

# Claim your gratuity within one year of leaving the job



**LEGAL VIEW**  
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**Q:** My father was employed with a company based in Dubai from 1987 to 2011 for a period of 24 years. His company decided to outsource the section of my father's work and he was not selected by the outsourcing firm due to his age. After this, his health deteriorated and he was temporarily debilitated. Further, his eyesight was affected and he went blind in one of his eyes. I had to seek medical treatment in November 2013 as he was diagnosed with retinal detachment which called for an urgent surgery. Due to several health issues, he decided to leave the UAE. Currently, the company (ex-employer) is not willing to release his gratuity as it has been over five years and therefore, they cannot release it in accordance with UAE employment law. I wish to know if it is legal for an employer to opt redundancy on an employee's gratuity and also, if there are any other alternatives to claim the gratuity benefits.

**A:** We assume that your father was employed with a private company based in the mainland of Dubai. Since your father has been terminated by his company in 2011, he had the option of claiming all his entitlements within one year of termination of employment. This is in accordance with Article 6 of the Federal Law No. 8 of 1980 regulating employment relations in the UAE (the 'Employment Law'). It states: "Without prejudice to the provisions concerning collective employment disputes stated in this law, if the employer or the employee or any beneficiary thereof raised a claim concerning any of the rights accruing to any of them according to the provisions of this law, he shall submit a request thereof to the Labour Department (Ministry of Human Resources & Emiratization) concerned. This department shall summon the two parties to the dispute and shall take whatever it deems necessary to settle the dispute amicably.

If an amicable settlement is not reached, the said department must, within two weeks from date of submission of request, submit the dispute to the court concerned. The submission must be accompanied by a note including a summary of the dispute, the arguments of the two parties and the observation of the department. The court shall, within three days from date of receiving the request, fix a sitting to consider the claim and the two parties shall be notified thereof. The court may summon a

representative of the Labour Department to explain the note submitted by it.

In all cases, no claim of any entitlement due under the provisions of this law, shall be heard if brought to court after a lapse of one year from the date of which such entitlement became due, and no claim shall be admitted if the procedure stated in this article are not adhered to."

Based on the aforementioned provision of law, your father is not in a position to claim his end of service entitlements from his employer as he been terminated from his employment in



## Know the law

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2011. However, considering your father's long term service with his ex-employer, his old age and health issues, your father may consider filing a complaint against his former employer with the Ministry of Human Resources & Emiratization seeking humanitarian grounds. Further, your father has to submit all the relevant documents, written assurances by his ex-employer regarding payment of end of services and medical reports to the ministry.

Further, your father may also file a civil suit against his ex-employer for breach of contract. The limitation period to file a civil suit for breach of contract in the UAE is 15 years. This is in accordance with Article 473 of the Civil Transactions Law of the UAE, which states, "The right shall be extinguished (nullified) by lapse of time; the action against a repudiating party shall not be heard after the lapse of 15 years without a legal excuse without prejudice to special provisions contained therein."

## Son's visa after graduation

**Q:** My son was admitted in a Dubai university in 2015 and completed his mechanical engineering (honours) in March 2019. He was on student visa and now the university has asked him to arrange his own visa or leave the country after three months. I am holding UAE resident visa and

staying with my family in Dubai. Is it possible to apply for a resident visa for my son? I have heard the General Directorate of Residency and Foreign Affairs provides visa for six months to those students who graduate from UAE to search for job. Is this true, if so then what is the process to avail this facility?

**A:** It may be noted that the UAE law does not allow a resident expatriate to sponsor his male child who is above the age of 18 years. However, in the UAE, an expatriate parent may continue to sponsor him if such a child is attending his studies in a higher educational institute for a minimum of one year's course. Accordingly, you may be able to sponsor your son only if he meets this criteria. Further, if your son is able to find an employment in the UAE, he may be able to obtain a resident visa under his employer's sponsorship.

Also, there is a new rule in respect of children's visa sponsored by parents. Starting from October 21, 2018, students who graduate from their universities or secondary schools or complete 18 years of age will be granted a one-year residence visa, renewable for another year from the graduation date or on completing 18 years.

Further, it is to be noted that on November 24, 2018, the UAE government approved a de-



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An expatriate parent may continue to sponsor his son who is above the age of 18 years if such a male child is attending his studies in a higher educational institute for a minimum of one year's course.

cision to grant a five-year visa to outstanding students who have graduated with 95 per cent from secondary schools and with a distinctive GPA of at least 3.75 from universities within and outside the country. If you have any further queries, you may approach the GDRFA.

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