

Thursday, January 19, 2012

Fired pilots confident court will back them

Final ruling on termination of contract will affect all Hongkongers' employment security, one says

John Carney
Jan 18, 2012

It's taken more than 10 years, but the remaining 17 of the 49 pilots who were sacked en masse by Cathay Pacific (SEHK: [0293](#)) in a labour dispute are confident that Hong Kong's highest court will finally offer them justice in a case they say has implications for every employee in the city.

Collectively known as the Cathay Pacific "49ers", the pilots were sacked during an industrial dispute over pay and working hours in 2001.

John Warham, one of the sacked pilots and a former president of the Hong Kong Aircrew Officers Association, was at the Foreign Correspondents' Club yesterday signing copies of his book about the episode, *The 49ers - The True Story*, and he was adamant they would get the right result when their case goes before the Court of Final Appeal later this year.

"I'm confident we can win our case," Warham, 59, said. "You can't get two more diametrically opposed decisions than the ones we received in recent years, so we've gone to the Court of Final Appeal for a final decision. We've come this far and aren't about to give up now."

In 2001, 23 of the dismissed pilots filed claims in the Court of First Instance. More claims followed in 2002, 2006 and 2007. Some later settled with the airline out of court.

The pilots won a victory in the Court of First Instance in 2009, getting HK\$150,000 each for their sackings and individual awards of HK\$3.3 million for defamation, together with a month's pay. The court ruled that the airline had contravened the Employment Ordinance by dismissing the pilots without a valid reason.

However, the Court of Appeal overturned that judgment in December 2010, saying the airline had not terminated the contracts unlawfully. The judgment reduced compensation for each of the pilots from HK\$3.3 million to HK\$700,000.

The 17 who have fought on will have their case heard by the Court of Final Appeal in eight months' time.

Warham believes the final verdict will have huge implications for everyone working in Hong Kong today, as the Court of Appeal reduced the 49ers' damages after overturning one of the three legs of the case - their claim of breach of contract.

"Basically the Court of Appeal said the Employment Ordinance overrides whatever's written in a contract and an employer has the right to terminate employment at any time by giving notice or payment in lieu. This is totally unfair," he said.

"When two parties enter into a contract you have to expect that there's a mutual respect and trust between them and that both will abide by the terms of that contract."

john.carney@scmp.com



John Warham recounts to an audience at the Foreign Correspondents' Club yesterday the fight for justice by some of the 49 pilots sacked by Cathay Pacific in 2001.

Photo: Jonathan Wong