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September 23, 2016, the Supreme Court rejects final appeal!

“Trustees and Japan Airlines management established to have committed unfair labor practices!”

~ **Japan Airlines management, find a comprehensive settlement for these restructuring dismissals immediately!** ~

On September 23, 2016, the Supreme Court rejected Japan Airlines management's final appeal due to being displeased with the judgment of the Tokyo High Court made in June, 2015, and ruled not to approve it. This established that "the intervening acts carried out by the trustees during JAL's implementation of its restructuring plan were unfair labor practice".

The rehabilitation of Japan Airlines, which fell into bankruptcy on January 19, 2010, was promoted by its trustees (corporation: Enterprise Turnaround Initiative Corporation of Japan, attorney: Eiji Katayama). On September 27, 2010, during the course of labor-management negotiations held concerning staff reduction plans accompanying the downsizing at the center of restructuring plans, Japan Airlines reversed its position that it was not considering restructuring dismissals which they had held up until then and presented a "personnel selection reference for restructuring dismissal" to the unions. In response, the JAL Flight Crew Union and the Cabin Crew Union commenced proceedings for their right to strike in order to avoid restructuring dismissals by holding negotiations on equal footing between labor and management.

However, on November 16 that same year, Director Iizuka of the Enterprise Turnaround Initiative Corporation of Japan and trustee representative Kato stated that "If a right to strike is established, the Enterprise Turnaround Initiative Corporation of Japan will not make a contribution of 350 billion yen", which essentially acted as a false threat to put Japan Airlines into a secondary bankruptcy and obstructed right to strike establishment proceedings. Recognizing that this was the apparent controlled intervention of the trustees, the JAL Flight Crew Union and the Cabin Crew Union appealed to the Tokyo Metropolitan Government Labor Relations Commission for relief on December 8, 2010. On August 3, 2011, the commission found that the acts of the trustees were unfair labor practice and ordered that relief be given.

Japan Airlines management disapproved of this order for relief and appealed to the Tokyo District Court for its withdrawal, but this case was lost in first instance.



Furthermore, in addition to the ruling of first instance, the High Court severely condemned the intervening acts of the trustees on the basis of the following:

- ◆ Article 28 of the Constitution and Labor Union Law do not permit controlling intervention to a union even in cases where a company's very existence could be compromised
- ◆ A compromise of some form must be made with the unions if they wish to block strikes
- ◆ Voting for the right to strike is an extremely important activity that questions the fundamental nature of labor unions, and the acts carried out by the trustees intervene with the management of labor unions.

While Japan Airline's restructuring dismissals were already deemed to be legally valid by the Supreme Court in February of 2015, this recent ruling by the Supreme Court acknowledges that the trustees committed illegal acts in the process of carrying out the restructuring dismissals and questions the fundamental validity of such dismissals.

When making their third recommendation, the ILO indicated that "The acts of the trustees were not illegal acts in labor law that were attempting to suspend voting for the right to strike, and instead were possibly aiming to obstruct the right to organize for labor unions." They also asserted that among the course of events from bankruptcy leading up to the restructuring dismissals, "They sought to deprive the unity of labor unions through illegal acts in the process of implementing restructuring plans, and that as a result possibly led them to enforce the dismissals". This brings much cause for concern regarding the details of the judgment of unfair labor practices and the Supreme Court's ruling.

In addition, in light of the ILO's third recommendation, the Minister of Health, Labour and Welfare Mr. Shiozaki said at the National Diet in response to the issue of restructuring dismissals that "In a case such as this with JAL, the relevant parties to labor and management must first endeavor for a unilateral solution for the matters concerning reemployment of staff that had been dismissed due to restructuring", and also that "I will be observing whether firm discussions will take place". In order to improve the conditions of the workplace for cabin crew that lack veteran employees due to the reduced personnel from layoffs and also lack crew due to nearly 200 pilots going to other companies, resolving these restructuring dismissals as soon as possible is an important issue that cannot be avoided. Holding open and serious discussions between labor and management to reach a resolution will ultimately also be what forms the foundation of the safe operation of Japan Airlines.

Japan Airlines management must sincerely accept that fact that their acts in the process leading up to the restructuring dismissals have been found to be illegal, and should immediately commence specific negotiations with the labor unions in order to reach a comprehensive settlement for these restructuring dismissals!