

# Cracking the public service: Transvaal hospitals strike

The recent hospitals strike in the Transvaal, coming soon after the Cape hospitals strike, has forced the state to break its own rules and negotiate directly with militant trade unions. CAROLE COOPER\* reports.

There's nothing like a strike by health workers to spark off hysterical outbursts of moral outrage by the media, the government and sections of the public. The response to the recent strike in the Transvaal by health workers was no exception. However, far from being unfeeling monsters, these workers, themselves victims of gross exploitation, decided to strike only after the Transvaal Provincial Administration

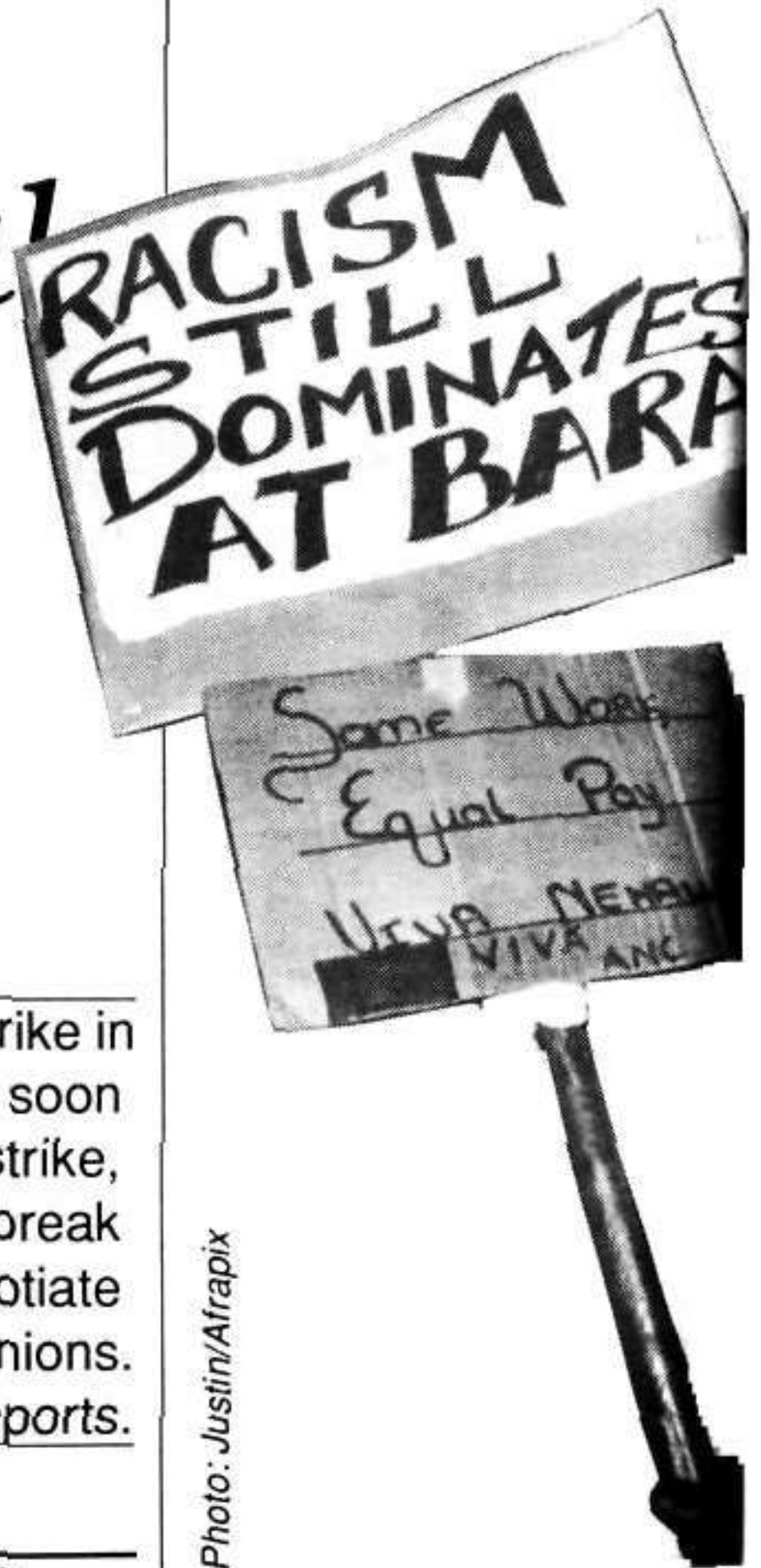


Photo: Justin/Afrapix

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(TPA) had ignored repeated requests for negotiation on their grievances.

