

Court finds Anwar's sacking lawful

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PUTRAJAYA: The sacking of Anwar Ibrahim as deputy prime minister and finance minister nine years ago was lawful.

The Court of Appeal yesterday ruled that the then prime minister Datuk Seri (now Tun) Dr Mahathir Mohamad had the authority under the Federal Constitution to sack his cabinet minister.

The court also said Dr Mahathir had adhered to the constitution by advising the Yang di-Pertuan Agong on Anwar's dismissal.

It was an unanimous decision, with judges, Datuk Zulkefli Ahmad Makinuddin, Datuk Raus Sharif and Datuk Heliliah Mohd Yusof writing separate grounds of judgments

The judgments were delivered by Court of Appeal registrar Hasnah Mohamed Hashim.

Anwar, 60, was in court with his daughter, Nurul Izzah, and son-in-law.

In his judgment, Raus said the evidence of the king's former confidential secretary, Ja'apar Wahab and former chief secretary to the government Tan Sri Abdul Halim Ali, were sufficient to show that Dr Mahathir had advised the king on removing Anwar as cabinet minister.

"We have the affidavit of Ja'apar who had affirmed that the king had accepted the advice of the first respondent (Dr Mahathir)," he said.

Raus said Anwar did not challenge that evidence.

Zulkefli said Dr Mahathir had satisfied the requirement of Arti-

cle 43 (5) of the Federal Constitution when dismissing Anwar.

He said he could not agree with Anwar's contention that he was removed from the cabinet by Dr Mahathir without first informing the king.

"Under the constitution, the power to dismiss any minister is in effect with the prime minister. He can, at any time advise the king to dismiss any minister and the king as a constitutional monarch is bound to act on the advice," he said.

"There is no law that the dismissal must be communicated to the appellant (Anwar) by the king."

Heliliah said Anwar had used the wrong procedure to sue Dr Mahathir and the government for his dismissal.

"He should have gone for judicial review to challenge the dismissal, not initiate a summons action to seek remedy from the court as he was appointed by the prime minister who was empowered by the constitution," she said.

Heliliah said Anwar's suit was therefore ill-founded, a misuse of court process and unsustainable.

On Dec 24, 1988, the High Court in Kuala Lumpur struck out Anwar's suit with costs.

After proceedings yesterday, Anwar, accompanied by counsel Karpal Singh, told reporters that he was shocked with the decision and would apply for leave to appeal in the Federal Court.

"It also showed disrespect to the constitutional monarch as it would now seem that the executive (prime minister) could usurp the power of the king."