

**IN THE TASMANIAN INDUSTRIAL COMMISSION**

Industrial Relations Act 1984

**T. No 712 of 1987**

**IN THE MATTER OF** the finalization  
of National Wage Case Order -  
Ambulance Services Award

**re** Deputy Superintendents

COMMISSIONER GOZZI

**HOBART, 9 June 1987**

**TRANSCRIPT OF PROCEEDINGS**

COMMISSIONER GOZZI: Could I have appearances please?

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

COMMISSIONER GOZZI: Thank you, Mr Nielsen.

MR MORLEY: If the Commission pleases, **CHRIS MORLEY** appearing for the Minister for Public Administration.

Mr Commissioner, I need some guidance, I think, in terms of whether or not I'm allowed to appear in this matter.

COMMISSIONER GOZZI: Mr Morley, I'm not aware why you shouldn't appear. I understood that your name was put forward as being able to appear.

MR MORLEY: Oh, certainly in terms of appearances before the Commission, Mr Commissioner. I just raise the matter in terms of a private sector award.

COMMISSIONER GOZZI: Well, let me have a look. In clause 6, page 4 - I don't see any reason why you couldn't appear.

MR MORLEY: I have no problem. Clearly, from our point of view, we have a strong interest in the matter, but I was just concerned in relation to the propriety of whether ...

COMMISSIONER GOZZI: I thought you may have been raising your concern in respect that you may not have had, before this Commission, an endorsement from the employer to appear on behalf of the Minister for Public Administration.

MR MORLEY: No, not at all.

COMMISSIONER GOZZI: You have got that authority.

MR MORLEY: I certainly have.

COMMISSIONER GOZZI: And see, we're dealing here with State employees. They are now State employees by virtue of the Industrial

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COMMISSIONER GOZZI:

Relations Act 1984 and the Minister is the controlling authority, so in that respect the private sector award, whilst it is a private sector award, some parts of it, I guess, do apply to State employees and of course the wage increase certainly applies to State employees by definition.

MR MORLEY:

Indeed.

COMMISSIONER GOZZI:

So, I don't see any problem.

MR MORLEY:

Thank you, Mr Commissioner.

COMMISSIONER GOZZI:

Yes, thank you.

The reason I asked you to address yourselves to the matter of how deputy superintendents ought to have the National Wage Case applied to them, is simply that the current wage rates clause stipulates that deputy superintendents should be paid 90% of the total rate applicable to superintendents.

Ninety percent of the \$10 national wage increase handed down on 10 March - operative from 10 March this year - would mean \$9 a week increase and the thought that occurred to me was that if it was intended for deputy superintendents to be reimbursed 90% of the superintendent's rate based on work value considerations when that was established, I wouldn't want to now do something that would disturb the pre-existing relativity between superintendents and deputy superintendents.

Naturally, the relativity will be disturbed if we apply \$10 and whilst it may not be important at this point in time, I didn't want to create a position which may lead further down the track to a claim for the adjustment of superintendents' rates to re-establish pre-existing relativities - or to create an anomalies matter further down the track.

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COMMISSIONER GOZZI:

I wanted to hear from you what your thoughts were on that matter, so that we would have it on the record in the event that some further, or some future adjustment is sought to be made, particularly in regard to the superintendents' rates.

MR NIELSEN:

Do you seek a response, Mr Commissioner?

COMMISSIONER GOZZI:

Mr Nielsen, perhaps - yes, if you'd like to.

MR NIELSEN:

Mr Commissioner, as you're only too well aware, the National Wage Case decision and indeed the transcript and decision of the Tasmanian Industrial Commission, T.712, makes specific reference to the wage adjustments. It's the 'ATTACHMENT A' document. The document's dated 24 April (sic) and the second page of that quotes:

"1. WAGE ADJUSTMENTS

First Tier

(a) There will be a national wage increase of \$10-00 per week in award wages and salaries to operate from the first pay period to commence on or after March 10th, 1987."

Now, Mr Commissioner, again I advise the Commission that our executive is to meet tomorrow - a full day meeting - where this issue and the amalgam document that has been before the Commission for some time will be completely addressed. It has been addressed in regional areas.

