

Petrs are school teachers & other women employed by N.Y. Bd of Ed. deprived of sick leave by a compulsory leave policy for pregnancy.

Suit originally was under Title VII & 1983. But the deprivation occurred before 1972 Amendment, & so only the 1983 claim for back pay ^{and damages} ~~remains~~.

Principal issue is whether Bd/Ed is a person under 1983?

The Complaint described Bd/Ed as a "Dept. of the City Gov't". Other DS included Dept. of Social Services, the ~~Mayor~~ Chancellor of Bd of Ed, the Mayor of N.Y. All DS are sued in official capacities (A 11).

Class actions under 1983 vs. municipal employees "open end leab. on municipalities" according to argument on behalf of N.Y.

Ruler as to pregnancy changed. Eq. remedies are moot.

Chase (for Peter)

As to whether Bd/Ed is a "person" under 1983, relies on school deseg. cases. There were individual Δs as well as school boards - but S/Bds were principal Δs. Also Congress has acted on assumption Bd may be sued. Congress has provided for acts fees.

Circuit Court is caught between conflicting lines of precedents - urges us to make a choice that accords with orig. intent to application of 1983. Argues we can do this w/o overruling Moss (How?)

J. White asked if 1983 would be applicable if the complaint had sought damages only & no equitable relief. Chase answered "Yes".

Sherman Award. would have made cities vicariously liable. Its import was misconceived in Moss.

Real parties to this case are Campbell

Sheridan (Int. Corp. Council of N.Y.)

Bd/Ed is a hybrid entity. For pedagogical purposes, Bd is arm of state. For other purposes, it is an agency of city - performing essential municipal functions.

Mayor appts two members of Bd & Borough Pres' ~~appts~~ each appt one member.

NY Ct of Appeals has held Bd/Ed is separate arm of state.

A judg. would be pd out of general city funds.

5.35 - now pending - would amend 1983 to allow suits vs municipalities. ~~The~~ Congress has acquiesced for 16 yrs in Monroe. We should leave issue to Congress.

This is first case that squarely presents issue whether a state or city agency is a "person".

Real parties to this case are Comptroller