The TPA categorically refused to deal with the workers' union, the National Education, Health and Allied Workers' Union (NEHAWU), and instructed the superintendents of hospitals to do likewise. Rather than take outright strike action, which they recognised would disrupt the health services, workers at first staged lunch-time demonstrations in support of their demands, and when this had no effect, moved first to go-slows, and then finally to a full-blown strike.

### Background to the strike

On 2 March workers organised under NEHAWU in the Witwatersrand region



presented a memorandum to the TPA containing a number of demands over which they wished to negotiate. The major demands were as follows:

**A living wage:** Workers demanded R1 100 per month as a minimum wage, and a guaranteed minimum increase of R400 across-the-board for all workers. According to a union spokesperson, the minimum wage among hospital workers was R223,50 a month.

**Recognition of NEHAWU:** Workers demanded the recognition of NEHAWU, including stop-order facilities, and the establishment of a centralised collective bargaining system acceptable to all those involved. NEHAWU, which represented 18

900 workers in health and education services in the Witwatersrand region, had already asked hospital authorities to recognise its shopstewards as

democratically elected representatives of the workers.

Initially hospital superintendents refused, arguing that NEHAWU was an outside body. But then some, such as those at Baragwanath, Hillbrow, Johannesburg General and Leratong hospitals, met shopsteward committees. These meetings were, however, unsatisfactory, as hospital authorities have limited powers to deal with workers' demands.

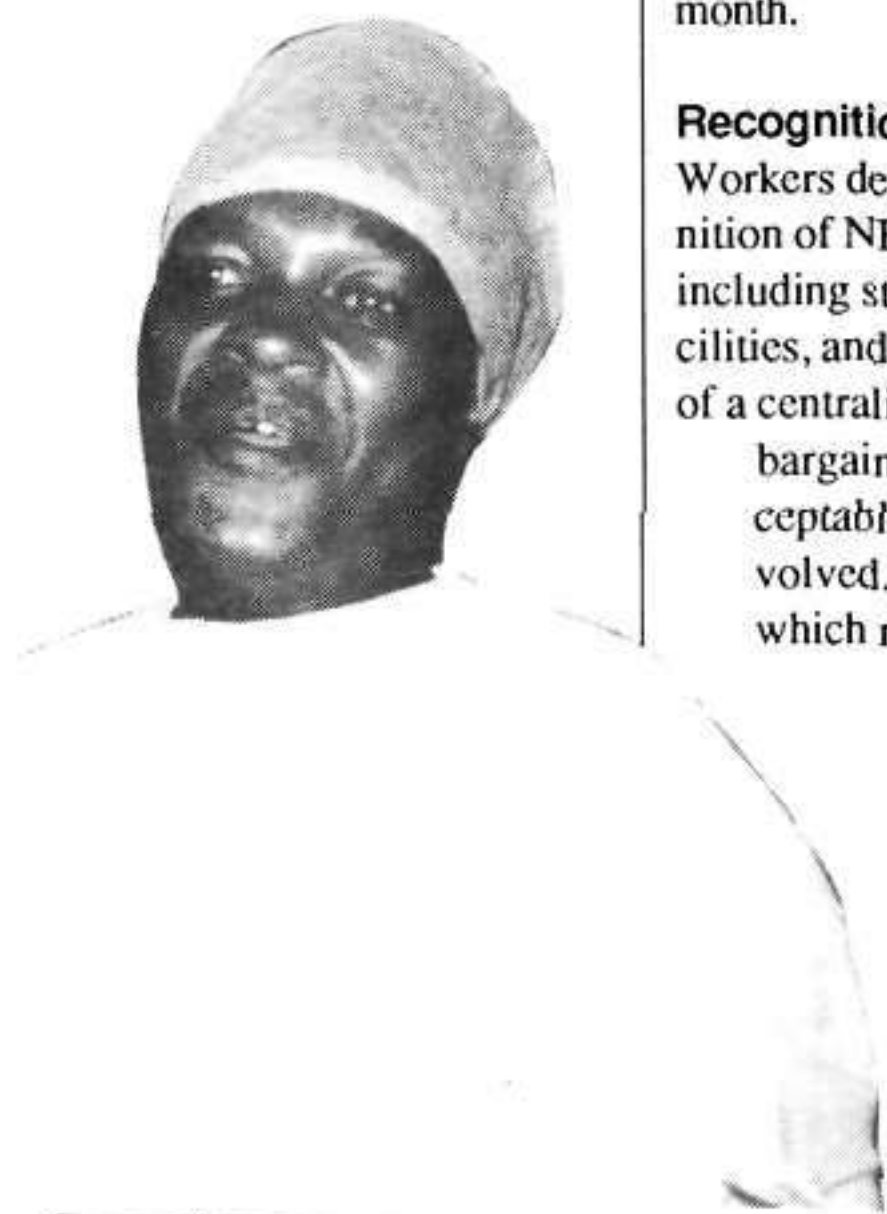
### Temporary employment:

A major complaint of workers was that many employees, mainly black workers, in lower categories of work are classified as temporary workers.

Such workers have very little job security and are grossly discriminated against compared to permanent workers (mainly the more highly skilled, white workers), who enjoy a degree of security and receive benefits far beyond what even workers in the private sector can expect. Temporary workers are subject to only 24 hours' notice even if they have worked for a lifetime.

The union demanded an end to temporary employment, and that these workers should receive the same benefits as permanent workers. Alternatively, a new system should be introduced which would apply equally to all workers.

**Privatisation:** The culminating demand in the memorandum was that the





privatisation of health services be brought to a complete halt. NEHAWU stated that it is the responsibility of the state to provide health services that are free and accessible to all South Africans.

**Other:** Other demands were for the inclusion of all public sector workers under 'equitable labour legislation' (ie in an amended Labour Relations Act); the desegregation of health services, and an end to racist employment practices.

There was no response to the memorandum. Instead the director-general of the health services of the TPA, Dr Hennie van Wyk, addressed a letter to the hospital superintendents rejecting the demands and saying that in terms of the provisions of the (Public Services Act (PSA) only the Commission for Administration (CFA - see box on p 36) could recognise staff associations. The TPA was therefore not in a position to recognise or enter into a formal recognition agreement with a trade union.

On 28 March the union sent letters to the Minister for Administration and Economic Co-ordination, Dr Wim de Villiers, and the Minister of National Health and Population Development, Dr Rina Venter, requesting a meeting to discuss the memorandum. No response was received from either minister.

In the meantime, the department had announced a



10% increase for all public sector workers as from 1 April. This paltry increase further angered workers, and shopstewards approached the superintendents, asking them to take up the matter with the TPA, and giving them seven days in which to respond. Again there was no response from the TPA.

### **The strike begins**

Workers responded to the employers' intransigence by staging lunch-time protests at the Baragwanath, Hillbrow and Johannesburg hospitals in the second week of April. Despite these protests, there was still no response from the TPA.

In the last week of April Baragwanath workers told the regional shopstewards committee, which had been co-ordinating the protest action and which consisted of two representatives from each institution in the Transvaal, that they wanted to stage a half-day strike. Shopstewards from other institutions felt that workers there were not ready to intensify action, but agreed that Baragwanath workers should be given the go-ahead. These workers then staged a half-day strike in the last week of April.

### **Bara workers strike first**

The continuing lack of response from the employers led Baragwanath workers to decide on a full-blown strike from 1 May. It was only on the eve of this strike that they were informed that an additional increase, of between 16% and 105%, also operative from 1 April, had been granted to general assistants (ie drivers, porters, cleaning and kitchen staff, packers and other unskilled workers).

