

Ban on strikes at British Airways overturned, but dangers persist

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22 May 2010

The court of appeals ruled two to one Thursday in favour of the Unite union's appeal overturning a high court decision banning strike action by 12,000 cabin crew at British Airways (BA). The decision means that the series of five-day strikes, originally set to commence last Tuesday, can begin on Monday—unless a deal is reached between the union and BA management.

The high court decision stated that Unite had not done enough to inform its membership as to the breakdown of the results of a February ballot for strike action. This was based on the flimsiest of pretexts—the claim that members had not been told that there had been 11 spoilt ballots in the vote. The decision to block strike action was justified in overtly political terms, with Mr. Justice McCombe stating that a “balance of convenience” favoured BA.

Announcing their judgement on Unite's appeal, Chief Justice Lord Judge noted that although BA had demonstrated that more could have been done to publicise the results of the February ballot for strike action, BA had “failed to persuade me that what was done was insufficient to amount to compliance with the requirements” of the Trade Union and Labour Relations (Consolidation) Act 1992.

One dissenting judge, Master of the Rolls Lord Neuberger, who sided with BA, was forced to accept that the airline was relying on “a rather dry” technicality.

The judges were unanimous in their calls for BA and Unite to resolve the current dispute through “negotiations,” and to avoid strike action at all costs. Lord Judge declared, “Legal processes do not constitute mediation. They often serve to inflame rather than mollify the feelings of those involved.”

“We must all hope for a speedy and fair resolution of

this dispute,” he added.

This was a view with which Trades Union Congress General Secretary Brendan Barber was happy to echo, stating that he was generally opposed to strikes. His piece in the Daily Mirror on Friday concluded, “Strikes are never a good thing in themselves. They always represent a failure to resolve issues in other ways. But without the right to strike, employers have little incentive to negotiate properly.”

The ruling was hailed by union leaders as an important victory for industrial democracy, which protects the right of workers to conduct legal strike action. Barber stated, “I hope it marks a halt to the recent run of arbitrary legal judgments where employers have found it all too easy to get courts to find in their favour and prevent employees from exercising their democratic right to take strike action.”

Such efforts to portray the ruling as a precedent that will guard against future attempts to block strikes through the courts are without foundation. Far from being “arbitrary”, the string of recent judgements in favour of employers which have seen strikes blocked at BA, on the railways and amongst journalists arise within the framework of the anti-union laws implemented by the Conservative and Labour governments over the past three decades. The unions refuse to mount any challenge against these laws, preferring to promote illusions in the ability of the judicial system to uphold the right to strike.

Lord Judge was clear that the ruling would not alter the current legal framework. He said during his statement in court, “This dispute and the merits and demerits of the industrial action do not arise for consideration in this Appeal. The issue was whether the methods of communication used by the union were sufficient to inform the members of the relevant

information about the ballot result in accordance with the statutory requirements.”

Unite’s acceptance of the existing arrangements was confirmed by the announcement that strike action would not get under way until Monday, meaning that the union has effectively scrapped one of its four proposed walkouts. Officials went out of their way to state that they would like nothing more than to arrive at a compromise with BA management in order that the planned strikes could be called off.

Unite joint General Secretary Tony Woodley described the three-day gap between Thursday’s ruling and the beginning of strikes on Monday as a “pause for peace”. He stated with fellow union leader Derek Simpson, “British Airways management now has a chance over the next three days to address our outstanding concerns and seize the possibility for industrial peace. We hope it has the wisdom to do so.”

Unite has made every effort throughout the dispute to reach a deal with BA it could sell to its membership as a victory. It has dropped the focus from BA’s plans to cut costs by more than £60 million per year and has instead concentrated on the fact that BA is refusing to drop disciplinary action against strikers who took part in the March walkout. Simpson made clear after the appeals court ruling that both sides were within a “slither” of reaching an agreement.

BA had earlier agreed to talks, although after the appeal a spokesman declared that no further concessions would be forthcoming from the airline. A statement pledged that 70 percent of all passengers could expect to reach their destination during the strikes due to BA’s contingency plans.

As he revealed record losses of £530 million for the year on Friday, BA Chief Executive Willie Walsh stepped up his attacks on the strike. “Returning the business to profitability requires permanent change across the company,” he declared, “and it’s disappointing that our cabin crew union fails to recognise that.”

“Structural change has been achieved in many parts of the business and our engineers and pilots have voted for permanent change,” he went on.

This in fact is the product of the treacherous role of the unions at BA, which have worked tirelessly to keep the workforce divided in the face of the cost-cutting assault by management. In the lead-up to the cabin

crew strike, the pilots’ union BALPA released a statement pledging its full support to the company during strike action. It echoed Walsh’s sentiments, criticising cabin crew for failing to offer the airline “significant concessions” as BALPA had done last year.

It is possible that Unite and BA may not prove able to reach a settlement by Monday, but the union has made clear that it will close down the strike as soon as it can on terms dictated by Walsh and company.



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