

TASMANIAN INDUSTRIAL COMMISSION

Industrial Relations Act 1984

T No. 2586 of 1991

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

re structural efficiency
principle

COMMISSIONER GOZZI

HOBART, 16 January 1992

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER GOZZI: Could I have appearances in that matter please.

MR P.L. NIELSEN: Mr Commissioner, my name is NIELSEN, P.L. I appear on behalf of the Ambulance Employees' Association of Tasmania along with MR D. WATSON and MR C. CHAPMAN.

COMMISSIONER GOZZI: Thank you, Mr Nielsen.

MISS J. COX: Mr Commissioner, JANE COX, representing the Minister administering the Tasmanian State Service Act appearing with MRS WENDY BURGESS and MR RICHARD BYRNE.

COMMISSIONER GOZZI: Thank you, Miss Cox. Mr Nielsen?

MR NIELSEN: Mr Commissioner, this is a fairly long process, as you realise. There's been a desire, sir, with due respects to appear before you and the full bench with its lengthy hearings ultimately has put us in a position here today.

Mr Commissioner, we wish to approach in basically three - and tender exhibits accordingly - stages or three principles. In regards to an exhibit 1, which was a signed document by the then Assistant Secretary of the Tasmanian Ambulance Service, Mr Haines, on 17 May and the same document signed by myself on 20 May. And that is a document which I now desire to submit to you which outlines the -

COMMISSIONER GOZZI: Well I have it on file so I'll just mark it exhibit N.1. I think everybody has a copy of it. I might get some additional copies for our - exhibit N.1.

MR NIELSEN: Mr Commissioner, as I said, we intend to approach this in three stages, if we may, subject to yourself and your own guidance and direction. Turning to the second page, that just identifies the headings of clause 7 - Definitions, and there'd agreed matters. And we have another document to support -

COMMISSIONER GOZZI: Are they different to the existing definitions in the award?

MR NIELSEN: Oh -

COMMISSIONER GOZZI: And if they are, why are they different?

MR NIELSEN: I think if you'll be patient with us we'll attempt to explain our position as we travel along the road in that regard. They're outlined, as I've said, on that second page and the third page there, Mr Commissioner, with the heading 'Living Away From Home Allowance', that's basically been between the parties, subject to agreement, but the quantum will require arbitration and, again, it's a matter that we desire to put to you.

If I refer to - and these pages are not numbered, but it's the second - the last page which is headed 'Matters Requiring Arbitration'. We desire to present a document to you in regards to this matter, and before proceedings on that particular matter I understand the representative from the minister desires to address the bench.

Well, Mr Commissioner, that's basically that exhibit 1 document. The next document I intend to exhibit to you is taking up that exhibit 1 document and trying to explain it and present in much more detail.

COMMISSIONER GOZZI: Is that the award restructuring document?

MR NIELSEN: Yes, that's the award restructuring agreed matters, we've identified them as.

COMMISSIONER GOZZI: Okay. Exhibit N.2.

MR NIELSEN: As you realise there has been some discussions between the parties. This is a TAS document and, Mr Commissioner, with great respect to you, sir, this is, sort of - one came out of 1992 so I'm relieved of a very heavy year only to be addressed by yourself that we've been informed that this is an AEA document and we're the ones that are making the submissions this morning. Until you made that comment in November we were always mindful that it was going to be the Tasmanian Ambulance Service presenting this document to you.

COMMISSIONER GOZZI: Oh, well, who is presenting it?

NIELSEN: Basically, with respect, the first - the three - the first exhibit I presented to you has been a exchange of discussions between the representatives and the other two documents have been exchanged and, as I understand, we have a reasonable understanding as to how we're going to proceed with this document, subject to your own guidance and own direction.

COMMISSIONER GOZZI: Well I've marked it N.2, as your document.

MR NIELSEN: And I just want, from the point of view of my representative from the minister, to show never do I take ever advantage. But the discussions we had, page 14 we've somewhat differed the document slightly so I don't want -

COMMISSIONER GOZZI: Page 14.

