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Qantas hit with $99m penalty over mass sacking during pandemic

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Qantas has been ordered to pay A$90 million ($98.8m) in penalties, including A$50m to the Transport Workers' Union, after it unlawfully sacked more than 1800 ground staff.

The Australian airline was found to have acted unlawfully three times when it fired 1820 staff in favour of outsourced contractors during the height of the Covid pandemic.

An earlier compensation hearing before Justice Michael Lee found Qantas should pay A$120m to impacted workers.

A further three-day hearing in May sought to decide the additional penalty Qantas must pay for the 2020 decision.

In a scathing Federal Court judgment, Justice Lee on Monday ordered the national carrier to pay A$90m in additional penalties.

The court ordered that the union receive A$50m of that amount, with the matter to return to court at a later date to determine where the remaining amount will be paid.

"Work is more than a way to make a living, it is a form of continuing participation in society," Justice Lee said.

"To deprive someone of work illegally is to deprive a person of an aspect of their human dignity and this is not assuaged simply by mouthing expressions of regret."

The Federal Court earlier found Qantas had acted against protections in the Fair Work Act in its outsourcing and was partly motivated by a desire to prevent industrial action.

The airline appealed the decision to the full bench of the Federal Court and later the High Court, both of which were unsuccessful.

After losing the appeal, the union and Qantas went to mediation to determine how much Qantas would have to pay the outsourced workers for economic losses.

TWU secretary Michael Kaine previously said the airline's decision to get rid of a "loyal workforce" was "appalling" and the "biggest case of illegal sackings in Australian corporate history".

During a hearing this year, Qantas people manager Catherine Walsh took the stand and issued an apology on the airline's behalf.

Justice Lee later criticised the airline for failing to call Qantas chief executive Vanessa Hudson to give evidence, given Walsh was not employed by the airline at the time of the sackings.

"I accept Qantas is sorry, but I am unconvinced that this measure of regret is not … 'the wrong kind of sorry'," Justice Lee said.

He said no one from Qantas, who was present at the time of the decision to sack the workers, had given evidence in court about the cultural change at the airline since.

He also noted Qantas had initially "sought to deny any compensation".

Justice Lee pointed to Qantas' public statements expressing disappointment and opposition to the court's findings, saying there had been "less than compelling evidence of contrition".

Qantas had appealed Justice Lee's decision to the Full Court of the Federal Court and High Court but lost on both occasions.

Noel Hutley, SC, acting for the union, in May told the court Qantas should pay the maximum penalty given its decision was the "largest ever instance of the contravention of the Fair Work Act".

He said Qantas was faced with a "once-in-a-lifetime opportunity" during the pandemic to save more than A$100m per year by outsourcing workers.

He said the "temptation of the potential to produce a massive profit" drove the airline's actions.

Qantas barrister Justin Gleeson, SC, argued any penalty close to the maximum would be manifestly unfair.

"Qantas has accepted the seriousness of its conduct," he said.

"The court can and should impose a significant deterrent penalty. However, it is in effect a first contravention [of the Fair Work Act]."

Qantas: We caused real harm

Qantas Group this afternoon said it accepted the court's decision.

"Today's judgment holds us accountable for our actions that caused real harm to our employees," the company said.

Hudson said: "The decision to outsource five years ago, particularly during such an uncertain time, caused genuine hardship for many of our former team and their families."

She said Qantas in the past 18 months had worked hard to change the way it operated.

The A$90m penalty would be paid in accordance with the court orders, Qantas said.

Qantas said it also paid A$120m into a compensation fund, which is being administered by law firm Maurice Blackburn, for all affected former employees.

Last month, a New Zealand pilot won an Employment Court case after a Covid-19 vaccine dispute with Qantas.

Philip Tighe-Umbers went to court against Jetconnect, which supplies crew to Qantas.

The court found Jetconnect's refusal to grant Tighe-Umbers unpaid leave and its subsequent sacking of him were unjustified.

Additional reporting: NZ Herald