applicant. The only legal effect of placing the applicant on administrative leave was to ensure that she continued to draw her full salary without the necessity for her to perform any other obligations pursuant to her contract of employment with the first named respondent. Not only is there no implication of wrongdoing on her part by being placed on administrative leave, the reality is that the placing of her on administrative leave was entirely in her own interests and for her own benefit and in order to regularise a position whereby she was employed as a teacher by Cavan and Monaghan Education and Training Board and yet was not performing the functions that had been assigned to her by the CEO. An employer must be allowed place an employee on administrative leave pending an investigation which is precisely what has occurred here. The fact that the procedures under the circular have not yet been implemented is as a result of concerns about the applicant

and because she herself so requested. In all the circumstances the decision of the second respondent to place the applicant on administrative leave was appropriate, proportionate and rational.

STATUS AND APPLICABILITY OF CIRCULAR 59/2009
It was contended on behalf of the applicant that all aspects of this dispute were subject to the terms of circular 59/2009. While the circular did not have statutory force, the applicant was entitled to expect that where a circular lays down the manner in which a public employer will act in a given set of circumstances, that circular will apply until varied or altered. In this regard reliance was placed by the applicant on the decision of Laffoy J. in *deBúrca v. An tAire Iompair* [2010] IEHC 418, and on the decision of Costello P. in *Gilheaney v.Revenue Commissioners* [1998] 4I.R. 150. Reliance was also placed on the judgment delivered by Fennelly J. in *McGrath v. Minister for Defence* [2010] 1 I.R. 560 in which Fennelly J., in holding that the plaintiff was entitled to invoke the doctrine of legitimate expectation, stated as follows (at para. 29):-

> "It is true that a legitimate expectation does not necessarily confer substantive rights. The authority which created the expectation may be entitled to correct it if it gives fair notice and an opportunity to respond. There is no doubt that the army was entitled to adopt a new policy with regard to medically unfit personnel, based, as it was, on reports from experts. However, the plaintiff was in an exceptional situation. He had been granted an extension for the short period of two years in circumstances where his medical situation was as it had been for many years and was accepted without reclassification for that purpose. The army were at fault only in failing to take account of such special situations."

Fennelly J. held that the plaintiff was entitled to succeed on the basis that his legitimate expectation to be allowed to continue in service until the expiration of the two year extension was infringed. In the *deBurca* case, Laffoy J. considered whether or not it was the practice of the Department consistently to apply certain criteria when making promotions to particular positions. In this regard she had to consider the effect of circulars in particular. She concluded that if it was the practice of the Department to consistently apply certain criteria (in this case in relation to proficiency in Irish in competitions for such positions) the plaintiff could rely on the doctrine of legitimate expectation in those circumstances.

It is quite clear in this case that by its conduct in supplying the applicant with a copy of circular 59/2009, and in stating that it would apply circular 59/2009, the respondent did create the expectation, at least at the outset, that the various stages of circular 59/2009 would be applicable in her case.

The respondents, as already noted, maintain that the circular did not apply in the factual circumstances which unfolded in this case.

Having carefully considered the submissions of both sides on this point, I am satisfied that both sides are, to a certain extent, correct. To begin with, the applicant, having been asked to familiarise herself with the terms of the circular before the informal process of stage 1 got under way, was entitled to assume that the processes envisaged by the circular would continue to operate to the extent practicable.

In the instant case, the process, however, never got beyond the informal stage. I am satisfied, however, that this was not due to any fault on the part of the respondents, but came about entirely as a result of the applicant's own conduct, decisions and changes of mind. The meeting between the applicant, her trade union representative, and the respondents in February 2013 was proceeding towards an informal solution of the applicant's problems when the applicant herself collapsed the process. Given that she furnished a note to her trade union representative to say that she felt "suicidal" and later disavowed her willingness to engage in the form of teaching then under discussion, she thereby, albeit unintentionally, exacerbated the difficulties faced by the respondents who had an unusually high number of complaints to deal with insofar as this particular teacher was concerned.

