

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T No. 2586 of 1990
T No. 3779 of 1992

IN THE MATTER OF applications by
the Ambulance Employees'
Association of Tasmania to vary
the Tasmanian Ambulance Service
Award

re structural efficiency principle
and deletion of definitions and
salary rates for non-functional
classifications

COMMISSIONER GOZZI

HOBART, 29 October 1992
continued from 10/8/92

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER GOZZI: May I have appearances please?

MR P. NIELSEN: Mr Commissioner, my name is NIELSEN, initials P. and I represent the Ambulance Employees' Association of Tasmania.

COMMISSIONER GOZZI: Thank you, Mr Nielsen.

MR C. WILLINGHAM: Good morning, commissioner. CLIVE WILLINGHAM appearing for the Minister administering the State Service Act in lieu of MRS BURGESS and MISS COX.

COMMISSIONER GOZZI: Yes, thank you, Mr Willingham. This matter was listed following discussions between myself and the parties. It became apparent to me that in dealing with the issues canvassed by the parties in the proceedings in matters T.2586 and T.3779 that the applications, in fact, didn't reflect all of the subject matters that were discussed. The parties did put up a range of exhibits covering the subject matters, but the applications themselves didn't reflect those exhibits.

In the circumstances, I requested the parties to consider their position with a view to seeking to amend either one of the applications to properly put the entire range of subject matter properly before the commission for consideration. In that context, I have verbally advised the parties that I am prepared to accept, as amendment, Exhibit N.1 to be incorporated with the applications. Would somebody like to address that issue, please?

MR NIELSEN: Mr Commissioner, I would like to just go off record for a few minutes because what - the parties have had discussions since the conference before you and we just have a particular matter that I'd like to address if I may.

COMMISSIONER GOZZI: All right. Well, we'll go off the record.

OFF THE RECORD

COMMISSIONER GOZZI: Let me just say with respect to Exhibit N.1, as far as I'm concerned as long as the details of N.1 in the context of subject matters is put before me by way of an amendment I'd be happy with that. In other words, I don't need an exact replica of Exhibit N.1. Mr Nielsen?

MR NIELSEN: Mr Commissioner, on behalf of our association we desire to amend our application, T.2586 I think would be the appropriate one -

COMMISSIONER GOZZI: Yes.,

MR NIELSEN: - and we desire, as you're aware and you've made reference to N.1. N.1 was a progress - but correction, if I may, refer to the originality of the document that you've referred to - identified as N.1, that was a progress report on behalf of the Tasmanian Ambulance Service and the Ambulance Employees' Association on the matters and handed to the full bench which was dealing and still dealing, I understand, with the public sector issues and then as you've also said, that when we started our proceedings on 16 January this year, that particular report was identified as N.1 in those proceedings before you. Today, sir, we desire to hand this particular exhibit up which identifies the subject matters and to amend our application accordingly.

COMMISSIONER GOZZI: Yes. Thank you, Mr Nielsen. Mr Willingham? I'm going to just mark this 'Amended Application 29/10/92'. Mr Willingham?

MR WILLINGHAM: Thank you, commissioner. We don't oppose the application to amend and I appreciate the - firstly the suggestions from the commission itself which clearly designed and I hope will achieve the result that all parties wanted. It's an eminently sensible way to proceed rather than to thwart both the commission's intentions and those of the parties, so let me put my appreciation on record in relation to that, and my appreciation for the cooperation extended to us by Mr Nielsen as a way of bringing this matter to a sensible conclusion.

Could I just add, commissioner, that in relation to page 2 of that exhibit - I'm sorry, of the amended document or the amending document, there would be a number of matters on those staff, one which I think it has been generally agreed previously would not form part of your decision in that matter, for instance, such as annual leave, kilometrage allowance, hours of work -

COMMISSIONER GOZZI: Which allowance?

MR WILLINGHAM: I wouldn't go through them with any great detail, commissioner, only to point out that there are obviously some matters there that can only be dealt with by a full bench of the commission -

COMMISSIONER GOZZI: Yes.

MR WILLINGHAM: - and my understanding is that you had previously indicated, and it's certainly a matter of agreement between the parties, that it is expected you would remit those back to the President, either to constitute a new full bench to look at it or, alternatively, in terms of the context of the full bench which is already looking at conditions of service

for public sector awards generally.

And it may be also, commissioner, and again I believe it's a matter of agreement between Mr Nielsen and myself that there a number of other issues on those dot points that are already before the full bench in their generic sense for determination between the public sector unions generally and the minister, and for instance, kilometrage allowance, living away from home allowance, payment of wages, on-call allowance, more responsible duties, that sort of thing are already before a full bench as otherwise constituted. So it may be that those sorts of issues would be picked up by that full bench which I understand next - is convened for the 11th I think it is.