I've had the opportunity of speaking to some executive officers on this and indeed the president and vice-president and they are all of the opinion that consistent with the decision of the national wage that \$10 flow to all adult employees and I see myself, at this stage, Mr

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MR NIELSEN:

Commissioner, supporting that position.

I am aware, and there has been a clause within the old private industry award that deputy superintendents be paid 90% of the total rate applicable to a superintendent and that is on page 11 of the Ambulance Services Award No. 2 of 1986 (Consolidated) and then, following your own comments, I would assume that the Commission cannot live with that clause existing and applying the \$10 national wage.

That is so, Mr Commissioner, and to protect the \$10 complete flow-on, then I would only see then (and I am aware of the document - the amalgam document which we hope to address at a later time, this morning) covers that situation by not making reference to the 90%.

COMMISSIONER GOZZI:

Yes, I understand that, Mr Nielsen. The concern I have is simply that you are then aware that the basis of striking the deputy superintendents' rate, based on a proportion of the work value of the superintendents' rate will no longer exist. In other words, instead of being 90% of the superintendents' rate it will be something greater and it will continue to get greater as time goes on by virtue of future adjustments and whatever and I didn't want to be in a situation where, at a later date, the superintendents expressed concern that whereas previously there was a 10% differential between their rate and the deputy superintendents', there's now only what may turn in to be over time a 5% differential, or ultimately a smaller amount than that.

MR NIELSEN:

I acknowledge that, Mr Commissioner and somewhat we're in a 'Catch 22' position. There is no doubt to my limited knowledge and experience within the ambulance service that there was a principle and there has been a principle of the relativity

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MR NIELSEN:

and acknowledgement of deputy superintendents being 90% of their respective superintendent and there is certainly no desire to upset that situation, but if one is consistent with that situation, then I'm placed in a position where I see, quite clearly, that the deputy superintendents will only receive \$9 per week and I believe that national wage, as expressed in the Tasmanian Industrial Commission, is clear that the \$10 will and should flow to all adult employees and that's my attitude at this point in time, subject to further instructions from my association.

I believe what you're saying is certainly factual, that the relativity is going to be disturbed and to ...

COMMISSIONER GOZZI:

Yes, and I'm just wondering what change in work value has occurred to now compress the relativity. Whilst the National Wage Case decision quite clearly points out what you've indicated in 'WAGE ADJUSTMENTS', Principle 1., that is that everybody should get \$10, the fact is that some awards are expressed in such a way as where these type of matters have been agreed to be referred back to the parties for them to make comment on it, and I thought to myself when looking at this particular clause that I wanted everybody to have the opportunity to go into it with their eyes open, in terms of what it would mean further down the track and also having regard that, 'What comes first, the chicken or the egg?'

In this case the superintendents' rate was struck and the deputy superintendents' rate was tied to it. So, therefore I assume that when that was done, regard was had for the respect of work value rates for each of the position, or for the superintendents' position and then it was decided that, yes, deputy superintendent shall be 90% of that.

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COMMISSIONER GOZZI:

Now, are we really looking to disturb that position and as long as the parties are aware of that, then I guess one of my concerns will have been alleviated.

MR NIELSEN:

Well, Mr Commissioner, I'm aware of it, quite clearly. I have had some discussions, as I've said, with our officers. Tomorrow, I'll certainly be reporting of my actions in seeking endorsement and I stand before you today as to see that's the way I desire, unless I am instructed to the contrary; I don't see that situation.

Secondly, I suppose, if one goes back in time within the Commissions - and I'm not quite sure; I believe it may have been in the early '70's - there was a plateau decision.

COMMISSIONER GOZZI:

Yes.

MR NIELSEN:

And then I believe on top of that there was a slight movement accordingly struck and that was a decision, quite clearly, where it did then tend to disturb the established relativities and whilst this may not be a similar situation, I suppose there are inherent some of the attitudes that may have been consistent in that period and I'm confronted in the ultimate, as I said, unless I'm instructed otherwise where I believe the principle decision is \$10 to all adult employees.



COMMISSIONER GOZZI: Thank you, Mr Nielsen.

MR NIELSEN: Do you wish me to repeat, in case we were a little bit off tape that last couple of points?

COMMISSIONER GOZZI: Yes, please.

