

Judge rules reinstatement so teacher can 'clear his name'

By RAYMOND A. WITTEK

A teacher at Willowbrook State School, dismissed last June for assaulting an 18-year-old resident, has been ordered reinstated by the judge so that he may be afforded "a chance to clear his name."

Supreme Court Justice Theodore G. Barlow said that "a cloud" remains over the head of the teacher, Stuart E. Cohen of Brooklyn, as a result of his discharge.

"Elementary fairness requires that he be given a chance to disprove" the school's charges against him, the judge wrote in granting Cohen's petition to be reinstated.

Cohen, a teacher for 15 months prior to his discharge, charged that the school acted without "appropriate information or investigation in dismissing him."

The school's action, he said,

was "based upon bias and prejudice and without regard to the facts" and in violation of his constitutional rights.

Barlow agreed that Cohen had been denied the due process clause of the U.S. Constitution's 14th Amendment in that he had not been provided with a hearing to contest the school's charges.

School officials directed that a statement be incorporated in Cohen's personnel file that he was "unsuitable for employment."

The school violated Cohen's constitutional rights by assigning a reason for his discharge, one that "might damage his reputation, honor, integrity and professional standing," the judge said.

Barlow said that since Cohen, a provisional employe, did not have tenure, he "could have been discharged without a

hearing if no grounds had been stated for his discharge."

The judge pointed out that when Cohen was dismissed last June 14 he was informed merely that the action was taken because he had struck a resident.

After Cohen had commenced the court proceeding, however, a memorandum was inserted in Cohen's personnel folder directing that all replies to requests for information concerning reasons for his termination indicate that Cohen was "unsuitable for employment."

On June 13, a day before Cohen's dismissal, Cohen struck Paul Garamone with a ruler during a class in Building No. 9. The resident reported the incident to a ward charge. He had marks on his body and arms. The decision to dismiss Cohen was reviewed by the school's special review committee.

Cohen, in an affidavit filed with the court, said that Garamone, a mentally retarded and emotionally disturbed resident with a history of violence, had been creating disturbances both before and during the class.

Cohen admitted he struck Garamone with the ruler, but he said he did so to protect himself and other residents from Garamone's "violent actions." It was "necessary to control him physically," Cohen said. Garamone also was subdued during the classroom incident.

Several of Cohen's fellow

teachers submitted supporting affidavits as to his version of the incident.

Barlow implied that Cohen's dismissal without a hearing may

have been unjust and that the school may be suppressing information. Cohen's "fellow teachers (or at least some of them) know the reason for his discharge. The investigation remains in the school files. In short a cloud remains over the petitioner's head."

Since Cohen lacks tenure,

Barlow said he may be discharged without any reason being given, "but only after he has had a chance to clear his name."