

Australian court refuses to reinstate sacked Qantas ground staff

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In a long-running legal case brought by the Transport Workers Union (TWU), the Federal Court last week handed a victory to Australia's largest airline. It ruled that Qantas would not have to reinstate over 2,000 workers, even though the company had unlawfully destroyed their jobs when it outsourced its ground-handling operations in 2020.

Justice Michael Lee admitted that Qantas had "deprived" the workers of continued employment. Nevertheless, it "would be impractical" to order their reinstatement.

Lee's ruling accepted the company's argument that rehiring the workers was impossible because at least eight months had transpired since the sackings and Qantas Ground Services no longer existed. Lee ignored the fact that Qantas had moved rapidly to dismantle the unit with the express purpose of thwarting any reinstatement order.

Like its international and domestic competitors, Qantas has used the pandemic ruthlessly to bring forward previously-prepared restructuring plans, ensuring workers bear the cost of the global crisis. Outsourcing its ground operations was calculated to save the airline around \$100 million annually. Qantas had already slashed 8,500 jobs after the pandemic hit in March 2020.

Lee's verdict comes as no surprise, least of all to the TWU. After the sackings, the union moved to shut down any possibility of a genuine struggle by the workers themselves. Rather, it sought to bury the issue in drawn-out legal proceedings, leaving the workers' fate in the hands of the capitalist courts.

During court hearings in July, Lee rejected the company's argument that its outsourcing resulted purely from financial pressures caused by the pandemic. He found that Qantas deliberately undertook

the decision ahead of negotiations for a new enterprise agreement, during which ground staff workers could have legally engaged in industrial action.

At the same time, Lee assured the company that his judgment did not mean that Qantas was required "to reinstate workers or pay compensation or penalties."

TWU national secretary Michael Kaine claimed at the time that the ruling meant "workers cannot be bypassed by employers like Qantas which want to drive down wages and conditions." Lee's refusal to order reinstatement exposes the fraudulent character of Kaine's boast.

Having consciously undermined any fight to defend jobs, the TWU responded to the court ruling by complaining: "This finding brings a sad end to a year of unimaginable anguish for unlawfully sacked workers and their families."

Kaine declared: "The TWU is undeterred in its belief that these workers deserve their jobs back." He continued: "We will appeal and continue the fight for justice alongside the ongoing matters of compensation and penalties on Qantas."

In other words, Kaine is condemning the sacked workers to further months of legal appeals and machinations before they find out if any compensation will be forthcoming.

Buoyed by the knowledge that it can rely on the TWU to contain any potential opposition, Qantas said it will appeal Lee's original decision on the legality of the sacking. A successful appeal by the company would quash any possibility of compensation.

A Qantas spokesperson declared last week that if the company loses the appeal, "we expect compensation ordered by the court would take into account the fact that the affected workers were all given generous redundancy packages."

In reality, redundancy payments were part of the workers' entitlements and have nothing to do with determining compensation for their illegal sacking.

Last week, Qantas reported it expected a loss of more than \$1.1 billion for the first half of the 2021–22 financial year, due to COVID-19 lockdowns and travel restrictions. But since the onset of the pandemic, Qantas and its domestic rival Virgin Australia have been handed billions of dollars in government assistance, on the phony pretext that this would save jobs.

Under the International Aviation Support (IAS) package introduced by the federal Liberal-National government in March, the two airlines have raked in a total of \$200 million. This was ostensibly to be used to retrain and keep 8,600 staff and maintain fleets in readiness for the reopening of international borders.

This bonanza was on top of \$1.2 billion in previous government handouts to airlines. That included \$726 million from the JobKeeper scheme, which Qantas used to offset its wages bill, \$102 million in federal fee refunds, \$276 million to underwrite the continuation of domestic operations and overseas repatriation flights, and \$110 million for freight assistance.

Virgin Australia got \$25.6 million under IAS, taking to an estimated \$500 million total it had received in government handouts since being bought by private equity giant Bain Capital last year. Having finalised the buyout, Bain destroyed 3,000 jobs and shut low-cost carrier Tigerair, slashing hundreds of positions.

While continuing to cry poor, Qantas CEO Alan Joyce last week said he expected the airline's low-cost carrier Jetstar to be operating at 120 percent of pre-COVID levels, while Qantas will be around 150 percent. Qantas announced last week it had placed an order for 40 Airbus jets—at a cost of up to \$4.6 billion—with options to buy an additional 94 aircraft over the next decade.

Airline workers need to draw lessons from these bitter experiences. The fight for decent jobs and conditions cannot be carried out within the framework of the pro-business trade unions and the capitalist legal system.

What is required is a conscious break with the unions and the construction of new working-class organisations of struggle, including rank-and-file committees, across the aviation industry in Australia

and globally.

This struggle requires a socialist perspective to place the airlines and all essential industries under public ownership and the democratic control of the working class, to be used for social need, not private profit.



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