



Coroner's Court of Western Australia

RECORD OF INVESTIGATION INTO DEATH

Ref: 76 /19

*I, Evelyn Felicia VICKER, Coroner, having investigated the disappearance of **Andrew Inez RODRIGUES** with an inquest held at the **Coroner's Court, Court 83, Central Law Courts, 501 Hay Street, Perth, on 27 November 2019**, find the death of **Andrew Inez RODRIGUES** has been established beyond all reasonable doubt, and the identity of the deceased person was **Andrew Inez RODRIGUES** and that death occurred on or about **18 December 1993** at **sea off the Fremantle and south west coast of Western Australia** in the following circumstances:*

**Counsel Appearing:**

Senior Constable Craig Robertson assisting the Coroner.

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## **INTRODUCTION**

On the evening of Friday 17 December 1993 Jose Fernades (Mr Fernades) spoke with Andrew Inez Rodrigues (Mr Rodrigues) and advised Mr Rodrigues he intended to sleep on the deck of MV Chennai Nermai overnight. The following morning Mr Rodrigues did not report for work and at 6.20am on 18 December 1993 the Chief Officer informed the Master of the vessel that Mr Rodrigues could not be located. No trace of Mr Rodrigues was ever found again.

The inquest into the disappearance of Mr Rodrigues was heard in Perth. The documentary evidence was contained in the brief of evidence, Exhibit 1; attachments 1-22, and the Public Notice advertising the inquest dated 6 November 2019 as Exhibit 2. Oral evidence was heard from retired police officer Dean Lyon (Mr Lyon), who had been a junior police officer involved in the search of the MV Chennai Nermai on the morning of 19 December 1993 at Albany Wharf, and Detective Senior Constable Kellie Leslie who prepared a comprehensive report from the available Missing Persons Unit (MPU) papers with some additional enquiries.

### **Long Term Missing Persons Project (LTMP)**

In 2017 it was confirmed there were a number of files relating to the long term disappearance of people who had been in Western Australia at the time of their reported disappearance. Some of the disappearances occurred at a time when there was limited or no jurisdiction for a coroner to examine the circumstances of a suspected death.

Section 23(1) of the *Coroners Act 1996 WA* (the Act) allows the State Coroner to direct an investigation into a suspected death in certain circumstances without a body, for the purposes of allowing a coroner, under s 23(2), to establish beyond all reasonable doubt that death has occurred. The investigation must be by way of inquest and will attempt to clarify how the death occurred and the cause of the death. This effectively brings the suspected death into the ambit of s 25 of the Act and allows registration of the death under the *Births, Deaths and Marriages Registration Act 1998*.

The reported number of LTMP made it unrealistic for the Office of the State Coroner (OSC) to absorb those matters into the already long outstanding inquest list in a timely manner. A plan was proposed for a project to clear the backlog of LTMP files once it had been determined the matters fitted the circumstances set out in s 23(1) of the Act. That is, the State Coroner or delegate had reasonable cause to suspect the person had died and the death was a reportable death (s 3 of the Act).

In 2018 approval was given for a coroner to work exclusively on the LTMP cases on a part-time basis for twelve months, as a separate listing from the OSC general inquest list. This followed a pilot project of four inquests conducted in 2018.

In 2019 a coroner was appointed for that project with the support of an in-house Coronial Investigation Squad (CIS) police officer as Counsel Assisting (CA).

Work on the files indicated a number of disappearances related to specific areas of Western Australia, such as the Kimberley around Kununurra or Broome, and Albany. For these matters it was decided that, while there is always a preference for inquests to be held in the communities to which they relate especially for indigenous communities where there is an emphasis on oral history, resources would not be effectively utilised for all matters to be heard in the place of disappearance. Instead matters where the disappearance occurred in places out of the Perth metropolitan area were considered from the perspective of the best availability for relevant witnesses. Where there were no witnesses available in the relevant area of disappearance the matter would be heard in Perth.

Some missing person files related to foreign nationals with no connection to Australia other than they had disappeared in Australian waters, or a Western Australian port was the first port of call for a foreign ship following the disappearance of that person and Western Australia/Australia had been involved in a Marine Search and Rescue (MSAR). Enquiries with those foreign nationals consulates were conducted, and where that person's death had been dealt with in their country of origin or their family were fully accepting of the death, and all legal requirements dealt with overseas, it was decided it was not in the public interest

to take those matters any further by way of inquest and the files were closed from the OSC perspective.

In the case of Mr Rodrigues, while he disappeared in the Indian Ocean somewhere off the coast of Fremantle or further south off the coast of Western Australia within Australian waters, he appeared to have no other nexus with Western Australia and no relevant witnesses could be located for the purposes of the inquest other than Mr Lyon. Enquiries did not establish how his country of origin had dealt with his death. The inquest was therefore held in Perth and finalised at the time of hearing, there being no input on behalf of Mr Rodrigues' family.

