

ANNUAL REPORT - covering period from March 1st 1980 to February 27th 1981.REPORT TO NATIONAL CONFERENCE - MARCH 1981.

Working Days : 237
 New Cases : 454
 Follow up cases : 327
 Interviews : 772

ANALYSIS

<u>Problem :</u>		1980
Pensions	162	(75)
Unemployment Insurance Fund	90	(127)
Pay Disputes	86	(84)
Miscellaneous	42	(35)
Workmen's Compensation Act	35	(114)
Work Permits	21	(51)
Unfair Dismissals	10	(. 8)
Housing	8	(12)
Follow up cases	327	(275)
Interviews	772	(674)
	<u>TOTAL 1553</u>	<u>(1455)</u>

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1. PENSIONS:

This year our pension cases have doubled. This is not surprising as the situation has deteriorated drastically since last year. The days of applications have been further curtailed and 100% disabled people constantly have their applications refused.

The Benso figures for KwaZulu pensioners in fact estimate a drop in the number of people receiving pensions. Payouts have not improved and no one can be certain that his or her pension will be paid to them at the next payout.

The District pension officers working for KwaZulu have the greatest difficulty getting any response from their head office at Ulundi when they send up problems. In fact they wait for anything up to 3 months and longer for replies to their correspondence.

State Magistrates have similar problems of communication with Pretoria. One Magistrate in fact seemed quite grateful to Black Sash for making such a fuss that Pretoria actually heard and responded!!

Case Histories:

The following three case histories of anguish, deprivation and death convey the misery that 100's of pensioners in Natal are experiencing.

Mrs Tshabalala: Lives in Hammarsdale. She has a deaf and dumb daughter to support. In August 1979 she applied for a pension for herself. She attended all the payouts thereafter and rejoiced when her application was finally approved seven months later - in March 1980. At last she thought she had won the battle for a pension. But in May there was nothing for her. Something had gone wrong at Ulundi, she was told. For the rest of the year she waited for the wrong to be righted. When we saw her in November her whole family was starving. Legal action was taken for her and she was paid again in January. The KwaZulu Govt. requested to pay her arrears in two monthly instalments!

Mrs Zwane : Lived alone in Inanda. Sometimes one of her grandchildren came to stay with her. Her son and daughter - in - law lived in a township about 20 kilometers away. In July 1980 there was no money for her at the payout. She was told to go to the Commissioner's office. She did this. She was told her file had been lost. In August she was told to go to Verulam to re-apply. She did this and went to the next payout in September. There was nothing. She went again to Verulam only to be told to try at the payout in November. Mrs. Zwane was a frail lady. She could not walk the distance to the bus stop. Her son always paid for a taxi to take her to the payouts and to Verulam. By the time the taxi brought her to the November payout her son and his family were desperate. They had paid out R90,00 in taxi fares (this was confirmed with the taxi driver himself). Mrs. Zwane had been given no 'poor relief'. Her frail condition had deteriorated drastically over the months when she lived on nothing but the charity of others. When she was not paid in November but told once again to go to Verulam to be paid 2 weeks later both she and her family said that another trip was impossible. The day that Black Sash got her money for her, Mrs. Zwane died!

Mrs. Buthelezi : Is a widow. She received an old age pension from 1969 until January this year when it was stopped. She was told that a letter had come from Pretoria saying she had been born in 1930 and was not old enough.

She explained to the pension officials that in fact her son had been born in 1930. They just told her to come back in two months. THIS IS A STANDARD REPLY TO PROBLEMS WHICH OFFICIALS CANNOT BE BOTHERED TO LOOK INTO. IT IS EXTREMELY CRUEL AS IT FALSELY RAISES HOPES WHERE NO HOPE SHOULD EXIST.

Mrs. Buthelezi duly returned in two months, only to be told that there was no money for her at the pending payout. She came to our office after that. She has never been offered 'poor relief' although she had told the officials that her only son and his wife had died leaving her with 4 dependant grandchildren. When we saw Mrs. Buthelezi she was pitifully hungry.

She produced a marriage certificate which showed that she was married in 1937 when she was 24 years old. She was helped to make an affidavit and she returned with it to the Magistrate. We are waiting to see if she is paid this March.

200 Files Lost at Inanda:

In October last year 4 pensioners from Inanda came to our office. They wanted someone to be with them on the day that pensions were being reviewed for their area. They explained that they were worried about having to put their thumb prints down for a pension they had not received since May 1980. After visiting the people at the review and the local Magistrate, we began to understand what had happened.

Although the area did not fall under KwaZulu, the files of the pensioners had been transferred from Pretoria to Ulundi in 1979. In 1980 Ulundi officials passed them back saying they were not their responsibility. In transit they were lost. When this was discovered the pensioners were told to make a trip to the Magistrate and re-apply for their pensions. They were not offered food parcels, nothing was done to speed up their new applications. They were simply told to wait.