The process having been thus compromised, the applicant thereafter sought and obtained a transfer to another school and, after careful consideration, the respondents agreed to facilitate the applicant by arranging a transfer for her to Bawnboy, a smaller school which it was felt might provide the applicant with an opportunity to make a fresh start. Significantly, there would have been no further requirement to investigate the complaints made against the applicant if she was willing to accept this transfer. Unfortunately, however, the applicant resiled from her decision and request, apparently because of the additional mileage involved in travelling to that location, bringing about a situation where the ensuing stalemate between the parties arose.

That situation having arisen in July/August of 2013, the respondents were left with an unresolved significant problem where the competence of the applicant had been called into question and where numerous complaints remained to be resolved.

Instead of returning to the processes contained in circular 59/2009, the respondents opted to place the applicant on administrative leave with full pay.

At this point in time it can safely be said that the informal processes provided for in stage 1 of circular 59/2009 had failed.

The real question now to be determined is whether, in the unique and peculiar circumstances of this case, the terms of the circular in relation to further stages of the process require to be strictly adhered to or whether the facts of this case were such as to warrant and justify the actual steps taken by the respondents and particularly having regard to the applicant's behaviour which in my view was responsible for the failure of the informal process.

Unusual circumstances sometimes demand unusual remedies. While the circular elaborates detailed procedures, it is expressly stated in the preamble to the procedures that they are not prescriptive and may not apply in every set of circumstances. The following is stated:-

> "While no procedures can be definitive about the range of circumstances which might give rise to the initiation of disciplinary procedures in general these are likely to be related to misconduct, a threat to the health and safety of students and/or sustained failure to perform adequately the professional duties and responsibilities expected of a teacher."
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> The procedures laid down for the progression of investigations into professional competence are designed to be utilised, as the preamble states, "in appropriate circumstances".

In the instant case the respondent found itself in an extremely unusual situation in August 2013 where it had genuine concerns regarding the mental health of the applicant and the impact that was having on the operation and functioning of the school and the applicant's competence in that regard. While I have not elaborated the detail of the many complaints concerning the applicant, I am mindful that during the course of the lengthy hearing before this Court, there was evidence that the Principal of the school, Ms.

McGuinness, had been approached by the school chaplain who had received a number of informal concerns from the applicant's own colleagues regarding her mental health.

It is against this background that the Court must now consider the validity of the two decisions which the applicant seeks to impugn in these proceedings.

THE DECISION TO TRANSFER THE APPLICANT
The applicant complains that the decision to transfer her to Bawnboy should be construed as meaning that the complaints against her are made out and amount in the circumstances to a penalty.

It must be remembered that this decision was prompted by the applicant's own request. Amongst the terms and conditions of employment upon which the applicant has been employed is the document known as "Memo V7". Paragraph 20 of that document allows the headquarters of a teacher to be changed from one centre to another. Paragraph 20 (vii) states:-

> "Before the headquarters of a teacher is changed from one centre to another, the alteration shall be discussed with the teacher in the first instance and shall not take effect until reasonable notice has been given."

This power has been exercised and the applicant does not challenge the decision on the basis that the terms and conditions of employment of the applicant have not been adhered to by virtue of there being an absence of notice or an absence of consultation. In reality, no such case could have been made on the particular facts of this case.

It is not for the Court to determine as a point of appeal on the merits whether this decision was the correct one in the particular circumstances. Were such to be the case, a view might be taken that a "pass the parcel" solution to a problem of this nature might be open to question. Recent church scandals in this jurisdiction demonstrate clearly that the relocation of a person with particular difficulties has often led to an exacerbation of the original problem, rather than its amelioration. However, some medical evidence was available to the respondents to suggest that the applicant might benefit from teaching a smaller class and making a fresh start, freed of the burden of the large volume of complaints which had been raised against her in Largy College.