The anticipated outcome was that by June 2020 the majority of LTMP matters would be resolved and that future missing person files would be dealt with in the normal course of the OSC usual business.

## **THE DECEASED**

There is almost no information available with respect to Mr Rodrigues other than the fact he was an Indian citizen, born at Palmar Cupa, St Esteves, Ilhas, Goa, on 21 January 1938.<sup>1</sup> At the time of his disappearance he was married to Arnilda Rodrigues with a home address of K.N. 996, Palmar Cupa, St Esteves, Ilhas, Goa.

Mr Rodrigues was employed as a waiter on the MV Chennai Nermai and his Seaman's Book number was 57840.<sup>2</sup> There is no available information as to whether he had any children, how long he had been a waiter on the MV Chennai Nermai or any information at all about his earlier life or education.

The only medical information which would be relevant to identifying any remains would be the information Mr Rodrigues had pre-molars of his upper jaw on both sides missing. He was described as being approximately 5' 5" tall, well built with a fair complexion and a tattoo mark of a "ball of cross design" on his right thumb with a burn jaundice scar on the left hand.<sup>3</sup>

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<sup>1</sup> Exhibit 1, tab 18

<sup>2</sup> Exhibit 1 tab 6

<sup>3</sup> Exhibit 1, tab 18

Mr Rodrigues was 55 years of age at the time of his disappearance and would have been 81 years of age had he still been alive in 2019.

### ***MV Chennai Nermai***

The MV Chennai Nermai was described as a 37,940 tonne, deadweight, geared bulk carrier, with five holds, which was built for the South India Shipping Corporation Limited at the Hyundai Heavy Industries yard, Ulsan, Korea in 1983. The vessel had an overall length of 190.13 metres, a breadth of 28.45 metres and a moulded depth of 15.6 metres. It was powered by a five cylinder 6804kW B&W engine driving a single fixed propeller with a service speed of 15.5 knots.<sup>4</sup>

The Principals for the vessel were Essar Sisco Ship Management, Madras, Indian, and the agents for the vessel were Australian Ships Agencies Pty Limited, Royal Exchange, Sydney, New South Wales.<sup>5</sup>

Information available indicated MV Chennai Nermai departed Fremantle Port Western Australia at about 8.30 pm on Friday 17 December 1993 with a cargo of wheat. At the time Mr Rodrigues was reported missing the MV Chennai Nermai was in the vicinity of the Cape Naturaliste reef.<sup>6</sup> The vessel then berthed at Albany Wharf at 6.48 pm on Sunday 19 December 1993. There is no information as to whether that was the vessel's intended port of call, final port of call or attended there in view of the need for an investigation into the disappearance of a crew member in Australian waters.<sup>7</sup>

## **DISAPPEARANCE**

The extract from the official Log Book of MV Chennai Nermai entered by the Master of the Vessel, Michael Padamattumel (Master Padamattumel) recorded that at 6:20am on 18 December 1993 he had been informed by the Chief Officer of the vessel that Mr Rodrigues had failed to show for duty. As a result all of the cabins,

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<sup>4</sup> Exhibit 1, tabs 2 and 21

<sup>5</sup> Exhibit 1, tabs 2 and 13

<sup>6</sup> Exhibit 1, tab 2

<sup>7</sup> Transcript 27.11.19 p 8, 12.

stores and other spaces on board the vessel were searched, but Mr Rodrigues was not located. The crew members were questioned for information with respect to Mr Rodrigues' possible movements prior to being missed. All nearby ships were alerted through VHF to keep a look out for a man overboard and Marine Rescue Centre Control (MRCC) Australia was also alerted and requested to conduct an aerial search of the area travelled by the ship in the intervening time.

Master Padamattumel turned the vessel around and retraced the ship's previous course before returning to the original course on the grounds any further search was pointless.<sup>8</sup> It was Master Padamattumel's opinion that Mr Rodrigues had fallen overboard soon after he was last seen the previous evening.<sup>9</sup>

The information obtained about events on the evening of Friday 17 December 1993 outlined that the MV Chennai Nermai had left Fremantle Port at around 8.30 pm. Mr Fernades, Mr Rodrigues' cabin mate, was sleeping on the deck because it was a warm night and he preferred to sleep on deck. Mr Fernades stated Mr Rodrigues woke him at approximately 8.45 pm and asked if the deck was where Mr Fernades intended to spend the night. Mr Fernades replied that it was and Mr Rodrigues then left him on deck to go to sleep. Mr Fernades did not see Mr Rodrigues again, and when he woke at 5.30 am the following morning and went into their cabin at approximately 6.00 am Mr Rodrigues was not there. He was not concerned because he believed Mr Rodrigues must be working.<sup>10</sup>

