

One can overstay during labour case

But person must seek authorisation letter from immigration after presenting case documents



LEGAL VIEW
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My court case against my company for not paying me 10 months' salary had been going on in the Sharjah Courts for the last 18 months. The case has been decided in my favour and presently it is in the execution stage. But I am not sure what will happen next as my old company has no money and its boss and sole owner is said to be in prison for the last two years. In the meantime, the court has given me permission to work elsewhere which I am doing. My old visa is expiring in 10 days from today.

Please advise me on the following:

- 1. Can I continue staying in the UAE without a visa as long as my court case is going on?**
- 2. Can I continue working elsewhere during this period?**
- 3. Do I need an authorisation letter and from which authority in order to overstay as well as work till my case is settled?**
- 4. Or any other things that I need to do for staying in the UAE legally without a visa.**

It is understood that you have been litigating at the Sharjah Courts against your employer for the past one-and-a-half years for not receiving your salaries for a period of ten months. However, your employer is not in a position to clear your salaries which had fallen into arrears and that the owner of the entity where you were working is currently imprisoned.

Further, it is understood that the honourable court had allowed you to work elsewhere while the case continues, and we may presume that a temporary work permit was provided to you pursuant to the permission of the court. It is also noted that your employment visa issued by your employer is about to expire in ten days. Pursuant to your question, it may be noted that, in the

UAE, upon expiry of an employment visa, the visa holder may continue to stay in the UAE for a maximum period of thirty days from the day of expiry of the visa. The visa-holder may exit the country within this period. An over-stay beyond this grace period usually attracts a penalty for the visa-holder.

However, in cases where the visa-holder is party to a case within the purview of a court in the UAE, he may continue to stay in the country for such time as the case is finally disposed of and no further appeals lie on the matter. Thus it may be advised that you can continue to stay in the UAE till the end of your litigation, even after the expiry of your visa and no fines may be imposed on you for overstay, pursuant to the order of the court.

Further, it may be noted that a temporary work permit is issued by the Labour Ministry, during the pendency of an employment dispute before such court. The temporary work permit allows the employee to sustain his livelihood while the case is being heard, and allows him to take up employment with a different employer. The temporary work permit is usually valid for a period of six months. Pursuant to this, it may be advised that even after the expiry of your original employment visa, you may continue to work subject to the directions of the court.

Subsequently, it may be advised that you shall require an authorisation letter to continue to stay in the UAE, even as you are party to a litigation. You may apply to the court for a letter which may state the present status of the case. Subsequently, in order to justify your overstay and avoid the payment of penalties later, you may approach the office of the General Directorate of Residency and Foreigners Affairs (the "Directorate") and present the authorisation letter

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along with the documents pertaining to your labour dispute and the subsequent litigation issued by the Ministry of Labour and those of the Sharjah Courts, respectively. This will be sufficient for you to prove that you were party to a litigation and this in fact was the reason for your overstay.

Further, as your case is conclusively determined by the Sharjah Courts after the execution of the judgment, you may request your current employer under whom you are working on a temporary basis to issue a regular employment visa to you.

Signatory liable if cheque bounces

I have been working in an LLC company for more than 10 years. They have given me the authority to sign cheques issued to vendors, investors etc. I wish to know the following:

- a) I have issued a cheque to one supplier that bounced and that supplier is planning to file a police complaint. We have already received a registered court notice regarding this. Will I be in trouble for it?**
- b) Will my travelling out of the UAE be banned? Or can I travel abroad?**
- d) I am looking for a job**

change if the above problem is solved. Will my passport reflect any negative remarks which my new employer can see while processing my new visa?

It is understood that you are working at an entity registered as a limited liability company in the UAE for the last ten years, and that you hold the authority to sign cheques on behalf of this entity. Unfortunately, one of the cheques issued by you was dishonoured and the person to whom it was issued is now contemplating to initiate a police complaint against you. Further, it is understood that you have already received a registered court notice for the dishonoured cheque.

Pursuant to your question, it may be noted that the signatory of the cheque is personally liable for the dishonouring of cheques due to insufficient funds in the bank account of the issuer, and in the event of a dishonour, may also be liable to penalties. This is in accordance with Article (401) of the Federal Law No. 3 of 1987 on Issuance of the Penal Code which states:

“Detention or a fine shall be imposed upon anyone who, in bad faith, gives a draft (cheque) without a sufficient and drawable balance or who, after giving a cheque, withdraws all or part of the balance, making the balance insufficient for settlement of the cheque, or if he orders a drawee not to cash a cheque or makes or signs the cheque in a manner that prevents it from being cashed.

“The same penalty shall apply to anyone who endorses a cheque in favour of another or gives him a bearer draft, knowing that there is no sufficient balance to honour the cheque or that it is not drawable.”

In view of the foregoing, it may be advised that you will be held personally liable for the dishonouring of the cheque issued by you.

Further, it may be noted that pursuant to a police complaint lodged against you, you may be summoned to appear at a police station or before the public prose-

cutor for recording of your statement. And, consequently, the public prosecutor may impose restrictions on you from travelling outside the country until the matter is conclusively determined in the court.

Even if a criminal complaint is not lodged, you may be held necessary party to the civil suit to claim the amount stated on the dishonoured cheque, and the petitioner may seek an order from the court to impose a ban on you from leaving the UAE. This is in accordance with Article 329 of the Federal Law No. 11 of 1992 on Issuance of the UAE Code of Civil Procedure which states:

‘Article 329’

1) Even before the submission of the substantial case, the creditor shall apply to the competent judge or to the head of the court circuit for an injunction to prevent the debtor from travelling and to make a temporary estimate of the debt if it has no specific amount. The order shall be awarded in accordance with an application submitted by the relevant party to the competent judge or to the head of the court circuit, as the case may be, if serious conditions exist under which the debtor is likely to flee, provided that the following conditions are satisfied:

- a) The debt is specifically known, mature and unconditional.
- b) The claimed right shall not be less than one thousand dirhams unless it is a fine or prescribed alimony or child support.
- c) The claim shall be based on

written evidence, or if it appears from the papers attached to the application that it is a serious claim.

d) The creditor shall supply a guarantee acceptable to the court in which he guarantees any damages inflicted upon the debtor owing to his prevention from travel, if it appears that the creditor's claim is not justified.

2) The judge, before giving the order, shall conduct a brief inquiry if he is not satisfied with the documents presented in support of the application.

3) If an order for prevention from travel has been issued by him, the judge shall order that the debtor's passport be deposited with the court's treasury, and the court shall be circulated among all of the country's exit points.

4) The person against whom the order has been issued shall have the right to file a grievance against it, by the procedures prescribed for complaints against the order on the petitions.”

Subsequently, if the matter is resolved amicably between you and the claimant, it may be advised that you may not face any troubles or obstacles while taking up a new employment in the UAE.

In the unfortunate event you are required to serve a sentence or penalty is imposed, the event won't be a cause of concern for you to change your employment and nonetheless a new employment visa can be issued to you, unless the court orders deportation in its judgment.

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