

Cathay Pacific Ruled to have Unfairly Dismissed the Pilots

Cathay Pacific had collectively dismissed 49 pilots who had participated in industrial action and also defamed them. Both the company and the employees went through 11 years of litigation. Yesterday, a verdict was finally reached. The Court of Final Appeal has ruled that all three charges that were brought against Cathay Pacific are justified and further stated that under the Employment Ordinance, the employees are protected for participating in the industrial action, or work to rule, or on strike. Cathay Pacific has by-passed the law and procedure in the unfair dismissal of the pilots, and is therefore ordered to compensate the 18 pilots a total sum in excess of 15 million dollars.

The High Court and Court of Appeal had ruled separately that Cathay Pacific has unfairly dismissed the pilots.

Cathay appealed to the Court of Final Appeal, arguing that under the Labour Employment Ordinance, the employees are protected for participating in industrial activities such as representing the Union to negotiate with the company or taking industrial action; however, if the employees are taking actions such as go-slow or on strike then they are not protected and there was no breach of law when the company dismissed the pilots in 2001 for their involvement in limited industrial action.

The Court of Final Appeal has rejected the appeal of Cathay Pacific stating that under the Basic Law, Human Rights Law and Employee Employment Ordinances, they all protected the rights, privilege and benefits of the employees joining the Union; participating in industrial activities and also representing the employees to negotiate with the employers. Taking industrial action is just a typical example of such activities. Employees participate in the Union organised industrial action at a "suitable time" are under the protection of law. Cathay Pacific has unfairly dismissed the pilots for attending such activities thus the company has to pay a compensation of \$150,000 to each of the plaintiff.

Also, the High Court has initially ruled that Cathay Pacific has by-pass the law and procedure in dismissing the plaintiff but the Appeal Court has overturned the ruling. The Final Court eventually re-instated the ruling and ordered Cathay Pacific to pay each plaintiff one month pay in compensation.

Defamation Compensation

Finally, the plaintiffs are not satisfied the Appeal Court's ruling in reducing their defamation compensation to \$700,000 thus appealed to the Court of Final Appeal but it has been rejected. Each plaintiff can maintain their \$700,000.

The once Senior Captain of Cathay Pacific John Warham, who was also one of the plaintiffs, felt satisfied with the ruling of the Final Court as it has confirms that if the conditions in the Contractual Agreement are better than those stated in the Labour Employment Ordinance, then it will based on the terms in the Contractual Agreement.

{Independent translation}