Salaries for grade 1 general assistants rose from R2 685 to R5 016 a year. But workers were still dissatisfied as the minimum wage was less than the R1 100 a month they had asked for. The striking Baragwanath workers were soon joined by workers at the Hillbrow and the Johannesburg General hospitals and then by workers at other hospitals in the Transvaal.

According to the union, while workers were inspired by the strike of health workers in the Cape in early March (see *Labour Bulletin* Vol 14 No 8), the Transvaal strike was not merely a carry-on from that strike, but arose out of NEHAWU's own plan of action.

The strike proper lasted 10 days from 1 to 10 May, and involved from 11 000 (press figure) to 18 000 workers (union figure) at 16 hospitals in the Transvaal, mainly on the Reef. Workers on strike consisted mainly of non-medical staff, the majority being general assistants.



In some hospitals nurses joined the strike for a short while, the largest and most sustained turnout being at the Natalspruit Hospital. The effects of the strike were felt most strongly in the kitchens, laundries and dispensaries. The TPA called for volunteers, and nurses and TPA staff from other departments were moved to those sections worst hit by the strike. At many hospitals only emergency services operated.

### Emergency services continue

Throughout the strike it was the union's intention that minimum services should continue, that no hospital be closed down, and that no patient should die. The union had a meeting with other organisations in the health sector, such as the National Medical and Dental Association (NAMDA), the South African Health Workers' Congress (SAHWCO), the South African Black Social Workers' Association (SABSWA) and the Organisation for Appropriate Social Services of South Africa (OASSSA), to provide emergency services during the dispute.

These organisations published a statement announcing their full support for the demands of NEHAWU and stating that the TPA, by delaying negotiating with the union, had to bear full responsibility for possible effects on patients.

The union also tried to build up support in the com-



munity but acknowledges that events moved too fast for it to canvass widespread support. However, it argues that the community was behind them, pointing to the fact that at Baragwanath some patients joined strikers in *toyi-toying* and singing protest songs.



Nelson Mandela - asked to intervene

### TPA and CFA meet union

On 2 May, after an *in loco* inspection of Baragwanath (which had been closed for part of the day, unnecessarily it seems, and contrary to the wishes of the union), the TPA finally agreed to meet NEHAWU. An agreement was reached to negotiate on the dispute at the 'highest

level' (ie with the MEC of health services in the TPA, Mr Fanie Ferreira).

On the same day, at the 'talks about talks' in Cape Town, state president De Klerk asked ANC deputy-president Nelson Mandela to intervene. As a result a NEHAWU and COSATU delegation flew to Cape Town to meet Wim de Villiers and Rina Venter.

At the meetings it was agreed that the TPA as well as the CFA would meet a NEHAWU delegation in Johannesburg to settle the strike. The union insisted that the CFA be present as it was mainly responsible for determining conditions of work in the public service.

However, at the negotiations which took place in Johannesburg on 4, 5 and 7 May, CFA delegates failed to turn up. The TPA kept stopping negotiations to check whether it had a mandate to deal with certain issues.

NEHAWU then approached Mandela, who took the matter up with the acting state president, Dr Gerrit Viljoen, on 8 May. The CFA finally agreed to attend the negotiations. This again highlights the difficulty workers experience when dealing with the multi-level system of authority within the public service, in which their employer - in this instance the TPA - lacks the power to make decisions about working conditions.

An agreement was finalised on 9 May and was signed a day later, workers returning to work on 11 May.



# Industrial relations in the public service

**P**ublic sector employers' intransigence in dealing with black unions is nothing new. The 1989 railways strike was a prime example of this kind of short-sightedness. There has been a spate of recent strikes in the public service, including strikes by health workers in the Cape and in Garankuwa. This reflects the growing militancy of workers in this sector and their determination to win the same rights as workers in the private sector (see public sector focus in *Labour Bulletin* Vol 14 No8).

The refusal of the Transvaal Provincial Administration (TPA) to deal with black unions reveals the lack of collective bargaining in the public service. Workers have to contend with an oppressive and unwieldy system in order to communicate their demands. Conditions of work in the public service are governed by the Public Service Act (PSA) of 1984. Unlike the Labour Relations Act (LRA), the PSA makes no provision for collective bargaining, nor for the establishment of trade unions. This does not mean, however, that trade unions are prohibited in the public service. Public service employers can recognise and deal with unions under common law. Their refusal to do so is in fact a matter of policy rather than a legal requirement. Public service unions can also register under the LRA, although such workers are excluded from the Act. This means they cannot use any of its structures (such as the industrial court) or procedures (such as the right to strike after conciliation procedures have been exhausted).