By the time of the November payout 20 new applications had come through and those 20 could expect to be paid in November - but NO ARREARS. The others would have to wait until January.

We took legal action for 4 pensioners. This took the form of an application to the Supreme Court for an order to pay all the money due to them and to continue to pay regularly. The State paid the day before the case was heard. It was made clear to the Magistrate that similar action would be taken for anyone who was not paid. Ten days later R 206,50 was paid out to approximately 137 people. About 54 were not paid. Some had their 2nd applications refused, some who had been getting OAP's were told they were suddenly not old enough.

In addition to legal pressure we tried to put pressure on the officials in as many ways as possible. We notified the local churches, the press, the B.B.C., members of the City Council, the pension representatives for the N.P., P.F.P. and the N.R.P., the Chief Commissioner of Natal, Dr. Madide and Dr. Koornhof. We asked people to come to the payout in November and give pensioners their support, and to write letters to the press and Dr. Koornhof. The Church of the Province of South Africa donated R 3000,00 for food parcels. The payout was well supported by the clergy and Black Sash members. Mr. G. Oldfield of the N.R.P. raised the issue in the House of Assembly. Dr. Koornhof said that the complaints had been investigated and the pensioners paid out.

Results:

Although the people were paid and the public made more aware, nothing has really changed in the administration.

This January 18 of those very people who had waited so long last year and were finally paid in November, were not paid again. Once again the officials told them to wait for two months. Once again we threatened legal action, and they were paid.

The churches and other organisations have expressed willingness to be involved in any on-going action.

Monitoring of Payouts:

The idea behind this is to have independent people at the payouts to observe the way they are conducted and to help where possible with problems. There is always a noticeable reduction in corruption when payouts are attended by outsiders. It also provides an opportunity to discuss with pensioners their rights and the possible ways of insisting that these are observed. At present roughly 20 people from various organisations have indicated their willingness to help and a workshop is to be run for them before they start. This means that we will be able to reach some of the townships further away and even some of the rural payouts.

Legal Cases:

We are very grateful to a group of lawyers from Lawyers for Human Rights, who assist us with pension cases. They are at present working on 14 cases, some against the State and some against KwaZulu. It is clear that legal action succeeds where all else fails. However, it is for each individual that it succeeds and the system remains unmoved.

(Anyone wanting more details on the type of legal action taken, should contact J. Nicholson).

Correspondence:

Apart from our detailed and lengthy memorandum which went to Dr Koornhof, we have written eight other letters to the Ministry of Cooperation and Development and to the KwaZulu Government on the matter of pensions. All have received totally inadequate replies. The futility of such correspondence is obvious and we do not intend continuing it.

2. UNEMPLOYMENT INSURANCE FUND:**Transkeian Workers:**

Although no unemployment benefits are paid out in Transkei, many firms are still deducting U.I.F. contributions from Transkeian contract workers. They should have stopped on the 26th October 1976. Some firms react indignantly to the suggestion that they refund their workers; maintaining either that the fault is with the Pretoria office to whom contributions are sent or with the worker for allowing the deductions!

Mr. Nquleka - a Transkeian, had contributed 26c per week to the Fund since 1975. When his employer was approached to refund the illegal contributions, he at first said he did not have to pay him anything but finally agreed to give him "the few rands" owed. Mr. Nquleka was due R52,72.

It would seem necessary for the Commissioner of the Unemployment Insurance Fund to once again bring this matter to the attention of the employers.

Reason 3 and the 6 week Penalty:

The manner in which 6 week penalties are imposed on applicants for benefits has long been a source of conflict. Most workers believe that Reason 3 on a Contributor's Record Card automatically means a penalty for them and a problem with a new job, as Reason 3 is a bad reference. Theoretically this is incorrect but the belief is perpetuated by the officials who impose the penalties. When a claims officer makes a decision to give a 6 week penalty he has never given the worker the opportunity to reply to his employer's allegations viz a vis his dismissal. He may or may not hear the workers reason for his dismissal and he obtains a written statement from the employer. He then makes a highly prejudiced decision.

Mrs. Msomi's Case:

Mrs. Msomi was not asked why she left her job. Her employer was asked and she received a notice informing her that she would suffer a six week penalty because she lost her job through her own default. Instead of appealing to the unemployment benefit committee, Mrs. Msomi's lawyers decided to challenge the manner in which the claims officer had made his decision. They argued that he had not applied the rules of natural justice or allowed Mrs. Msomi the right to be heard.

The review was heard in the Supreme Court (Case No. M23/80) and the judges found that "there had been a failure to observe the principles of natural justice amounting to a fundamental irregularity in the decision of the claims officer".

The effects of this judgement against the claims officer means that everyone claiming benefits has the right to a proper hearing before a penalty is imposed. The previous practice of withholding all the employer's allegations must stop. The worker must now be confronted with these allegations and reply to them before a decision is made. For the Unemployment Committee this means restructuring their system to accommodate a much more substantial interview with the worker, enabling him to reply to all allegations against him.

