

Qantas Airways Ltd v Christie [1998] HCA 18; 193 CLR 280; 72 ALJR 634; 79 IR 120; 152 ALR 365

1) Reference Details

Jurisdiction: High Court of Australia

Date of decision: 19 March 1998

2) Facts

The respondent, John Baillie Christie, was employed as a captain of B747-400 aircraft on Qantas international flights by the appellant, Qantas Airways Limited ("Qantas"), from 1964 until his 60th birthday on 21 September 1994. He was discharged in accordance with the Qantas policy that its pilots should not continue in employment beyond the age of 60.

On 4 October 1994, Mr Christie commenced proceedings in the Industrial Relations Court of Australia claiming that his employment was terminated by Qantas in breach of s 170DF(1)(f) of the *Industrial Relations Act 1988*, now the *Workplace Relations Act 1996*.

The Court at first instance found for Qantas. The decision was reversed on appeal by the Full Court of the Industrial Relations Court, with the majority holding that Mr Christie was entitled to succeed in his action and that the matter should be remitted to the trial judge to consider the relief to be granted.

3) Law

s 170DF(1)(f) of the Industrial Relations Act 1988 (now the Workplace Relations Act 1996)

4) Decision

Having established that the compulsory retirement that the respondent was subjected to constituted "termination" within the meaning of Industrial Relations Act, The Court considered the meaning of the term "inherent requirements" of the Act, since termination of an employment relationship on grounds of age is not prohibited if the employee's age is considered to be an inherent requirement of the post.

The Court held that the requirements of the particular position relied upon had to be *inherent*, ie involving permanent features of the position and not features that vary in time and place.

It was found that "the age of sixty" could not be described as "permanent". The evidence showed that the retirement age for Qantas pilots had varied over time, including by the increase from fifty-five to sixty years during Captain Christie's service.

The Court held that the medical and safety evidence which Qantas relied on was not sound and that medical evidence had advanced since the standards of the Civil Aviation Organization guidelines which Qantas relied on were drawn up. The Court held that a purpose of the Industrial Relations Act was to replace stereotyping with rational criteria.