STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

DR. CHUNI LAL KABOO, Charging Party, v. SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 1021, Respondent.	Case No. SF-CO-779-E Request for Reconsideration PERB Decision No. 2322 PERB Decision No. 2322a February 14, 2014

Appearances: Dr. Chuni Lal Kaboo, on his own behalf; Weinberg, Roger & Rosenfeld by Kerianne R. Steele, Attorney, for Service Employees International Union, Local 1021.

Before Huguenin, Winslow and Banks, Members.

DECISION[1]

WINSLOW, Member: This case is before the Public Employment Relations Board (PERB or Board) on a request for reconsideration by Dr. Chuni Lal Kaboo (Kaboo) of the Board's decision in *Service Employees International Union, Local 1021 (Kaboo)* (2012) PERB Decision No. 2322. In that decision, the Board affirmed the dismissal of Kaboo's unfair practice charge by the Office of the General Counsel for failure to state a prima facie violation of the Educational Employment Relations Act (EERA).[2] The unfair practice charge alleged that the Service Employees International Union, Local 1021 (SEIU) violated the duty of fair

[1] PERB Regulation 32320(d) provides, in pertinent part: "Effective July 1, 2013, a majority of the Board members issuing a decision or order pursuant to an appeal filed under section 32635 [Board Review of Dismissals] shall determine whether the decision or order, or any part thereof, shall be designated as precedential." Having met none of the criteria enumerated in the regulation, the decision herein has not been designated as precedential. (PERB Regs. are codified at Cal. Code Regs., tit. 8, § 31001 et seq.)

[2] EERA is codified at Government code section 3540, et seq.

representation by not filing a grievance to contest Kaboo's termination from employment or to otherwise assist him in obtaining reinstatement and access to his personnel files.

Kaboo filed a timely request for reconsideration, accompanied by a proof of service on SEIU's attorney. SEIU did not file a timely response to the request for reconsideration, explaining that it was unsure whether it received Kaboo's request.

The Board has reviewed Kaboo's request for reconsideration and supporting documentation and based on this review, denies the request for reconsideration for the reasons discussed below.

DISCUSSION

Requests for reconsideration of a final Board decision are governed by PERB Regulation 32410(a),[3] which states in full:

> (a) Any party to a decision of the Board itself may, because of extraordinary circumstances, file a request to reconsider the decision within 20 days following the date of service of the decision. An original and five copies of the request for reconsideration shall be filed with the Board itself in the headquarters office and shall state with specificity the grounds claimed and, where applicable, shall specify the page of the record relied on. Service and proof of service of the request pursuant to Section 32140 are required. The grounds for requesting reconsideration are limited to claims that: (1) the decision of the Board itself contains prejudicial errors of fact, or (2) the party has newly discovered evidence which was not previously available and could not have been discovered with the exercise of reasonable diligence. A request for reconsideration based upon the discovery of new evidence must be supported by a declaration under the penalty of perjury which establishes that the evidence: (1) was not previously available; (2) could not have been discovered prior to the hearing with the exercise of reasonable diligence; (3) was submitted within a reasonable time of its discovery; (4) is relevant to the issues sought to be reconsidered; and (5) impacts or alters the decision of the previously decided case.

[3] PERB Regulations are codified at California Code of Regulations, title 8, section 31001, et seq.

Because reconsideration may only be granted under "extraordinary circumstances," the Board applies the regulations' criteria strictly in reviewing requests for reconsideration. (*Regents of the University of California* (2000) PERB Decision No. 1354a-H.) Reiterating the same facts and arguments made on appeal does not satisfy the requirements of PERB Regulation 32410(a). (*San Leandro Unified School District* (2007) PERB Decision No. 1924a.) Purported errors of law are not grounds for reconsideration. (*California State Employees Association (Hard, et al.)* (2002) PERB Decision No. 1479a-S.)

Kaboo's request for reconsideration consists of a letter to the Board describing how much he enjoyed working with students at the Oakland Unified School District, his former employer and that he was good at this job. He recounts that he was dismissed from his job on or about October 8, 2012, and that SEIU representatives declined to help him in his efforts to get reinstated to his job or to otherwise pursue on his behalf a suit for "unlawful termination." Kaboo's request for reconsideration also describes certain emails, purportedly from school district administrators, that he describes as defamatory.

Kaboo mainly restates the claims contained in the original unfair practice charge. Kaboo asserts no prejudicial errors of fact in the Board's decision. Nor does he claim there is "newly discovered evidence which was not previously available and could not have been discovered with the exercise of reasonable diligence." (PERB Reg. 32410(a).)

Kaboo also proffers other materials which we may not consider here. The date of the emails Kaboo contends are defamatory pre-date the filing of the unfair practice charge. Moreover, as explained in the Board's decision in this case, SEIU has no obligation to pursue remedies that lie outside the contractual grievance process, such as civil actions for defamation.

For all these reasons, the Board concludes that Kaboo has failed to present grounds for reconsideration, and we therefore deny the request for reconsideration.

ORDER

Dr. Chuni Lal Kaboo's request for reconsideration of the Public Employment Relations Board's decision in *Service Employees International Union, Local 1021 (Kaboo)* (2013) PERB Decision No. 2322 is hereby DENIED.

Members Huguenin and Banks joined in this Decision.