Officials reacted with anger and disbelief when the judgement went against them and it would seem they have no intention of applying Mrs. Msomi's case generally. Each case will have to be fought on its merits.

(Note - copies of a more comprehensive report of Mrs. Msomi's case are available on request).

3. HOUSING:Inanda Site & Service Scheme:

Last year people living in the Inanda area began to die of typhoid. They had only 2 taps between 100,000 people and then the Government finally agreed on a site & service scheme in the area, to be established by the Department of Cooperation and Development. The scheme provided for 5000 plots of a minimum size of 200 m² with a tap in the road serving six plots. People moved into tents provided for them until such time as they erected more substantial homes. Stands were sold on a guaranteed lease system but until the time of purchase R2,60 would be charged a month.

It was emphasised that movement to these sites was voluntary but it seems from cases in our office that many people were not clear at all about this.

People started moving in July last year and at present about 2500 plots are occupied. Roughly half of these plots still have tents on them. About 100 sites have brick and mortar houses and the rest, structures of varying degrees of adequacy.

Living in tents is impossible. They cannot be locked during the day while the occupiers are at work, they are stifling when the sun shines and sodden when it rains. People complain that financial assistance with building is slow in coming.

The Urban Foundation has an office there and has an advisory function. People can make their own blocks but there have been financial problems with the scheme.

Two main factors militate against the viability of this scheme. Firstly, people are being encouraged to purchase land in a rural area where they have no job security whatsoever. With the steady tightening up of Influx into the Durban area the prospects of work for Inanda people becomes dimmer. Apparently the Chief Commissioner has said that every effort would be made to obtain work for these people. What Influx Control official is going to find out whether someone from Inanda lives on the site & service scheme?

Secondly, if the Government has accepted the inevitability of informal housing then instead of asking people to demolish their homes and transport them to a site that is serviced, there seems no convincing reason why they should not be provided with water and roads at the places where they initially lived.

Hostels:

Quote from Social Studies set book for Black children in Standard 5 -
"The Administration Boards build homes for families and provide hostels for those who are unmarried."

Although we have not made any in depth study on hostels in the townships, we intend to do so this year. The information that we have is horrifying. The contract labour system not only deprives a man of the right to live with his family but forces him to accept sub human conditions of existence in what one man described to us as "a pigsty".

The following is a description of the hostel in Mooi River which houses approximately 1000 workers. There are three baths and fifteen showers. Four men sleep in one room. Four rooms share two bucket toilets. It is impossible to walk into the toilet without getting ones feet wet with urine. The buckets are emptied twice a week. Each man has a small locker which holds his food and clothes.

All the coal stoves in the kitchen are broken and there is no room where wives may stay if they visit.

Whether you are single or married your hostel accommodation forms say single. (See quote above from Social Studies set book).

The place is never inspected and the health hazard is very high. As one man said "we are supposed to be fit for work yet we have to live in this place which is no better than a pigsty."

Cholera is passed on by unsanitary conditions. If we are to take the scare in the Eastern Transvaal seriously then hostels such as this cannot be allowed to exist.

Other abuses which hostel dwellers have to endure is the constant invasion of their privacy e.g. in the Clermont Hostels the manager has keys to all the rooms because "I have a right to check whenever I please in case there are foreign Bantu being housed here".

4. W.C.A. :Firms Doctors:

The majority of our W.C.A. complaints this year were about the Doctors used by the firms. Injured workers are refused the right to second opinions outside the firm. If they do go independently to another Doctor his report is not accepted by the firm. Workers put off work by an independent Doctor are not paid sick leave nor is a claim put through for them on the basis that the firm's Doctor said they were fit for work.

We have had cases with men with broken arms, ankles and even thigh bones being told to go back on duty.

Perhaps the Medical Council should appoint an inquiry into the agreements that appear to exist between some Doctors and firms, and into that section of the Act which provides for a rebate for an employer who reports less than the average number of accidents in his firm. This is wide open to abuse.

Unclaimed money:

Chris Carlisle has worked timelessly on the monotonous but valuable job of trying to trace those people whose names appear in the Gazettes as having compensation money due to them. 'Ilanga' and Radio Bantu have assisted in getting the names to the public. It is difficult to estimate our success as claimants are told how to claim their money and they do not have to reply to the letters Chris sends out. However, from the numbers of phone calls and those who do come into the office it would seem to be a service which is most definitely worth continuing.

OFFICE ADMINISTRATION:

As always, we thank Ezekiel Mbele for his hard work and for remaining calm no matter what the crisis; and our voluntary workers for their help and support.

We are grateful to FOSATU for the use of their facilities.

JILLIAN NICHOLSON - Advice Office Supervisor.
