



UAE enhanced retirement age from 60 to 65 years

LEGAL VIEW

ASHISH MEHTA



My father is 60-years old and a senior doctor. Could you please let me know about the latest retirement age for doctors in the free-zones of the UAE, specifically Dubai? Do all hospitals have the same retirement age?

Pursuant to your query, it may be noted that in the UAE, all the free zones have their own regulations with respect to labour and employment issues which stand independent of the federal laws in this regard. However, you have not mentioned the name of the free-zone where your father is employed.

It is understood that, since January 2011, the Ministry of Labour of the UAE is accepting requests for work-permits of individuals over the age of 60 years up to the age of 65 years; thereby enhancing the retirement age from 60 to 65 years. So, as per the prevailing practice, for all employees working at private sector entities registered under the federal laws of the UAE, the retirement age is deemed extended to 65 years. However, the upper limit of 65 years on the retirement age may be further increased in consideration of the individual's nature of work, his credentials or expertise which is important for the entity he is working for. Further to this, employment visa may be issued to an employee annually after the employee attains the age of 65 years.

The free-zones are not bound to follow the changes in the federal labour laws or regulations, which among other things include the prescribed retirement age of an employee. In case of hospitals or health centres at free zones, one may contact the employee relations department of the free-zone concerned for the necessary information.

Further it may be advised that all hospitals in the UAE have to follow the prescribed retirement age of 65 for practising doctors as the competent authorities may not issue

visas/work permits after the prescribed age has passed. However, where there is a necessity for a particular doctor owing to his knowledge and specialisation, his employment contract may be further renewed on an annual basis upon special consideration.

Labour ban can be imposed for 6-month service

I have been working with a private firm in Sharjah for the past six months, for which I get a very small salary. I accepted the job based on by graduation degree. I completed my post graduation last month and got an offer from another private firm in Sharjah. Will a six-month labour ban be enforced?

It is understood that you have been working at a private entity in Sharjah for six months and now, after completion of your post graduation, you have received another offer from a Sharjah based entity.

Pursuant to your questions it may be advised that you may have to face a labour ban, should you choose to leave your current employer and try to join another employer as you have not completed one year of continuous service. Further to imposition of the ban, no work permit will be issued for a period of six months.

However, no ban may be imposed on you if you obtain a 'No Objection' letter from your current employer with respect to joining a new employment.

In the event, your employer refuses to issue a no-objection letter, you may still have the ban lifted if your prospective employer is providing you a salary as prescribed accordance with the Article 4 of the Ministerial Resolution No (1186) for 2010 on "Rules and Conditions of Granting a New Work Permit to an Employee after Termination of the Work Relationship in Order to

Move from One Establishment to another", which states:

"As an exception to the provision of Item No. (2) of Article (2) of this Resolution, the Ministry may issue a work permit to the employee without requiring the two year period in the following cases:

(a) In the event that the employee is starting his new position at the first, second or third professional levels after fulfilling the conditions for joining any of these levels according to the rules in force at the Ministry, and provided that his new wage is not less than Dh12,000 at the first professional level, Dh7,000 at the second professional level and Dh5,000 at the third professional level."

Thus, if your new employment is being offered based on your post-graduate qualification, you should be offered a minimum salary of Dh12,000 in order to lift the labour ban imposed on you.

Entitled to gratuity after 2-year service

I work with a trading company as a sales representative under limited contract. My contract date is from 10.08.2012 to 10.08.2014. I informed my company officially through e-mail on 10.06.2014 not to renew my contract and consider 10.08.2014 as my last working day. But as per management request, I extended my stay for another 10 days. I would like to know whether I am entitled to gratuity. I am leaving the company as per procedure after completing my two-year limited contract. Please advise.

It is understood that you have been working under a limited period contract as a sales representative and that your employment contract is going to end on the 10th of August this year. It is presumed that your employment contract is subject to provisions of the Federal Law No 8 of 1980 — Regulation of Labour Relations (the "Labour Law").

Pursuant to your question, it may be advised that you shall be entitled to receive gratuity or 'severance pay' as you are going to complete your employment contract with due respect to all the terms and conditions stated therein. This is in accordance with Article 132 of the Labour Law which states:

"A worker who has completed a period of one or more years of continuous service shall be entitled to severance pay on the termination of his employment. The days of absence from work without pay shall not be included in calculating the period of service. The severance pay shall be calculated as follows:

1. 21 days' remuneration for each year of the first 5 years of service.

2. 30 days remuneration for each additional year of service provided that the aggregate amount of severance pay shall not exceed 2 year's remuneration."

Pursuant to the above mentioned provision of the Labour Law, your gratuity or severance pay shall be calculated upon your basic salary only. Thus, your gratuity shall be for the total service period of two years shall be:

21 days' basic salary multiplied by two years.

Ashish Mehta, LLB, F.I.C.A., M.C.I.T., M.C.I.Arb., is the founder and Managing Partner of Ashish Mehta & Associates. He is qualified to practise law in Dubai, the United Kingdom, Singapore and India. He manages a multi-jurisdictional law firm practice, providing analysis and counselling on complex legal documents, and policies including but not limited to corporate matters, commercial transactions, banking and finance, property and construction, real estates acquisitions, mergers and acquisitions, financial restructuring, arbitration and mediation, family matters, general crime and litigation issues. Visit www.amalawyers.com for further information. Readers may e-mail their questions to: news@khaleejtimes.com or send them to Legal View, Khaleej Times, PO Box 11243, Dubai.