

# Australia: Qantas moves to overturn court ruling that outsourcing 2,000 workers was illegal

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On November 18, Australia's High Court granted Qantas leave to appeal a Federal Court ruling last year that the company breached the Fair Work Act when it outsourced ground handling operations at the end of 2020.

Around 2,000 in-house jobs were destroyed, including of baggage handlers, ramp workers and cabin cleaners, to cut costs by around \$100 million annually and reduce capital expenditure by \$80 million over five years.

Qantas outsourced the workers ahead of bargaining over a new enterprise agreement, the only period in which workers in Australia can legally take industrial action over wages and conditions. The Federal Court found that this infringed on protections in the Act that are supposed to prevent employers from penalising staff for exercising workplace rights.

At the time, the Transport Workers Union (TWU), hailed the judgment as “a watershed moment for workers in Australia,” although the court did not order Qantas to reinstate the sacked workers, and the airline made clear it would appeal.

TWU National Secretary Michael Kaine said the ruling meant “workers,” that is, the union, “cannot be bypassed by employers like Qantas which want to drive down wages and conditions.” This expressed the TWU's main concern about the Qantas move: The union bureaucracy had not been consulted on the restructuring operation. Had the TWU leaders been asked, they would undoubtedly have identified alternative means of delivering on the company's cost-cutting demands that would come with less risk of an explosive reaction from workers, as they have done in the past.

From the outset, the TWU ensured there was no political or industrial struggle against the outsourcing. Instead, the union bureaucracy promoted the lie that workers could fight the sackings through the courts.

Qantas welcomed the High Court ruling, declaring that the case was about the company's “ability to legally outsource a

function”—destroying thousands of jobs—“to save more than \$100 million a year.” This makes clear that the airline's appeal to the High Court, to which it will commit substantial financial resources, is directed at establishing the basis for further outsourcing unhindered by the even limited existing legal restrictions.

The High Court appeal will most likely delay a Federal Court hearing set for December to decide if civil penalties against Qantas should be taken, or if the company is liable to pay compensation to the outsourced workers, who have now been left in limbo for close to two years.

In the wake of the High Court decision, the TWU apparatus is desperately trying to maintain the illusion it fosters in the “independence” of capitalist courts on industrial issues. Kaine proclaimed that the ruling was “disappointing” but “understandable,” claiming: “It is clear the High Court believes it's in the public interest to hear such an extraordinary case which has sent shockwaves across the economy.”

The only section of the “public” that the High Court decision serves the “interest” of is Qantas and its shareholders. Last week, Qantas lifted its pre-tax profit forecast for the six months to December 31 to \$1.45 billion, \$150 million higher than predicted last month.

The dramatic rise in the airlines' fortunes results from its ruthless utilisation of COVID-19 to bring forward previously prepared restructuring plans. In the first year of the pandemic, Qantas slashed 8,500 jobs in addition to the outsourcing of its ground staff. Despite standing down thousands of workers without pay while limited lockdowns and other public health measures were in place, the company grabbed more than \$2 billion in government handouts.

Qantas railed against public health measures and demanded the reopening of domestic and international travel regardless of the risk to workers' lives and health. From the beginning of the pandemic, the company downplayed the severity of the virus in order to keep workers on the job,

providing them with false assurances from a company medical officer that the risk to their health was “negligible.”

This callous disregard for workers was exemplified by the company’s sacking of aircraft cleaner and health and safety representative Theo Seremetidis in February 2020. Seremetidis directed a number of workers not to work on planes arriving from China because they had not been provided with adequate personal protective equipment or proper cleaning materials.

The TWU bureaucracy, in line with its role as the industrial policemen for business, prevented any industrial action in support of Seremetidis, instead handing the issue over to New South Wales (NSW) government agency SafeWork NSW for investigation.

The interminable process set in motion by the TWU officialdom has left Seremetidis out in the cold for more than two and a half years, with no chance of reinstatement, because his job as a cleaner is among those outsourced.

SafeWork is only now mounting a case against Qantas in the NSW District Court to determine if the sacking of Seremetidis constituted discriminatory conduct, which would be a criminal breach of the NSW Work Health and Safety Act.

TWU NSW Branch Secretary Richard Olsen hailed the SafeWork prosecution as “historic” and a “crucial test case” and celebrated the fact that the fate of this worker “falls into the hands of the judge, who will be asked to determine beyond reasonable doubt that Qantas was in criminal breach of the WHS Act.”

Olsen made no criticism of the fact that this “crucial test case,” the first in Australia dealing with the right of workers to oppose being forced to risk infection with a deadly virus, has taken almost three years to find a hearing. The case will now be heard under conditions where, contrary to scientific and medical advice and evidence, virtually all public health measures have been torn down and the working class has been subjected to a bipartisan campaign to declare the pandemic over.

This demonstrates the complete agreement of the union bureaucracy and SafeWork with the demands of big business, backed up by every government, state, territory and federal, Labor and Liberal-National, that the protection of workers’ health and lives cannot be allowed to stand in the way of profits. The TWU, along with the other unions, has been a critical enforcer of corporate demands for workers to remain on the job throughout the pandemic.

Based on its history, Qantas has every reason to be confident that it has the support of the federal Labor government for its ongoing restructuring plans.

In September 2011, Qantas locked out 4,000 workers in a dispute over a new enterprise agreement in which the airline

was seeking to tear up working conditions and increase its use of contract labour.

Prime Minister Anthony Albanese, then transport minister in the Labor government led by Julia Gillard, declared the restructuring was a “commercial decision” made necessary by “Qantas wanting to make sure that they can remain secure and remain in a strong position.”

Labor’s support set the groundwork for Qantas to ground its entire international fleet a month later, in a manoeuvre designed to provoke the intervention of the Fair Work Commission. In the first use of draconian powers granted by the Labor government’s 2009 union-backed Fair Work Act, the industrial court ordered the termination of all industrial action over the dispute. The TWU and other unions responded by imposing the cost-cutting measures demanded by Qantas.

Airline workers need to urgently draw the lessons of these bitter experiences. In the struggle to oppose the new stage of the Qantas offensive, workers cannot place any faith in the capitalist courts that have ruled time and again to uphold the interests of big business.

The record also shows that any genuine fight by workers for wages, conditions and safety will be opposed and sabotaged by the union bureaucracies, which act at all times as agents of the corporate elite. Workers must turn to the construction of new independent organisations, including rank-and-file committees, to unite aviation workers across Australia and around the world in a counter-offensive against the global assault on their jobs and living conditions.

To go forward, this fight must be based on a socialist perspective to place aviation 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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