



Designation on visa is actual position



LEGAL VIEW
ASHISH MEHTA

I have received an offer letter from a company based in Dubai, in which my profession is mentioned as 'accountant', but in the visa provided, it is 'archives clerk'. Is there any problem with this anomaly? Will this cause any problem if I want to apply for the sponsorship of my wife? My salary is Dh4,000. It is understood that you have now received an offer of employment from your prospective employer in Dubai who mentioned your designation of an 'accountant' in the offer letter and subsequently, they have provided you a visa where your designation is mentioned to be that of an 'archives clerk'.

Pursuant to your question, it may be advised that owing to the difference in the designations, you may not have to face any difficulties, as the position mentioned in your visa shall be your actual designation vis-a-vis the offer letter, for all legal purposes.

However, it may be noted here that a person holding the position of an 'accountant' is exempted from labour ban if he wishes to transfer sponsorship, or to change his employment before the completion of his actual visa under the previous sponsor. This is in accordance with Article 2 of the Ministerial Order No (13) of 1991 on 'The organisation of the transfer of sponsorships of non-national labours the rules governing the same' which states:

"Non-national labourers may be allowed to transfer one job to another and hence transfer of their sponsorship if they fall under the following categories:

- > Engineers
- > Doctors, pharmacists and male and female nurses
- > Agricultural guides
- > Qualified accountants and account auditors
- > Qualified administrative officials
- > Technician operating on electronic equipment and laboratories

> Drivers who are licensed to drive heavy vehicles and buses (in case of transfer of sponsorship from a private firm to another or to a government department)."

Pursuant to the above provision of law, it may be noted that this exemption from labour ban may not be granted to you if you are holding the position of an 'archives clerk' and you wish to shift from one job

“An employee who draws a salary of Dh5,000 and above plus accommodation may sponsor wife

to another. However this may not be applicable if you meet the requirements to change your job without getting a ban. Apart from this, there shall be no other adverse impact on you during the course of your employment.

In case you do not wish to work with the designation of an 'archives clerk' you may bring up the issue with your prospective employer and prevail upon them to issue you the visa of an 'accountant'.

We understand that an employee

who draws a salary of Dh5,000 and above plus accommodation may sponsor the wife. The tenancy contract should be attested by Ejari.

Leave salary in case of resignation

I have a husband-sponsored visa and am working with a private school in Dubai. I have been asked to submit my resignation letter dated April 1 on a three months' notice. If I give this letter, or if the school terminates me, will I get my vacation salary? It is understood that you have been working at a private school in Dubai, and now you have been asked to submit a resignation letter on a three months' notice period.

Pursuant to your question, we are of the view that you shall be entitled to receive your remuneration for the number of days of leave which were not availed by you. This is irrespective of whether you resign or you get terminated from your employment. This is in accordance with Article 79 of the Federal Law No 8 of 1980 on Labour Relations which states: "Where a worker is dismissed or leaves his job after the period of notice prescribed by law, he shall be entitled to remuneration in respect of any days of annual leave not taken. Such remuneration shall be calculated on the basis of the remuneration that he earned on the date on which the leave became due."

Pursuant to the above provision of the Federal Law No 8 of 1980, you shall be entitled to receive your leave salary.

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.