Following Mr Rodrigues speaking with Mr Fernades on the deck two other crew members had contact with Mr Rodrigues in the ship's mess. Joaquim D'Souza (Mr D'Souza) saw Mr Rodrigues by the gang way in white short pants and a white short sleeve t-shirt as the vessel left port. Later he was in the ship's mess sometime between 10.00 and 10.15 pm when he again saw Mr Rodrigues wearing the same clothes as he had been wearing before, with a bunch of keys in his hand. Mr D'Souza noted Mr Rodrigues removed two notices from the notice board and sat down to read them. One was from the Flying Angels Club in Fremantle while the

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<sup>8</sup> Exhibit 1 tab 5

<sup>9</sup> Exhibit 1, tab 6

<sup>10</sup> Exhibit 1, tab 7

other was a defunct notice about water availability on board the ship.<sup>11</sup> Mr D'Souza reported that approximately 15 minutes later Mr Rodrigues got up, put the notices back up on the board and asked if there was likely to be a movie that evening, but no-one knew. He then left the mess and Mr D'Souza heard him drop his keys which led him to assume Mr Rodrigues was going into his cabin. He did not see Mr Rodrigues again.

Makbool Ahmed (Mr Ahmed) stated he had gone to have a shower as the vessel left port and then went to the mess to have a cup of tea. He believed he arrived there at approximately 9.30 pm. He noticed Mr Rodrigues come into the mess/crib room at approximately 10.00 pm and take two notices from the board before sitting down to read them. He agreed Mr Rodrigues spent about 15 minutes reading them, put them back on the board and then left. Mr Ahmed stated he did not know Mr Rodrigues well as he had only joined the ship relatively recently, but as far as he was concerned Mr Rodrigues was always in a happy mood, laughing and whistling whenever he saw him.<sup>12</sup>

No one else reported any interaction with Mr Rodrigues following the assumption he had gone to his cabin at approximately 10.15 to 10.30 pm on 17 December 1993. At that time it was recorded the MV Chennai Nermai had been about 7 kilometres off the coast of Fremantle at the Fairway buoy.

When Mr Rodrigues failed to report for duty at 6.00 am the following morning the Chief Mate instigated a search of the vessel prior to notifying the Master of the vessel that Mr Rodrigues appeared to be missing. The vessel was in the vicinity of the Cape Naturaliste Reef.

Master Padamattumel authorised an increased search of the ship for Mr Rodrigues and at 6.45 am a muster of all crew, but Mr Rodrigues was still missing. The crew of the vessel numbered 43.<sup>13</sup>

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<sup>11</sup> Exhibit 1, tab 8

<sup>12</sup> Exhibit 1, tab 9

<sup>13</sup> Exhibit 1, tabs 5 and 21

Master Padamattumel notified all nearby ships via radio they had a man over board and at 7.30 am sent a morse-code message to Perth radio which was relayed to the MRCC in Canberra with information as to the man over board. Master Padamattumel then turned the vessel around and retraced the course until 8.30 am before returning to his original course. It was requested the MRCC implement an aerial search of the area.

Due to the fact a vessel usually remains in the area when an aerial search is conducted the vessel again headed back along its original course. Master Padamattumel indicated that at 4.00 pm on the afternoon of 18 December 1993 he was advised there had been no sighting by the aerial search and that Mr Rodrigues had not been located. Master Padamattumel then returned to his original course and headed for Albany where the ship berthed at 6.48 pm on Sunday 19 December 1993.<sup>14</sup>

## **INVESTIGATION**

According to the Missing Person Report (MPR) prepared by Constable Lyon, Albany police were advised at approximately 1.40 pm on Sunday 19 December 1999, by the shipping agent in Albany, that he had received a telex from MV Chennai Nermai stating a seaman had gone missing at sea and to advise the local authorities. It was confirmed the Master of the ship had already contacted the MRCC and they were co-ordinating aerial and sea searches for Mr Rodrigues.

There is a little information about the search itself between Fremantle and Cape Naturaliste Reef, but presumably it was conducted to normal marine search and rescue protocols instigated by Canberra.<sup>15</sup> It was recorded as involving two fixed wing aircraft and covered 78 square nautical miles between Cape Naturalist and Fremantle. The police helicopter was put on standby to act as a rescue platform should Mr Rodrigues be located in the sea prior to the MV Chennai Nermai berthing in Albany. It was not called out.