MR NIELSEN: Page 14, we've put just down on that - which was different from the original documents between us - we've just made a comment down the bottom of that page:

Please Note

The quantum of \$22.80 is not accepted by the AEAT.

This matter of quantum is referred to under Items for Arbitration.

That wasn't the original document.

COMMISSIONER GOZZI: Right, should that be \$22.85?

MR NIELSEN: Yes, correct, that is. Yes, that is correct. Now, Mr Commissioner, it's a rather sunny day today and I hope the sunshine keeps up and everyone's, sort of -

COMMISSIONER GOZZI: We're agreed on that, Mr Nielsen.

MR NIELSEN: If we may turn to page 2 and, as I said, this document is a TAS document that runs from page 1, I think, to page 25 and the parties are agreed on this document. And, having said that, that is something of substance between the organisations.

And that's a straight out, more or less - I don't know whether you desire that I read that out but perhaps I should because it does signify:

The Ambulance Service believe that the basis of the classification structure established by the work value case is fundamentally sound and meets-

COMMISSIONER GOZZI: I should think so too.

MR NIELSEN: Oh, yes, TA.30 will get a run before these proceedings are finalised, Mr Commissioner.

COMMISSIONER GOZZI: All right, well let's get down to business.

MR NIELSEN: Quote:

- established by the work value case is fundamentally sound and meets the skills based career path objective of the structural efficiency principle. The major challenge of the structural efficiency negotiations in respect of the Tasmanian Ambulance Service Award are inefficient work practices and barriers to flexibility. There are, however, a number of major changes which need to be made to achieve the flexibility goal.

The classification structure should reflect the needs of the agency and provide employees with a

skills-based career pathway. Such a progression cannot, of course, be unlimited and should also meet the objectives of simplicity, broad banding and multi-skilling.

The Ambulance Service proposes a series of changes to Clause 7 and consequent changes to Clause 8 of the Award. Clause 7 should be deleted and replaced with the following clause:

And, again, this is the clause 7. Now, I suppose, Mr Commissioner, the question now you're starting to raise is to how these matters fit into the actual award.

COMMISSIONER GOZZI: Yes, that's right. And, I suppose, none of the parties should take it for granted that I'm going to agree to those definition changes. Whilst I was a bit tongue-in-cheek in making that comment about the structure being fundamentally sound, TA.30 is not all that old.

MR NIELSEN: No.

COMMISSIONER GOZZI: And it was a comprehensive exercise, including definitions, and I'd want to be convinced as to why they should now be changed.

MR NIELSEN: Well, Mr Commissioner, on behalf of my organisation, we again say that we intend to go through these proceedings subject to your guidance and direction within these pages 1 to 25. And then, having said that, subject to your opposition and if that's given the green light then we'll present documentations to vary the award accordingly.

COMMISSIONER GOZZI: Yes.

MR NIELSEN: But if you're taking issue which is, of course, your authority to do so, then I assume on behalf of our part we'll attempt to accommodate that position.

COMMISSIONER GOZZI: Yes, I'm not really saying I'm taking issue. I'm not sure whether I'm going to be taking issue or endorsing it. I'd just really like to know what the changes are and why the changes have been - or are being proposed.

MR NIELSEN: Excuse me, Mr Commissioner. Well, Mr Commissioner, I've already indicated initially - and these proceedings are difficult in a sense that there have been quite some months discussions between the parties -

COMMISSIONER GOZZI: Yes.

MR NIELSEN: - and I desire - and I don't know whether it's - and I must seek your assistance or guidance. In a sense it would be far better if we went into conference than to be on

formal transcript because I need the assistance of my colleague to somewhat advise you as to what the questions you're asking as to what is the ball game in regards to the current award and as to what we're proposing here today.

COMMISSIONER GOZZI: Yes.

MR NIELSEN: And to be on transcript perhaps - and I'm not opposed to going formally back on transcript and doing what we so desire, but it does make it a little be difficult if I haven't got the assistance of my own colleagues and especially of the minister's representative because that was the manner we dealt with this, with both sides participating.

COMMISSIONER GOZZI: All right, well I'm happy to go off record.

