



No ban if employee switches to free zone



LEGAL VIEW
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I am working in an advertising company as an assistant accountant. I completed my first visa which was 3 years (my contract is limited). Before renewing the visa, the management verbally told me that they will increase my salary. But there has been no increment. When I ask the management about my salary increment they just ignore it. My salary is Dh5,000 (basic 3,500; allowance 1,500). Now I have got a new job in a Free Zone with higher salary. Will I get all my dues if I cancel my visa? Will I get a ban? How much gratuity I will get?

It is understood that you have been working on a limited period contract for an advertising company in the UAE and now you wish to leave your current employment for a new job at a free-zone company where you are being offered a higher salary. It is further assumed that your employment is subject to provisions of the Federal Law No 8 of 1980 on Labour Relations (the "Labour Law").

Pursuant to your question, it is advised that you may be liable to compensate your employer in the

event you repudiate your contract with your employer, in accordance with Article 116 of the Labour Law which states: "Where a contract is revoked by the worker for reasons other than those specified in article (121), he shall be required to compensate the employer for any prejudice the latter sustains as a result, provided that the amount of compensation shall not exceed half the worker's remuneration for three months or the residual period of the contract whichever is shorter unless the contract contains a provision to the contrary."

Further to the above mentioned provision of the Labour Law, you may have to compensate your employer for an amount which shall not exceed your one and a half month's salary. Apart from this you shall not be entitled to your cost of repatriation, since you are revoking the employment contract of your own accord. However, you may be entitled to leave salaries for those years in which you have not availed your annual leave.

It may be further advised that you shall not be subject to a ban

which will restrict you from taking up employment with a new employer incorporated in a free zone in the United Arab Emirates as employment visa for free zone entities are not issued from the Ministry of Labour.

Subsequently, as you are currently working on a limited period contract, you may not be entitled to receive your gratuity or severance pay if you revoke your contract before its due date of expiry, as per the provisions of Article 138 of the Labour Law which states: "Where a worker who is bound by a contract for a limited period leaves his work of his own accord before the expiry of his contract period, he shall not be entitled to severance pay unless his continuous period of service exceeds five years."

However, you shall be entitled to receive your gratuity if you complete your current contract period. The amount of gratuity that you shall be entitled to, will be calculated in accordance with the provisions of 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) 20 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 on your basic salary only. Thus, your gratuity shall be calculated as follows: (21 days basic salary) x (number of years of service)

Cancellation of visa

I submitted my resignation as a salesman to my company last month but have yet to receive my passport. I work in Dubai. The HR department gave me the excuse that my line manager was on leave and that the process has been delayed. When the line manager returned, they said that it was a government issue and the cancellation process would take time. I have a job with another firm and I am expected to join in a week's time. I have completed three years with this firm on an unlimited contract. What do I do?

It is understood that you have been

working on an unlimited period contract with your employer for the last three years and now you have tendered your resignation from the employment of your employer with a month's prior notice. It is further understood that your employer is now delaying the process of cancellation of your visa.

Pursuant to your question, it may be advised that you may continue to use your best endeavours to prevail on your employer to cancel your visa without any further delay. While you have completed the requisite formalities on your part by submitting the resignation on a month's notice period, it is now the responsibility of your employer to cancel your visa and re-

lease you from your responsibilities as early as possible.

It may be noted that the process pertaining to cancellation of an employee's visa and settlement of his end-of-service benefits, in reality, may not take more than a few working days. Therefore, if you realise that the employer is delaying the cancellation with mala fide intentions which cause disadvantage to you and the employer is demonstrating his non-cooperation or indifference to this matter, you should consider lodging a complaint against the employer at the Ministry of Labour, pleading for cancellation of your existing visa and for settlement of your end-of-service benefits.

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