

Cathay fails to block payout to '49ers'

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Cathay Pacific (SEHK: 0293) has failed to stop a judgment ordering it to pay more than HK\$61 million to eighteen of the "49ers" - the pilots sacked en masse during an industrial dispute in 2001 - despite the airline having an appeal under way.

The 18 won the compensation and damages last month for unfair dismissal and defamation. The other 49ers had already accepted settlement offers from the airline.

Yesterday Mr Justice Anselmo Reyes, of the Court of First Instance, declined a request from the airline for a stay of execution of the judgment he gave on November 11.

Launching the application on behalf of the airline, barrister Robin McLeish indicated to the court that the airline had filed an appeal against Reyes' judgment. Refusing the request, Reyes said: "I don't see that there is very strong ground for success. There is absolutely no reason for me to grant a stay."

He also made an order to release money put into court before trial as security by the airline and by pilots residing outside Hong Kong. A total of HK\$6.47 million had been deposited by the airline, and seven pilots had together put in about HK\$2 million.

In his judgment, Reyes held that the airline had contravened the Employment Ordinance by dismissing the 18 pilots without a valid reason.

The pilots were sacked between July 9 and 11, 2001 during a dispute over pay and rosters. Their contracts were terminated with three months' pay. They had allegedly taken part in union actions including "work-to-rule" schemes that had slowed down the daily operation of the airline.

Reyes held that the dismissal of the pilots was based on their support for the union and their alleged involvement in the union's activities, although he found that there was no evidence showing the pilots had actually participated.

He also found that the airline failed to invoke prescribed disciplinary procedures in the pilots' contracts, though it claimed that the underlying reason for the dismissals was "gross misconduct".

After his judgment, the pilots also succeeded in claiming for defamation, for remarks made after the sacking by two Cathay executives - Philip Chen Nan-lok, in 2001 the director and chief operating officer, and Tony Tyler, now the chief executive.

Chan had publicly accused the pilots of having shown a lack of "total professionalism", and disrupting the airline's operation and the reputation of Hong Kong.

Tyler had accused them of holding Hong Kong to ransom and failing to act in the company's interests.

Reyes had ordered the airline to compensate the pilots, except Gregory England, who died in January 2001, HK\$3.3 million each for the defamation.

He also awarded HK\$150,000 to each pilot - except one, who had won his claim in a London employment tribunal - for the unfair dismissal.