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<sup>14</sup> Exhibit 1, tab 5

<sup>15</sup> Exhibit 1, tab 3

On Monday 20 December 1993 Albany Police and Customs Officers boarded and carried out a search to verify Mr Rodrigues was indeed missing and was not hiding on the vessel to obtain possible illegal entry. There was no indication of any foul play aboard the vessel. Customs Officers attended with the police in view of a concern there may be a potential for illegal entry.<sup>16</sup> Mr Lyon described the Police and Customs Officers boarding the MV Chennai Nermai, probably with the police forensic officer, to search the ship and take statements from relevant witnesses.<sup>17</sup>

While there was reference to an incident between Mr Rodrigues and another crew member, Demingo Dias (Mr Dias) in November 1993, enquiries with Mr Dias indicated the altercation sorted at the time it occurred with Mr Rodrigues apologising to Mr Dias and the two of them getting on well over the following period of time.<sup>18</sup>

There is no evidence available as to whether any of Mr Rodrigues' clothes or possessions were missing which may have given some indication as to his state of mind when he disappeared.<sup>19</sup> Nor is there any indication as to whether he could swim,<sup>20</sup> or whether it appeared his bunk had been slept in.

It was assumed Mr Rodrigues had gone overboard and died at sea. He would have needed to be a very effective swimmer to draw far enough away from such a large moving vessel and not be sucked under the water while it travelled.

Later checks by MPU in 1999, 2009 and then 2019 did not disclose any information which could relate to Mr Rodrigues still being alive in Australia<sup>21</sup> and there was no evidence someone of that name had left Australian shores. It is not even clear as to whether his Seaman's Book was located in his cabin, which would indicate he was not intending to use it,<sup>22</sup> or was kept in the custody of those responsible for the vessel and so available for authorities and return to his family.

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<sup>16</sup> t. 27.11.19, p?, and Exhibit 1, tab 2

<sup>17</sup> t. 27.11.19, p6

<sup>18</sup> Exhibit 1, tab 10

<sup>19</sup> Transcript 27/11/2019 p 8

<sup>20</sup> Transcript 27/11/2019 p 14

<sup>21</sup> Exhibit 1 Tab 2, Transcript 27.11.

<sup>22</sup> Transcript 27/11/19 p13

Communication via Interpol on 11 November 2019 indicated Mr Rodrigues still had family members at the address given for his wife in the form of a sister-in-law. Mrs Imelda Rodrigues advised that as far as the family was concerned there had been no contact with Mr Rodrigues since his disappearance from the MV Chennai Nermai.<sup>23</sup>

### **HAS DEATH BEEN ESTABLISHED?**

There is no evidence available to indicate Mr Rodrigues had any reason to disappear voluntarily or was in a depressed, or self-harming state of mind. Had he intended to disappear voluntarily it is more likely he would have waited until in a more amenable location for survival. Going over the side of a large moving bulk carrier would have to be a very high risk manoeuvre without some preparation of which there is simply no evidence. The Master did not report any life jackets or rafts to be missing or tampered with.

The circumstances of his disappearance satisfy me beyond all reasonable doubt Mr Rodrigues was most likely lost at sea sometime after 10:30 pm on 18 December and before 6:00 am 19 December 1993 as the MV Chennai Nermai travelled towards Cape Naturalist Reef from Fremantle Harbour.

### **MANNER AND CAUSE**

Mr Rodrigues selection of notices from the notice board in the mess shortly before 10:30 pm appear unusual; and his enquiry of Mr Fernades earlier as to his sleeping location could be construed as supporting an intention to not be located as missing for as long a period of time as possible. However, that is pure speculation and there is no evidence which would support a clear finding of self harm or voluntarily disappearing from the moving vessel.

Overall the most likely explanation was Mr Rodrigues accidentally fell overboard, or there was a deliberate suicide event. It is impossible on the papers to make any informed determination as to the manner or cause of Mr Rodrigues' death.

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<sup>23</sup> Exhibit 1, tab 22

It is most likely he drowned, but without more evidence with respect to his personal circumstances I am unable to speculate further. Certainly his family have not heard from him since that time and I have no doubt he is deceased and was deceased in the hours after he was last seen on the late evening of 18 December 1993.

I make an Open Finding as to the death of Mr Rodrigues.

## **CONCLUSION**

I am satisfied beyond all reasonable doubt as to the death of Mr Rodrigues on or about 18 December 1993. He was far away from home and it must have been very traumatic for his family in Goa, not knowing with any certainty as to what had happened.

While I suspect they have long adapted to his absence, and I have no information as to how matters have been dealt with in Goa, his death will at least be recorded in Western Australia as being lost at sea.

E F Vicker  
**Coroner**  
4 March 2020