MR NIELSEN: Well I would like to call on Jane to stand up with me. I've got the lectern - or sit down.

COMMISSIONER GOZZI: Well you can sit down, we're off the record.

OFF THE RECORD

COMMISSIONER GOZZI: Mr Nielsen, you've a further document to tender.

MR NIELSEN: Yes. Mr Commissioner, this is award restructuring matters requiring arbitration.

COMMISSIONER GOZZI: We'll mark that exhibit N.3.

MR NIELSEN: And while we're back on record, Mr Commissioner, with respect to you, sir, do you suggest that we should make, perhaps, your comments that you've made that they ought to be made on record, some of those notes and guidance and suggestion.

COMMISSIONER GOZZI: Yes, I'll certainly do that when we finish. There's just a couple of other matter. Just tell me, what's exhibit N.1 intended to do, again.

MR NIELSEN: Exhibit N.1 was a document in the very early days when we were before the full bench. And no disrespect to that but there was an ability between the agencies then to progress and deal and debate and discuss matters at will and then there became a desire where we weren't allowed to talk to each other there for a month or two. And eventually, with no

disrespect, we then had the inclusion of the honourable people from the OIR and DEPAC and other people then participating within our ranks and we then started to become more, perhaps, involved.

But out of the - exhibit N.1 was basically that we'd been talking a lot with each other and we itemised those matters and we've gone through the award. See, this goes back, as you realise, this SEP, gosh, it goes back to about '89, if I remember, the first 3% that we got and then we moved on to the second 3%. And those discussions have been going on quite continuously. You know, I would think we're even looking at 18 months discussions, perhaps back further than that between - and the SEP - this exhibit 1 was just a document to say, you know, what substance had been achieved.

COMMISSIONER GOZZI: Right.

MR NIELSEN: And all we tried to do was to line up two pages of matters that we agreed on and then to identify those matters that were further - excuse me, Mr Commissioner.

Oh, yes, that was another thing, yes. My colleague has remembered, we were put on notice, I think, by the full bench that we had to report our positions back to the -

COMMISSIONER GOZZI: Yes, that's right.

MISS COX: That document was part of that process.

COMMISSIONER GOZZI: Okay, so really for these proceedings though it's N.2 and N.3 that are the relevant documents.

MR NIELSEN: Yes, for sure.

COMMISSIONER GOZZI: Yes, okay.

MISS COX: And I guess the last few pages of N.1 really just summarises what is in N.2 and N.3. It makes it easier for us to, sort of, work out what we've done and what we haven't done.

COMMISSIONER GOZZI: Okay, well we'll go off the record then.

OFF THE RECORD

COMMISSIONER GOZZI: With respect to the off-record discussions, I'll attempt to summarise where we're at this far and we'll go on from there. Exhibit N.2 is the catalyst for looking for definitions that are proposed by the parties and they were examined against existing classifications and with

respect to page 3, Ambulance Office (Patient Extrication) and the ambulance officer classifications or definitions specified there, the parties are going to consider whether or not you should include reference to typical duties.

That's on page 4 . It appeared to be acceptable. Again though the question of whether or not typical duties ought to be included.

Page 5 of N.2, clinical instructor. Currently there are two clinical instructor definitions in the award, and also two dedicated salary scales in clause 8 of the existing award.

The existing definitions relate to clinical instructor, patient extraction, and driver training, and clinical instructor - patient care; and the parties will examine whether or not that proposed structure should contain those type of definitions or not.

With respect to the communications stream of N.2, the question of trainee communications officer is to be looked at, and I will be appraised of the provisions of the State Service Act which enable maintaining a person against a full-time position. In other words, the creation of a trainee position to be utilised or held against a full-time position.

And you are also going to examine with respect to the communications stream whether or not it may be appropriate or not to include an appropriate salary scale from one of the four model awards.

And in that context I think I indicated that the operational stream may be the most appropriate. But, there again, that's only for guidance and for you to have a look at. I am not making these observations with a set mind one way or the other.

On that point it is appropriate to indicate that we have worked our way through this document and these are just questions that arose by way of that type of examination.

Turning now to page 7, 'Other Definitions', all that appeared to be acceptable.