The PSA provides for the establishment of staff associations at the

discretion of the Commission for Administration (CFA). This is the body which lays down policy on conditions of work in the public service. The CFA, among other things, is responsible for grading posts, setting wages and salaries, recognising staff associations, and regulating other conditions of work such as leave, hours of work etc. The employers, such as the TPA, have to operate within the limits set by the CFA, but do have the power to deal with issues such as the hiring of staff, and exact hours of work, for example.

Public service staff associations have no bargaining rights. Instead they sit, together with representatives of the CFA, on the Public Service Advisory Council. Staff association representatives merely put forward their views to the CFA, which then makes recommendations to the Cabinet. According to the CFA, a recommendation is more like a decision, since most are simply ratified by the Cabinet. The Cabinet actually decides only on the wage issue. A more informal structure has developed alongside this, where representatives of the staff associations meet the CFA to discuss all decisions which involve expenditure before the budget each year.

Workers who are not members of one of the seven staff associations (which have 207 530 members, representing 49% of the 423 500 workers in the public service proper) can in theory approach their employers directly with grievances. These are passed on to the TPA and then, in turn, to the CFA. In practice, as we shall see below, taking this route is a waste of time. By referring workers from



one level to the next management can avoid dealing with the workers' demands altogether. Even the staff associations, which have a working knowledge of the system, admit that the demarcation of areas of jurisdiction between the TPA and CFA is not always easy to understand. How much more confusing is this for unions who are unfamiliar with the system?

Pressure by the staff associations on the issue of collective bargaining has led to proposed amendments of the Public Service Act. The Amendment Bill provides for a system of bargaining between representatives of the staff associations and those of the CFA, sitting on a bargaining council in equal numbers. The bill, however, has many shortcomings. Firstly, each union, no matter its size, is restricted to one representative on the council. Secondly, it is silent on the question of trade unions, as is the existing PSA. Thirdly, workers are denied the right to strike, this prohibition being explicitly stated in the bill. ❖



### The agreement

The union regards the agreement as a victory for the workers. It contains many important breakthroughs.

While workers did not succeed in gaining a wage increase, they did get a commitment from the TPA to establish mutually acceptable channels for negotiating salaries, safety conditions, and job creation and training for 1990 and ensuing years. This means the union will be able to negotiate further wage increases this year.

### Recognition for NEHAWU

A major breakthrough was achieved on union recognition. The TPA conceded that its employees could belong to any trade union or recognised staff association of their choice. The TPA also agreed to grant NEHAWU access to the premises of health care establishments and to allow the union to display approved notices on TPA boards; to provide stop order facilities to union members, subject to Treasury approval; and to allow accredited NEHAWU officials and office bearers to represent NEHAWU at

disciplinary meetings involving such members.

A working committee was to be set up with representatives of each party, to negotiate on a number of matters listed in the agreement. These included:

- the implementation of a 40-hour week, which the TPA said it had already agreed to before the strike;
- improved maternity leave; and
- consultation on privatisation. The TPA undertook to inform employees and consult with NEHAWU when any project was being investigated for privatisation. In principle employees should lose neither their jobs nor benefits acquired while working in the public service. However, the union is still strongly opposed to privatisation and intends negotiating further on this issue.

It was noted that the two-year waiting period for general assistants to be admitted to the pension fund had been abolished in 1989, and that the CFA was investigating setting up one fund for all workers.

The parties also agreed that, upon receipt of a documented motivation by NEHAWU, the TPA would recommend to the CFA that employees who are NEHAWU members and who have been employed for a period exceeding three months should be reclassified as permanent workers.

The TPA agreed not to





*Public sector militancy... NEHAWU's Monde Mditshwa (right) in a public sector march through the streets of Joburg*

*Photo: Morice Smithers/Labour Bulletin*

take disciplinary action against workers involved in the strike. This was a major concession. Both Rina Venter and the TPA apparently conceded that the workers had genuine grievances. It was also agreed that the days workers spent on strike could come off their annual leave, rather than being taken as unpaid leave.