However, as this is not an appeal, the Court does not have to make any merit based adjudication on this decision. The Court heard no evidence to suggest that the plaintiff's remuneration, pension or other entitlements would suffer any reduction by virtue of any such transfer, so the Court altogether fails to understand how the particular decision could be construed as a "penalty" having regard to the fact it was the solution proposed to her difficulties by the applicant herself.

THE DECISION TO PLACE THE APPLICANT ON ADMINISTRATIVE LEAVE
While holding that the terms of the circular do not apply to the latter stages of this matter, it is nonetheless clear from the general principles therein that the placing of a teacher on administrative leave with full pay pending an investigation is perfectly permissible where circumstances warrant.

The Court is absolutely satisfied that the circumstances were such, in the instant case, to warrant, and indeed mandate, such a decision. It would have been quite unrealistic to allow the applicant return to teaching duties in Largy College without a full resolution of the complaints made against her. The interests of the school, its students, and more particularly the applicant herself, required no less.

The placing of an employee on administrative leave does not depend on any particular circular nor does it amount to a punitive decision. It must be remembered at all times in the instant case that the applicant has been placed on administrative leave with full pay.

The suspension in the instant case was not initially resorted to by the respondent and it was only in circumstances where the applicant insisted on returning to Largy College that it became necessary. It was clearly stated at the time as being non-punitive in nature. The Court is satisfied that the applicant was at all material times fully aware of the reasons for her being placed on administrative leave.

This Court had to consider whether a suspension was, in reality, punitive in nature in *Morgan v. Trinity College* [2003] 3 I.R. 157. In that case the plaintiff, a university professor, sought an interlocutory injunction restraining the defendants from continuing with a disciplinary inquiry and removing him from office. The issue of whether his suspension for the duration of the inquiry was a punitive act such as might attract the rules of natural justice arose. In considering that matter I said (at p.169):-

> "Equally, the Court will have to consider the manner and nature of the suspension. If the suspension is without pay and open-ended, it obviously has far more detrimental effects from the point of view of the person suspended and may more readily be seen as a punishment … it follows, obviously, that where suspension constitutes a disciplinary sanction, the person affected should be afforded natural justice and fair procedures before the decision to suspend him or her is taken. However, where a person is suspended so that an inquiry can be undertaken as to whether disciplinary action should be taken against the person concerned, the rules of justice may not apply … the inevitable consequence of any suggestion that an employee who has been suspended is thereby, and without more, irredeemably prejudiced, and ipso facto cannot then get a fair hearing, would mean that there could never been a holding suspension as one of the steps in a disciplinary process. That in turn would mean that an employer, possibly faced with a situation where work colleagues are the complainants in a given case, would have to suffer the prejudice instead. There could be no action the employer could take, short of ignoring complaints of a serious nature or proceeding at once to the termination stage with all the risks and liabilities that might attach thereto."

It seems to me that these considerations must apply a fortiori where the interests of parents and children in a teaching context are concerned. The suspension or the placing of a person such as the applicant on administrative leave in such a case is merely done by way of good administration. A situation had arisen in the present case which demanded that something be done, and certainly the applicant could not be allowed to resume teaching duties in September of 2013 in Largy College as though nothing had happened.

I find against the applicant on this ground of complaint also.

CONCLUSION
It is a great pity that the applicant did not avail of the solution which offered both her and the respondents a way out of their difficulties in this case. The applicant has suffered significantly from depression and other difficulties which have involved a considerable amount of medical intervention during the currency of this case. While medical evidence became available by the summer

of 2013 to show that the applicant was recovering from those psychological difficulties, it seems to this Court that any resumption of her teaching duties at Largy College can only occur, or be allowed to occur, once the complaints against her have been resolved appropriately. By using the term "appropriately" the Court does not wish to be taken as meaning that only the mechanisms elaborated in circular 59/2009 should be followed. On the contrary, the facts of this case suggest that the provisions of the circular are singularly inappropriate to address the particular facts of this case. However, I would stress that any investigation undertaken will have to afford fair procedures to the applicant and conform with principles of natural and constitutional justice.