

Companies have to settle workers' final dues even if they go bankrupt



LEGAL VIEW
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Q: I am working on an unlimited contract with a private company in Abu Dhabi since February 2013. If the company declares bankruptcy, can I get my full and final settlement, including gratuity and leave salary?

A: Pursuant to your query, you are entitled for end of service benefits, which includes gratuity, leave salary and other entitlements, even though your company is declared bankrupt. This is in accordance to Article 713(1) of Federal Law No. 18 of 1993 related to Commercial Transactions Law of the UAE, which states: "After obtaining the permission from the judge of bankruptcy, the trustee in bankruptcy, 10 days from the adjudication of bankruptcy has been issued, may pay the wages and salaries of the workers and employees that fall due before the adjudication of bankruptcy has been issued, for a period of 30 days, from the money of the bankruptcy held at his disposal, regardless of any other debt. However, if the trustee of the bankruptcy has no sufficient money for payment of such debts, the first money that comes into the bankruptcy shall be used for

payment, regardless of any other debts that have priority in the list of liens."

Further, the money payable to the employee or his beneficiaries shall get priority for payment on employer's movable or immovable properties. This is in accordance with Article 4 of the Federal Law No. 8 of 1980 regulating Employment Relations in the UAE (the



Know the law

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'Employment Law'). It states: "Any amounts of money payable to an employee or his beneficiaries under this Law shall constitute a first charge on all the employer's movable and immovable property and shall be paid immediately after any legal expenses, sums due to the public treasury and sharia's alimony awarded under Islamic law to the wife and children."

Based on the aforementioned provisions of laws and considering the tenure

of your employment service, your employer is obliged to pay you the severance pay as laid down in Article 132 of the Employment Law, which states: "An employee 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 of each year of the first 5 years of service;
2. 30 days remuneration of each additional year of service provided that the aggregate amount of severance pay shall not exceed 2 year's remuneration".

Help! DHA detected scar in my chest

Q: I had to exit the country recently, as during my medical screening, the Dubai Health Authority detected a scar on my chest and declared me unfit. Prior to that, I had worked in the UAE for nine years. If I approach the UAE embassy with a fitness certificate issued in India, would I be able to come back to the UAE?

A: Pursuant to your queries, if the scar on your chest is not related to tuberculosis (TB) then you may re-enter UAE based on a valid medical certificate. The same document should be notarised and legalised by the Indian Ministry of Foreign Affairs and the UAE embassy in India and subsequently the same needs to be attested by the Ministry of Foreign Affairs, UAE.

The said certification may support your case to lift the ban to again work in the UAE. The UAE Ministry of Health and Prevention may scrutinise this report and may lift the ban on you if they are satisfied by this report.

However, you may contact the Ministry of Health and Prevention and the office of the General Directorate of Residency and Foreigners' Affairs for any further queries that you may have in this regard.

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