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Headline - Cathay Pacific Defaming 18 pilots, each has to be paid \$3.3million

In 1999, the Pilots of Cathay Pacific tried to negotiate better benefit with the company but unsuccessful, subsequently had developed into large scale of industrial action and air traffic then has become chaotic. In order to stop any further action to be taken by the pilot union, Cathay management takes the first move by sacking 49 union activists and even accused them as “unprofessional”. 18 of these pilots thereafter sued Cathay Pacific for damages. After fighting for ten years in legal battle, the High Court yesterday has ruled that the pilots have won and the criticisms openly made by Cathay management were regarded as “Defamation” thus the Judge ordered Cathay Pacific to pay each of these 18 pilots HK\$3.3million, plus other compensation for unfair dismissal and wrongful termination. Altogether, Cathay has to pay out an estimated amount of HK\$58.65 million plus one month salary for each of them.

One of these pilots Mr. John Warham was the former AOA Chairman. Yesterday, he appeared personally in court to receive the Judgment. He expressed his satisfaction on the judgment and wanted to notify other pilots of the good news. Each plaintiff will get HK\$3.45million plus one month salary as compensation, but the amount is far less from the HK\$5m they initially claimed. The three defendants included Cathay Pacific, and the overseas recruiting companies Veta Ltd in UK and USA Basing Ltd. Cathay Pacific expressed disappointment on the judgment and is currently going through the details on the ruling before deciding on any further action.

Serious accusation affected professional image - The affected pilots in July 2000 worked to rule. In July 2001, industrial action was enhanced through adoption of full safety check, detailed pre-flight check and taking sick leave whenever the pilots were feeling unwell. In order to stop the industrial action further affecting the flight movements, between 9 to 11 July 2001, Cathay Pacific sacked 49 pilots. The then Chief Operating Officer Mr. Philip Chan and the Corporate Director Mr. Tony Tyler (current CEO) openly criticized these pilots as unprofessional, poor working record and disregard the interests of the company and Hong Kong and held Hong Kong to ransom.

In the rulings of Judge A. Reyes, he pointed out that Cathay Pacific on one hand criticized the pilots but did not give them the opportunity they deserved to explain or clarified the matter. Their voting at the Union Meeting for supporting the industrial action might not be against the company. Cathay Pacific’s accusations on the pilots’ professionalism had serious impact on their career. Aviation is a small community, if their professionalism and reputation had been badly labeled, news will spread quickly within the industry, their career and future will be seriously jeopardized.

Moreover, the criticism from Mr. Tony Tyler on the pilots has been published on the Cathay website since 2001 and was not removed until Sep this year. For compensation on Defamation alone, with reference to previous court case in which a lawyer’s professional image had been defamed and was awarded HK\$3m, Judge Reyes therefore awarded to each of these pilots HK\$3m. Because Cathay Pacific did not apologize for its wrong doing which has enhanced the seriousness of this matter, therefore another compensation of \$300,000 were added on top of that.

Cathay Pacific has sacked all these 49 pilots by just giving them three months pay without explanation. The lawyer representing Cathay Pacific says the pilots had frequently taken sick leave without giving explanation to the management and also their attitudes were not satisfactory. However, none of these accusations were substantiated. Judge Reyes ruled that these were not justifiable reasons.

The Judge reckoned that the real reason for the dismissal was the talk between the management and the pilots has failed. In order to block the pilots from taking further action, Cathay Pacific took the first move by sacking the 49 pilots. Cathay Pacific claimed that prior to the sacking, they have already assessed their working performance irrespective they are union member or not. However, Judge Reyes pointed out the sacking was related to union activities. The union background of the plaintiffs was the cause of the sacking. Supporting the Union, is not equivalent to supporting industrial action. The Judge ruled that it is wrongful termination thus each of the plaintiffs is awarded HK\$150,000.

Judge criticized Cathay Pacific's contradicting stand - According to the Disciplinary Procedure, the sacked pilots should have given the opportunity to provide explanation but Cathay Pacific did it contrary. For that, Cathay has to compensate the pilots one month salary.

