

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

1062

CA 12-00314

PRESENT: SCUDDER, P.J., SMITH, FAHEY, LINDLEY, AND MARTOCHE, JJ.

IN THE MATTER OF KEVIN GEE,
PETITIONER-APPELLANT,

V

MEMORANDUM AND ORDER

BOARD OF EDUCATION OF ROCHESTER CITY
SCHOOL DISTRICT, JEAN-CLAUDE BRIZARD,
SUPERINTENDENT, ROCHESTER CITY SCHOOL
DISTRICT, ROCHESTER CITY SCHOOL DISTRICT
AND DAWN JEFFORDS, RESPONDENTS-RESPONDENTS.

RICHARD E. CASAGRANDE, LATHAM (JAMES D. BILIK OF COUNSEL), FOR
PETITIONER-APPELLANT.

CHARLES G. JOHNSON, ROCHESTER (MICHAEL E. DAVIS OF COUNSEL), FOR
RESPONDENTS-RESPONDENTS.

Appeal from a judgment (denominated order) of the Supreme Court,
Monroe County (Ann Marie Taddeo, J.), entered April 19, 2011 in a
proceeding pursuant to CPLR article 78. The judgment denied the
petition.

It is hereby ORDERED that the judgment so appealed from is
unanimously affirmed without costs.

Memorandum: We conclude that, by accepting employment as a
school instructor and entering into a collective bargaining agreement
as a result of his membership in the union representing him,
petitioner waived any right to be credited for seniority in the tenure
area of teacher (see *Matter of Dietz v Board of Educ. of Rochester
City School Dist.*, ___ AD3d ___ [Sept. 28, 2012]; *Matter of Wiener v
Board of Educ. of E. Ramapo Cent. School Dist.*, 90 AD2d 832, 833,
appeal dismissed 58 NY2d 1115).

Entered: October 5, 2012

Frances E. Cafarell
Clerk of the Court