COMMISSIONER GOZZI: I think it's next week sometime.

MR WILLINGHAM: Yes, and - although that won't an edifying experience for the full bench I can assure you. At this stage they are - those matters are certainly, as we stand today, before that full bench. So I just make the point. I think I'm not going to get a quarrel from Mr Nielsen, but he'll make his own comments there, but that's all I wanted to place on record, commissioner.

COMMISSIONER GOZZI: Yes. Thank you, Mr Willingham. Can I just say, before Mr Nielsen gets to his feet that, yes, there are some matters there that can only be determined by a full bench, but in respect of other conditions matters not necessarily requiring the attention of a full bench the parties have asked me to arbitrate. Now, certainly in my considerations I've advised the parties that I'm mindful of what's happening in the full bench proceedings, notwithstanding their prime position, both the minister's and the association, is that I determine those issues.

MR WILLINGHAM: Indeed, commissioner, and I understand that fully but I understand also that we have suggested by way of submission to you that some of these issues that are before you, may be of the kind that you would feel more appropriately remitted back to that full bench. Now if that's your decision, that's quite okay by us, and again, we don't have a difficulty with the commission as constituted dealing with matters that are before it. We just bring to your attention once more that a number of these issues might in our respectful submission, be more prudently either deferred or dealt with within the context of the full bench dealing with public sector conditions of employment.

COMMISSIONER GOZZI: Yes. Mr Willingham, I understand what you are saying, but I need to point out that the controlling authority didn't argue that.

MR WILLINGHAM: I understand that.

COMMISSIONER GOZZI: Yes. In fact, I raised it with the parties on my own volition, but certainly the position of the - of Miss Cox in the proceedings was that I should determine those issues such as living away from home allowance, kilometrage, meal allowance, all those sorts of things which really will come up as a condition of service in those full bench proceedings.

MR WILLINGHAM: Indeed. Unfortunately, I think what's happened, commissioner, in some respects is that events have overtaken us. I think the last day of hearing of this particular - or these two matters was, what, in early August, I think, and as you would be well aware being a member of that public sector conditions full bench, matters have developed since that time. However, I only put those comments on record, commissioner. There's no - there's nothing particularly contentious about it.

COMMISSIONER GOZZI: Oh, no -

MR WILLINGHAM: I just put the matters on record just to say if you would bear those remarks in mind when you are coming to your conclusions I'd most appreciative.

COMMISSIONER GOZZI: Certainly. I mean, I'm just - as I say, I want to make it quite clear that you are appraised of the fact that the minister's representatives in the proceedings, in fact, urged a determination of the issues.

MR WILLINGHAM: Thank you, commissioner.

COMMISSIONER GOZZI: Thank you. Mr Nielsen?

MR NIELSEN: Thank you, Mr Commissioner. I don't have a great amount of issue other than, perhaps, just to clarify a couple of points. First of all, we're aware - and you give us particular comment during the proceedings that you may or may not proceed - refer particular issues to the full bench. And one in the realistic world is aware of that, of course. But there were some in-chambers discussions as you may well remember, Mr Commissioner, and you did request at one stage from the parties about certain issues that you seek support or agreement from the parties that you refer matters to the full bench and we took issue with you over that, Mr Commissioner, loud and clear in so far that we requested or desired you, sir, as much as possible on all these matters to finalise and determine accordingly.

I only want to emphasise that, and whilst on my feet, I just want to say as you're only too well aware, Mr Commissioner, that the ambulance industry is a very unique industry and I'd like to say that loud and clear and to try to align it with

the general public sector areas is a very difficult question, with no disrespect to the full bench.

And, you know, higher duties allowance was a very sensitive one we put to you, I think, at one particular stage where we have a different operation altogether as to what is the normal mode in a public service sense. Now, I don't wish to repeat the case, but I do wish to emphasise that the parties were strong, in fact, quite clear to you in regards to seeking matters to be arbitrated where possible and seek finalities to a very long case that was before you.

COMMISSIONER GOZZI: Yes. Well as I say, that's the point I tried to make to Mr Willingham and I understand the submissions that were made on those points and I understand also the comments made by Mr Willingham. I, in fact, drew that scenario to the attention of the parties in proceedings that were held earlier.

MR NIELSEN: Yes.

COMMISSIONER GOZZI: Look, I appreciate the cooperation of the parties to amend the application in the manner of the document put forward. The application is amended in that way and a decision with respect to all those issues will probably issue towards the end of next week. Thank you.

HEARING CONCLUDED