

The International Federation of Air Line Pilots' Associations



Suit No. (Wa) 1428, 14700, 2011
Plaintiff: Hiroya Yamaguchi, 75 other persons
Defendant: Japan Airlines Co., Ltd.

November 18, 2011

To Collegial Section B, Civil Division 36, the Tokyo District Court

Statement

IFALPA President
Captain Don Wykoff

I, Don Wykoff, currently serve as the President of the International Federation of Air Line Pilots' Association (IFALPA) and am employed by Delta Airlines as a pilot flying the Boeing 767 aircraft. I have been employed by Delta Airlines since June, 1988. Prior to that time, I served as a pilot in the U.S. Air Force and flew the F-16 aircraft. I have served as the Chairman of US ALPA's Flight and Duty Time Committee and prior to my election as President of IFALPA, I served as the Deputy President of IFALPA. On behalf of more than 100,000 cockpit crew in more than 100 countries worldwide including Japan and as the president of the IFALPA to which a permanent observer status is given to attend and participate in meetings and activities of the Air Navigation Committee and other committees of the International Civil Aviation Organization (ICAO), a specialized agency of the United Nations I hereby state as follows.

I have been extremely interested in and paid particular attention to the bankruptcy of Japan Airlines ("JAL") in January 2010 and the progress of its subsequent reconstruction. Also, I recognize that dismissal for the purpose of restructuring involving JAL is a serious issue having a considerable impact on aviation safety, and I have provided ALPA Japan, a member association of IFALPA, and JAL's cockpit crew who are its members, with assistance in an effort to resolve the issue.

In particular, regarding personnel reduction measures for cockpit crew taken by JAL's management, IFALPA has continued to try to resolve the situation by clearly suggesting points at issue such as the fact that the personnel selection standard presented by the company for dismissal for restructuring purpose in our view fails to meet international standards, is a serious threat to aviation safety, violates laws including ILO conventions and so on. In November last year, I wrote a letter to the Government of Japan (the Minister of Land, Infrastructure, Transport and Tourism, the Minister of Health, Labour and Welfare) asking for urgent mediation so as to avoid cockpit crew reductions by dismissal and so as to bring the management to the table for discussions with the concerned unions to settle the situation by agreement.

Unfortunately, the Government of Japan did not engage in mediation in spite of our appeal, and 165 persons including 81 captains and co-pilots as well as 84 cabin attendants were forcibly dismissed by JAL's management on December 31 last year without taking all possible measures to avoid dismissal and without sufficient consultation with the concerned unions.

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The persons forcibly dismissed include six officials of Air Line Pilot's Association of Japan, a major member association of IFALPA, including its chairman, five officials of the Japan Federation of Aviation Worker's Union, an industrial body of aviation, including its chairman and two officials of the Japan Federation of Civil Aviation Worker's Union for Air Safety including its chairman. The dismissals also included many officials such as those who have served as chairman of JAL Captains' Union and JAL Flight Crew Union, which are member unions of ALPA Japan.

In our opinion, the dismissal of union activists constitutes an unjustifiable intervention into trade unions and the unilateral forcible dismissal by JAL's management without agreement between the labour and management is a clear violation of international treaties such as ILO Conventions No. 87 and 98 which Japan has ratified. Such an act by JAL's management cannot be condoned, ignores the happiness of employees, and is totally unacceptable in modern society. I additionally state that IFALPA sent a letter, expressing full support for JAL Flight Crew Union which submitted an appeal to the ILO on these points, to the ILO Committee on Freedom of Association on May 12, 2011.

The personnel selection standard for dismissal for restructuring purposes that has been implemented by JAL this time (age standard and standard on injury and sickness records) is wholly unreasonable. Dismissal based on age is banned by laws and regulations in many countries as "discrimination against age" and obviously deviates from the global standard. Further, veteran pilots have valuable experience based on many years of operation and are an important asset not only of JAL of course, but also of Japan's aviation industry. JAL's management should learn from the lesson of the "Miracle on the Hudson" which was thanks to veteran pilots and cabin attendants.

The standard on injury and sickness records also involves serious concerns. The first point at issue is that, although "absence for sickness" has been exercised fairly and properly in accordance with aviation law and company regulations, it is used as the standard for dismissal. If such a personnel selection standard for dismissal were to be accepted in the aviation industry, a dangerous situation might arise in which pilots are forced to take flight duty in spite of poor health in order to protect their job. To use the "records of absence for sickness" of pilots as a basis on which to select personnel for dismissal is not only unreasonable but also endangers aviation safety which is maintained by the honest declaration by pilots of their poor health.

I have been informed that various events involving safety have occurred recently at JAL. For these events, SMM: Safety Management Manual prescribed by ICAO states as follows:

- 4.4.8 There are three specific conditions under which special attention to hazard identification is warranted. These three conditions should trigger more in-depth and far-reaching hazard identification activities and include:
- a) any time the organization experiences an unexplained increase in safety-related events or regulatory infractions;
 - b) any time major operational changes are foreseen, including changes to key personal or other major equipment or systems; and
 - c) before and during periods of significant organizational change, including rapid growth or contraction, corporate mergers, acquisitions or downsizing.

Paragraph C reflects the latest situation of JAL, and I am greatly concerned about this situation.

Further, section 2.5 THE ORGANIZATIONAL ACCIDENT of SMM states that the causes of such events involving safety are as follows:

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2.5.6 Workplace conditions are factors that directly influence the efficiency of people in aviation workplaces. Workplace conditions are largely intuitive in that all those with operational experience have experienced them to varying degrees, and include; workforce stability, qualifications and experience, morale, management credibility, and traditional ergonomics factors such as lighting, heating and cooling.



2.5.8 Less-than-optimum workplace conditions foster active failures by operational personnel.

And, SMM states methods to resolve such situation as follows:

2.8.11 An effective way to promote safe operations is to ensure that an operator has developed an operational environment where all staff feel responsible for and consider the impact of safety on everything they do.

2.8.12 Such an operational environment must be generated from the 'top down' and high degree of trust and respect between workers and management.

I am concerned that various events involving safety which are currently occurring in JAL are, as SMM states, the result of a high-handed approach by management to destroy the lives of employees by forcible dismissal, resulting in the loss of trust in the management and respect for the operational environment, and thus deterioration of the operational environment. As airline companies have a highly public nature and human lives are entrusted to them, the management is required to be highly responsible for safety management and also to ensure that corporate management follows global standards at all times as an international business. An airline company that discriminates based on seniority and the self-righteous judgments and behaviour by the management to use "absence for sickness", which is taken fairly and properly, as a standard for selecting personnel to be forcibly dismissed who have contributed to safe operation for many years without agreement with the trade unions should be severely criticized for damaging the sound development of aviation and should be corrected accordingly.

As the president of IFALPA, I firmly believe, as stated in the foregoing, that the present dismissal for restructuring adversely influences aviation safety, which is the basis for the sound development of the aviation industry and public trust in airline companies.

More than 100,000 pilots in 100 countries under IFALPA are closely watching the progress of the present court case in the above-mentioned respect.

I sincerely hope that your court renders a fair judgment in the present case which is attracting the attention of pilots worldwide, which contributes to aviation safety and the sound development of the aviation industry.

IFALPA President
Captain Don Wykoff

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