In addition the TPA undertook to make representations to the South African Nursing Council (SANC) regarding nurses involved in the dispute. During the strike the SANC condemned strike action by nurses and threatened disciplinary action against them.

The parties also agreed to the appointment of an external arbitrator if there was a dispute over the interpreta-

tion of the agreement. This is significant as employers in the public sector are normally hostile to outside parties having a say in their affairs. The arbitrator has to be a retired judge of the Supreme Court who is acceptable to both parties.

While the agreement contains many positive points, the union believes that a lot hinges on whether the TPA will negotiate in good faith on the issues listed for further discussion. The agreement in many instances is similar to that negotiated by the Health Workers' Union (HWU) in the recent hospital strike in the Cape. According to NEHAWU, however, the HWU has since expressed dissatisfaction with its agreement.

### **Conflict with HWU**

This point became an issue between the two unions during the critical report-back stage in the Transvaal strike. The HWU, with the agreement of NEHAWU, had sent observers to Johannesburg to be present at the 8 May report-back meeting where the decision was taken to end the strike.

At the meeting HWU tried to convince NEHAWU that this was a mistake, and suggested instead that there should be a national strike. NEHAWU refused, however, and reported that the HWU representatives had then tried to undermine the union by approaching workers at the hospitals and urging them to continue with the strike.

An HWU spokesperson said, however, that as their



settlement applied nationally there had been no need for NEHAWU to negotiate on issues which HWU had already won. The only issue which NEHAWU should have negotiated on was the wage demand, as this had not been resolved during the Cape Town strike, she said.

The HWU representatives who had visited the Transvaal had conveyed this to NEHAWU, urging it not to call off the strike until the wage issue had been won, she said. HWU had been prepared to join NEHAWU in striking for the wage demand.

Regarding NEHAWU's claim that HWU had undermined it by approaching workers individually, the HWU spokesperson said that their intention was not to interfere in NEHAWU's affairs, but to show solidarity and explain to workers what could still have been achieved.

### Implications

The strike has far-reaching implications for workers in the public service as a whole. Firstly, along with the Cape strike, it has led to the *de facto* recognition of trade unions, and thus an acceptance of collective bargaining structures outside the system set up in the PSA.

This fact has not been missed by the staff associations which are angry with the way employers have dealt with the situation. They claim that their "disciplined" attempts to achieve better conditions for black workers



were ignored, while the more militant methods of NEHAWU have succeeded.

They believe that if employers had been more sensitive to their demands, then there would have been no need for an outside union to take up worker grievances. Staying within the confines of the law and not striking has got them nowhere, they say.

The strike, however, has also raised the question of collective bargaining on a much broader level. Progressive unions have been pressing for the inclusion of public sector workers under an amended LRA for some time. This view has also received support from the government-appointed National Manpower Commission which, in its recent working document, argues for the extension of the act to cover such workers.

This issue was also discussed when COSATU met Wim de Villiers in the last week of May. There is little doubt that the proposed Public Service Amendment Bill, which has been designed to meet the collective bargain-

ing demands of the staff associations, falls far short of what the progressive unions have in mind. The strike will have underlined this point. The bill has not been discussed in Parliament this session, which could indicate that the state is considering dropping it.

### Swelling the ranks of Nehawu

The effect of the strike has also been to swell the ranks of the union (by at least 6 000 members) and to undercut the position and credibility of the recognised staff associations. In deciding whether to enact the bill or not, the state will have to weigh up the balance of power between these two sides.

Given the series of strikes and widespread militancy in the public service recently, it would seem wise for the state to extend the LRA to include the public service. If, however, it chooses to cling to oppressive structures and methods in dealing with state employees, it will set the scene for continuing disputes within the public service. ☆

This article is based on interviews with: Mondli Mditshwa, NEHAWU; Jonathan Joffe, NEHAWU attorney during the dispute; Dr C Cameron, president of Public Service Association; and Danie du Toit, director of labour relations, CFA.