Page 8, the definitions there, 'Day Worker' is as per the existing award; 'Shift Worker' comes from clause 23(a)(i) of the existing award; and the other shift work provisions in that clause of the existing award will be picked up in the new document.

The only issue on page 8 I think relates to course coordinators. There are two course coordinators in the award currently, one being Certificate of Applied Science, and the

other one being Advanced Life Support, and those definitions are not agreed.

Now that takes care of the definitions, apart from the deletion of Superintendent, Superintendent Executive Officer, and I place on record my concern that the controlling authority again, as in other matters before the commission, has acted in a unilateral fashion by classifying those positions in the executive service - the senior executive service - and I consider that the appropriate course of action would have been for the controlling authority to have made application to seek deletion of those classifications from the award so that the commission could form a view as to the appropriateness of that action, or otherwise, and for the employee organisation with the interest in the award to have expressed the view in support or otherwise.

As it is, those classifications are in the existing award, and it will be up to the commission as it currently stands to form a view as to whether or not they should be deleted or not, or whether in fact given that they have now got a title change, whether or not those titles ought to be included in the award.

I emphasize again that I consider the situation to be rather silly, and it reflects, I think, a lack of regard for the due processes of industrial relations and the variation of awards.

For the purpose of the record, in these proceedings I indicate again that this commission supported the making of the SES Agreement. This Commission, as currently constituted has no difficulty with the SES arrangements, but the processes of translating people from awards to the SES needs to be looked at, and it should be looked at.

Alright, that then takes us to the discussions we had on technician ambulance officers and student ambulance technicians, and I place on record my observations that the reference to the 1988 work-value case, and my observation that I can understand the concerns that the Ambulance Service would have, or the Ambulance Employees' Association would have, in departing from what is currently in the award, and I recognise that it is an important change that is being sought, and I look forward to hearing the arguments on the issues.

As far as what we will achieve this morning, I think what I have said covers all of those points.

We'll go off the record.

OFF THE RECORD

COMMISSIONER GOZZI: I assume this afternoon will be off the record?

MR NIELSEN: Yes, Mr Commissioner, that's our desire.

COMMISSIONER GOZZI: The same format.

MR NIELSEN: Mr Commissioner, whilst in the recess my delegation has had an opportunity of having some -

COMMISSIONER GOZZI: We're on the record - do you want to be off the record?

MR NIELSEN: Well, I just -

COMMISSIONER GOZZI: We'll go off the record.

OFF THE RECORD

COMMISSIONER GOZZI: Again, following extensive off-record discussions which were (a) to clarify the content of Exhibit N.2, I'd like to indicate that with respect to clause 8 - Salaries there needs to be further consideration on the salary level Supervisor - Tactical Operations. It needs to be substantiated as to why that salary should increase to the level it has, and also why the relativity relationship between that classification which was previously titled Duty Officer, and Clinical Instructors should be interrupted.

You'll recall that those relativities were established after extensive work-value considerations in 1988, and any suggestion of inequity certainly couldn't be substantiated, having regard to what was put forward in 1988.

I also understand that there has been a reduction in duty officer positions, and the parties will have to demonstrate why that salary, as I say, should now be lifted to the level as proposed.

Ambulance Technician: we have already discussed that this morning, and whilst that matter is going to be tested by the parties the salary structure that's proposed in N.2 needs to be looked at vis-a-vis the existing student ambulance officer structure, and I am I suppose a little concerned that apparently a student ambulance technician will be on that rate until qualified, irrespective of how long it takes to qualify and, secondly, that if a student ambulance technician qualifies after 12 months that person will then be a technician patient care support employee and move to patient care and rescue support after a period -

MS COX: When they have done the next bit of their training.

COMMISSIONER GOZZI: When they have done the next bit of their training, at a rate of pay which is equivalent to the third year - second and third year - of the current student ambulance officer rate.

And I suppose one of the thoughts that is exercising my mind in respect of that is you are proposing to have fully qualified ambulance technicians who in rate of pay equate to current student ambulance officers. Okay.