MR NIELSEN: Mr Commissioner, again, as I see the situation, and making reference to the earlier period within the Commission, as I said, some time in the early 70's (if my memory corrects me) where there was a plateau decision to a certain figure, and then on top of that there was a percentage figure.

Now, in 1987, the decision quite clearly from the National Wage, and again, quite clearly established in the Tasmanian Industrial Commission, that there will be an increase of \$10 per week in award wages and salaries to adult employees.

I believe that to be the direction that our association would take, Mr Commissioner.

Having said that, of course, in your own expression from the Bench, is that that of course, will have a reaction on that clause where it says clearly that the deputy superintendent's to be paid 90%.

And as I have said, we are in a 'Catch 22'. If we don't proceed, we are back to a \$9 figure for deputy superintendents; if we do proceed, we upset that 90%.

And as I see it my position, (and subject to discussions on it we have previously had) I see us supporting the \$10 applying to all employees.

COMMISSIONER GOZZI: Mr Nielsen, if the \$10 is now applied to deputy superintendents, as you suggest it should be, the deputy superintendents' rate vis-a-vis superintendents, will be 92% of the superintendents' rate.

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COMMISSIONER GOZZI:

Now, can you undertake that there will then not be a claim to increase superintendents' rate by 2% on the basis that there is now an anomaly based on the pre-existing formula?

MR NIELSEN:

Well, Mr Commissioner, I can't give that undertaking at this point in time. The only thing I can see perhaps is one that has been a fair while in the trade union movement, that all we are attempting to do is to bring in a quality-type decision to all adult employees within the ambulance industries. We're not disadvantaging any particular employee - superintendents included - as regarding any movements of money.

They are all getting what the National Wage Case said - \$10. Now, you're suggesting to me that this will move the percentage up accordingly ...

COMMISSIONER GOZZI:

That's one example that I gave you, yes.

MR NIELSEN:

Yes. I'm not aware at this point in time, (and as I said I am subject to being endorsed or otherwise instructed tomorrow) where there has been an reaction from superintendents to this position.

COMMISSIONER GOZZI:

Yes. Look, the only point I make is that obviously the work of deputy superintendents was work valued at 90% of superintendents', and by virtue of applying an increase in this way, that relativity will be disturbed.

And I felt it prudent to get the comments of the parties on the record, as no doubt in some other award matters that will have to be done as well because the adjustments create some of those particular problems - notwithstanding what was intended in the National Wage Case decision - and that's quite clear.

But also, I would have to point out that there is scope within the

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COMMISSIONER GOZZI:

National Wage Case decision for these type of matters that I am raising with you to be looked at, so that the parties are fully aware of the implications of applying the increase in that way.

So I will take those comments on board, Mr Nielsen. Mr Morley.

MR MORLEY:

Thank you, Mr Commissioner. Mr Commissioner, I take on board your points in relation to any further claims in relation to pre-existing relativities or anomalies. And clearly from our point of view, we wouldn't want to see that clause deleted if, within a couple of weeks, we were going to receive a claim for an anomalies conference to restore pre-existing relativities.

However, having said that, I am also mindful of the fact that we are undertaking an award exercise at the moment. That award exercise is looking at various positions - including the position of deputy superintendent/regional training officer - which may or may not have some bearing on the matter that we are currently discussing.

I am also mindful of the fact that the first tier wage adjustment in the National Wage Case did not differentiate at all between whether or not people should receive 90% of award increases or, as it would be, 100%.

The decision within the National Wage Case, which was reflected in the State wage case, quite clearly states that there will be an increase of \$10 per week in award wages and salaries, operating from the first pay period commencing on or after the decision - or in terms of the State wage case it was a backdated date, if I remember it correctly.

I'm also a little bit concerned that, whilst Mr Nielsen has put on record his feelings on the matter, he did

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MR MORLEY:

mention the fact that he has an executive meeting on tomorrow, and he has a position which applies at the current time. But unless he is instructed to the contrary tomorrow (and I wonder whether or not it is expected that we will come back in relation to this matter) in which case, I may also wish to seek further instructions.

