

# 'Humiliated' aircraft engineer awarded \$85K

An Indonesian aircraft worker has received \$85,000 in compensation after his employer was found guilty of breaching adverse action provisions in the *Fair Work Act*.

In what is thought to be one of the first adverse action cases of its kind, Djoko Puspitono, who worked in Perth for the International Aviation Service Assistance, was awarded compensation for "distress and humiliation".

In 2009, Puspitono was sacked after he made complaints about not receiving overtime, but was reinstated after lodging a successful unfair dismissal claim.

However, just five months later, the engineer was sacked for a second time after being told that he had an "unsatisfactory personality".

The court awarded Puspitono \$76,500 for loss of wages and remuneration, and \$7500 for hurt and humiliation. In a subsequent judgment, a further \$10,000 in pecuniary penalties was awarded against the employer, which the representing union, the Australian Licenced Aircraft Engineers Association, will receive.

Joe Murphy, director of Australian Business Lawyers & Advisors, said the ruling was a significant win for Puspitono and the union. "In this case what was significant was that the employee was awarded damages on the basis of hurt, humiliation and distress. Ordinarily, an employee would seek compensation for psychological injury by way of a workers' compensation claim. In cases involving adverse action, damages or compensation for hurt, humiliation and distress has now been realised and is likely to feature in future claims."

Murphy said the decision sent a positive message to other employees in similar cases. "It certainly sets a precedent. I think it means you're going to see claimants relying on this matter when making similar claims and they will undoubtedly be more hopeful of an award from a court in the nature of compensation and penalties," he said.

Giri Sivaraman, senior associate at Maurice Blackburn Lawyers, who acted for Puspitono, told *The West Australian* that the case was a significant win for his client who had been treated in a "disgraceful manner" by his employer.

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**Joe Murphy, director, Australian Business Lawyers & Advisors**

"The decision confirms that action by an employer in response to a complaint by an employee made before 1 July 2009 is unlawful. It also highlights that making a negative assessment of an employee that adversely effects the continuation of his employment is 'adverse action'," said Sivaraman.

"This case also shows that the court can order the employer to pay lost wages, compensation and, very importantly, damages for the hurt and humiliation suffered by the employee. In this case we can see the workers when they raise legitimate grievances and enquiries."