

Payment of bonus is employer's discretion

If company pays bonus as practice, employee can file suit to claim it



LEGAL VIEW Ashish Mehta



My previous employer terminated me without prior notice on April 22, 2015. However, the company settled the dues as per UAE Labour Law. On May 5, the company paid bonus to all the employees except me. I would like to know whether I was eligible for bonus as I had worked with the company for one year seven months.

It is assumed that a limited liability company employed you and the employment was governed by Federal Law No. 8 of 1980 (the "Labour Law"). However, the Labour Law of UAE is silent regarding the payment of bonus to the employee.

Therefore, payment of bonus is generally at the discretion of the employer unless the employment contract specifically mentions payment of bonus along with the basis on which the bonus will be calculated and paid. In some companies, employees are paid bonus as a result of custom or practice, which

would have been prevailing in such companies for a long period of time. In such cases the employees may claim bonus from their employers.

In case payment of bonus is custom or practice in your previous company, you may request your ex-employer to pay as per Article 1 of the Labour Law, which reads 'Remuneration' is defined as: "All payments made to the worker on a yearly, monthly, weekly, daily, hourly, piece work, or production or com-

mission basis, in return for the work he performs under the contract of employment, whether such payments are made in cash or in kind.

Remuneration shall include the cost of living allowance. It shall also include any grant given to the worker as a reward for his honesty or efficiency if such amounts are provided for in the employment contract or in the internal regulations of the establishment or have been granted by custom or common practice to such an extent that the workers of the establishment regard them as part of their remuneration and not as donations.

It is assumed that you have already signed the end of service settlement with your previous employer and have cancelled your visa as well. If such is the case, you may have to file a civil claim against your previous employer to claim bonus if it is obligatory on your previous employer to pay bonus in accordance with the terms of your employment contract.

Dismissal without notice
I joined a company as maintenance administrator and got terminated within one and half months upon commencement of employment. I had completed my medical tests and applied for Emirates ID almost a month ago. But the employer has not yet stamped the resident visa on my passport. Now the company says they will cancel my visa. Is there any fine I need to pay since the visa states the visa is valid for 30 days from the entry?

It is understood that you are on probation and therefore your employer is well within his right to terminate your employment without notice as per Article 120(b) of the Federal Law No. 8 of 1980 (the "Labour Law") which reads: "An employee may dismiss a worker without notice if the worker is engaged on probation and is dismissed during the probationary or on its expiry."

Know the law

Article 120(b) of the Federal Law No. 8 of 1980 states: "An employee may dismiss a worker without notice if the worker is engaged on probation and is dismissed during the probationary or on its expiry."

However, it is the responsibility of the employer to make necessary arrangements to stamp the resident visa. Article 6(c) of the Ministerial Resolution No. 52 for 1989 states: "An undertaking from the employer to the effect that he will take the necessary procedure to prepare and sign the employment contract or any other procedures required by the valid regulations to be performed particularly the obtaining of the Labour card within sixty days from the date of the arrival of recruited labourer into the country.

Your employer should cancel your employment visa and provide you with air ticket to go back to your home country.

Article 6(d) of the Ministerial Resolution No.52 for 1980 reads: "An undertaking from the employer to the effect that he shall send back the recruited labourer to the country where he was recruited upon the completion of his job and upon cancellation of his sponsorship and the handing back of the labour card provided same shall be valid."

In the event your employer fails to complete all requirements you may file a complaint against the employer with the Ministry of Labour.

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No law on bonus

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