COMMISSIONER GOZZI:

Yes. Mr Morley, it is simply a matter, from the Commission's point of view, that I didn't want to take it on myself without referring to the parties first, to delete from the existing award - which provides salaries - that part which says: 'deputy superintendents to be paid 90% of the total rate applicable to a superintendent'.

Now the only way I can pass on, in this award, the increase as requested - \$10 to deputy superintendents - is to in fact delete that provision. And quite clearly, rather than doing it off the Commission's own motion by putting in the system a new consolidation, I wanted the parties to be fully aware of what they are in fact seeking the Commission to do.

Clearly the way I read it: deputy superintendents are tied to superintendents on the basis of 90%. Now if that is to be altered, then the parties need to be very much aware that that is in fact what's happening.

MR MORLEY:

I also hear what you are saying, Mr Commissioner. I don't want to have another State wage case in relation to this matter alone, but ...

COMMISSIONER GOZZI:

Look, let me say, this is not the only sort of hearing in respect of applying the National Wage Case decision to where an award isn't quite precise in terms of how that should be applied.

I mean, there are other types of discussions taking place where there

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COMMISSIONER GOZZI:

are these type of peculiarities which need to be addressed, and parties are addressing them.

This is not something out of the blue. It is the nature of the increase that is being awarded in the National Wage Case that is bringing to light some of these particular problems.

And as long as it is properly addressed, certainly I have no wish to not apply a \$10 national wage increase to deputy superintendents. That is not the issue.

What I am concerned about is that the parties themselves are fully aware of what the consequences of it are in respect of anything that might happen further down the track.

And as I say, I think the parties should be in a position to indicate to the Commission that they agree, or they consent, to the Commission varying the award in the manner that it would have to be varied to effect the \$10 increase to deputy superintendents.

MR MORLEY:

Certainly from the Tasmanian Ambulance Services point of view, Mr Commissioner, we would consent to that clause being removed in order to reflect the \$10. However, I would in doing so, seek on transcript, a response from Mr Nielsen to my request that this matter in the future would not be used as the basis of an anomalies case to reflect pre-existing relativities.

COMMISSIONER GOZZI:

Mr Nielsen, would you like to comment.

MR NIELSEN:

Yes. Mr Commissioner, first of all I go back to my consistent position that, from the discussions I've had with my own officers and other executive members, is that we support the \$10 flow to all adult employees.

In fact we gave a commitment, as you

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MR NIELSEN:

realize, towards the national wage decision.

Now having said that, (and I don't wish to prolong these discussions) but it could be argued that since the period of establishing this 90%, (and I would say that goes back some years - 6 or 8 years) that there has been a change in those circumstances where deputy superintendents within their own right can claim a 92% formula of superintendents' pay.

Now, if it's being said to me that this particular issue ... that we give an undertaking - not particularly to use this particular issue (and I underline that very strong and very clear) but I believe I have no other alternative but to accept that and to support that situation in order to ensure the \$10 applying to all adult employees within the ambulance services.

I am sure with respect to Mr. Morley, he is not suggesting to us, nor is the Commission, our rights at any time to submit an application on a work value case, or anomalies, with reference to deputy superintendents or any other classifications.

But if you are referring to this actual position of 2%, well we acknowledge and accept that situation, Mr Commissioner.

COMMISSIONER GOZZI:

Yes, thank you, Mr Nielsen.

What I have decided to do in the circumstances is to vary the clause, as the parties have consented to - that is to delete the reference to 90% for deputy superintendents, and thereby award deputy superintendents \$10 a week increase, and give the parties leave reserved to raise the matter with me the next time that there is a national wage adjustment required to be made to this particular document.

So, in other words, there is

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COMMISSIONER GOZZI: currently an indication in the national wage package that wages would be looked at again in terms of a 1.5% increase in, I think, October of this year.

If that materializes, and ultimately eventuates in a wage increase, the parties will then have leave reserved to address the Commission in respect of this particular matter if they so wish at that time.

I think that is probably the most reasonable in the circumstances.

MR NIELSEN: We appreciate that, Mr Commissioner.

COMMISSIONER GOZZI: Thank you, Mr Nielsen. Mr Morley.

MR MORLEY: I am quite happy with that, Mr Commissioner.

COMMISSIONER GOZZI: Fine. Thank you.