Amongst these 18 pilots, one of them is a junior First Officer Gregory Stephen England who died in January 2002 thus he would not be awarded Defamation. Another Captain George Crofts as he has already received Sterling pound 70,000 in UK for unfair dismissal thus he will not be awarded the same again in Hong Kong. Thus, Cathay Pacific has to pay for only 17 plaintiffs for their compensation. In total, the amount will reach approximately HK\$58.65 million, plus one month salary for each of the 17 plaintiffs and also all the legal costs incurred.

The Judge also pointed out that Cathay Pacific has shown contradiction during the hearings. At one time, they said the dismissal was not related to union activities but when they tried to defend themselves over Defamation, they said it was due to the pilots voted to support industrial action.

To improve staff benefits, the Union fought on for 10 years - Cathay Pilots Union pointed out that the company because of the shortage in funding and manpower, always extended the working hours of the pilots thus reducing their rest time, increasing the separation from their family and heightened their working pressure. In 1999, the Union talked to the company, requesting for better pay but unsuccessful resulting to industrial action.

Yesterday, it was the pilots claiming for their compensation. Last week, the Flight Attendants were fighting with the company for their claim of HK\$400million for Holiday Pay but unsuccessful. The industrial disputes between Cathay management with employees were never ending.

Provide Living Costs to the sacked pilots - Because the pilots union collect a higher fee thus allowing the long term supporting of the sacked pilots for their day-to-day living and their ongoing legal battle. At that time, they were called 49ers means 49 gentlemen. They were complimented for their sacrifice and contributions in this industrial dispute. Professor Ho from Ling Nam University says in the 1980's, there were a lot of competitions in this business, all the benefits were then reduced hence industrial disputes emerged.

Assistant Professor Chung in Social Science of Polytechnic University says Cathay Pacific has employed a lot of overseas employees while the Unions of these countries are more matured, adding the professionalism of Aviation business, the employees bargaining power are much stronger thus resulting to the industrial disputes between the employer and the employees.

Unable to cope with the Dismissal, the pilot committed suicide - In 2001, a group of 49 pilots with great enthusiasms to fight for better benefits, had unexpectedly brought them painful experience. According to the Cathay Pilots Union, some of the sacked pilots were lucky to get a job with some low cost airlines and continue their flying career, minority unable to pass through medical check thus cannot be a pilot any more, or forced to change their career and take a low income job. One pilot, unfortunately, suspected of not able to cope with the dismissal, and jumped to his death in 2002.

According to the Union Record, some of the sacked pilots in UK, USA and Australia had separately filed in their lawsuit against the companies for the Breach of Contract but some had chosen not to. Nevertheless, the result was not satisfactory.

Change career to driving truck in Canada - One of the sacked pilots was a senior captain who had joined the company for over 10 years. Because he has reached 50 years of age, hence after dismissal, he sent out over 20 letters seeking for job but unable to get any job with the airlines. Subsequently, he returned to Canada and became a driver and earned a salary which is only one tenth of his previous earnings.

Another pilot Warham lived on his Provident fund and sold off his property to maintain his living. Although Cathay Pacific had subsequently agreed to issue referral letters to the sacked pilot saying that they were dismissed not because of their work performance but it cannot erase the defamation already created by Cathay. It can only increase his anxiety and leading to his heart attack. Another Pilot says, after dismissal, he had sent out over 100 application letters looking for job but had all been rejected. It was not until 2004 that he eventually finds a job.

Recently, Cathay Pacific had put in a lot of effort training new cadets and providing 14 months of overseas training for them. If the cadet passed the examination, they would be hired as second officer. According to the record of Cathay Pacific, the starting pay for second officer would be over HK\$30,000. After in job for 3 to 4 years, they will be promoted to First Officer. From there, it will take 7 years of experience before they could be finally becomes a Captain. Currently, some of the experienced senior Captain their salary plus benefits might reach HK\$300,000 per month.