Moving to Communications Officer: generally that scale should be looked at, both in respect of the trainee communications officer which we discussed this morning, and also from a career path point of view.

I just wonder about the wisdom of having a \$200 gap, or a \$250 gap, between communications officer and senior communications officer. One wonders who you could differentiate in the context of \$250 between a communications officer and a senior communications officer.

The training coordinators we have discussed.

There are currently two coordinators in the award, and you need to look at that classification a little further.

It's generally agreed with respect to admin. and clerical employees that the model streams would be applied, and the same situation is relevant to the keyboard employees and office assistants scale.

Page 11, part-time, casual, weekly, hourly rate matters all seem to be alright.

There doesn't appear to be a problem with the deletion of Contract Station Officer.

It is my understanding from what's been said that contract station officers will now be on the conditions as set out in the award, whereas previously they weren't.

MR BYRNE: Yes. They will now be referred to as branch station officers.

COMMISSIONER GOZZI: Yes. Living Away From Home clause on page 14, you'll have to address me on in respect to the new allowance - the incidental allowance - and it is my understanding that you'll seek arbitration on the quantum of the living away from home allowance.

Kilometrage Allowance: just some minor changes there to conform with the General Conditions of Service Award.

The meal allowance provision, we've discussed that extensively off the record, and I don't see that there is a problem. I just want to have closer look at that, that from what I was told off the record I don't think there is going to be a problem with that.

Annual Leave, page 17, seems okay, as Payment of Wages does.

Page 19, 'Reimbursements', no problem.

Uniforms is now agreed - on page 20.

On Call, there is no problem.

The Mandatory Fitness Levels on page 22, as I indicated off the record, if that's to be an award provision which could impinge on the continuing employment of an ambulance officer, well then that should find it's way into the award.

If it is simply a matter of looking after the health and welfare of employees and not impacting in any way on disciplinary aspects, well then I am quite happy for the parties to develop the guidelines as they have got there. I think that's reasonable.

The More Responsible Duties provision: I think a careful reading through that provision again just to make sure we have got it right.

The Disciplinary Procedures: whilst I have no problem with that, I did raise whether or not that would preclude the association from bringing disciplinary matters as opposed to grievance procedure matters to this commission.

On the reading of the award as it currently stands, and I agree it has been there for some time, it could be interpreted to mean that where employee disciplinary matters are involved the employee organisation is confined to dealing with those matters before the Commissioner for Review.

And, as I say, I have got no problem with that, except that at the moment - or hither to anyway - there has been a choice about which way the employee organisation will go in the context of representing their member.

Obviously if the employer wants to discipline and employee the employer will do it in accordance with the Act - the Tasmanian State Service Act.

MR NIELSEN: Mr Commissioner, if I may comment, I think the parties have indicated a desire to delete that -

MS COX: We'll have another look at it, Peter, but I don't have a problem with deleting.

COMMISSIONER GOZZI: Oh, well, yes, if it is going to be deleted, well that's fair enough.

Staff Amenities: that's straight forward. There is no problem there.

And I think that wraps up Exhibit N.2. Mr Nielsen, anything further you want to add there?

MR NIELSEN: No, Mr Commissioner, not at this stage.

COMMISSIONER GOZZI: Thank you. Ms Cox?

MS COX: No, Mr Commissioner.

COMMISSIONER GOZZI: No? Okay. That's an unusual approach to doing this exercise, but I think a worthwhile one to go through it the way we have.

MR NIELSEN: Hear, hear.

COMMISSIONER GOZZI: We've set down some dates for resumption, and as I indicated off the record, if you need to have some time with me informally to try to progress some of these matters, ~~well it is just a matter of getting in touch.~~

And N.3, of course we haven't looked at yet, have we?

MR NIELSEN: No, Mr Commissioner. We have already had preliminary discussions. As indicated, it is our desire to take advantage of having some early morning discussions as we progress.

COMMISSIONER GOZZI: Yes. Alright. Well, these proceedings are adjourned to March the 25th, is it?

MR NIELSEN: The 25th, yes.

COMMISSIONER GOZZI: Thank you.

HEARING ADJOURNED

