

# You can claim compensation for arbitrary dismissal



## LEGAL VIEW Ashish Mehta

*My wife was working in a private company in Dubai for four years under my sponsorship. She was made redundant without notice while she was five months pregnant. The termination letter stated that the company was undergoing restructuring. Her employer would provide her the end of service benefits and one month's pay.*

*My question here is: Is she entitled to maternity benefits as she cannot join a new company at this point. Are there any labour laws regarding this? Also the health insurance provided by her employer would be cancelled this month. Since health insurance is mandatory from January 1, 2016, I understand most of the insurance companies are likely to charge a high premium since she is already pregnant. What are her legal rights?*

As the termination notice was served during her pregnancy, it may not be stated to a certainty if your wife may be eligible for receiving benefits generally associated with maternity, as the Employment Law is silent on this issue.

Upon a broad reading of the legal provisions, it may be understood that usually a female employee is entitled to such benefits when the employee's pregnancy and the delivery occur during the period of service. However, the provisions are not very clear on whether an employee shall still be entitled to receive benefits even if the termination of employment occurred during pregnancy. Article 30 of the Employment Law is cited here for your reference: "A female worker

including the period preceding and the period following her confinement, on condition that she has been in her employer's service for a continuous period of not less than one year. If she has not completed the aforesaid period of service, she shall be entitled to maternity leave with half pay."

However, conferring of maternity benefits may also follow provisions of internal corporate policies, and it may be advisable for your wife to check on the necessary provisions/circulars/handbook which may have been issued by her employer for more clarity as such.

It is further noted that, your wife's employer has offered to pay her gratuity and a month's salary, in furtherance of termination of her employment, the reason for which is stated as corporate restructuring. However, it may be noted that your wife may be entitled to claim compensation



### KNOW THE LAW

Tawtheeq system was introduced as means of registration of leasable property details and tenancy contracts in the Emirate of Abu Dhabi. In accordance with the existing regulations, people having made bona fide payments of rents are entitled to receive all services pertaining to

for arbitrary dismissal in addition to what is being offered by her employer. Arbitrary termination refer to situations where employment contracts are terminated without a good reason. In this regard, Articles 122 and 123 of the Employment Law are cited for your reference.

**Article 122:** A worker's service shall be deemed to be arbitrarily terminated by his employer if the reason for termination is irrelevant to the work. More particularly, a termination shall be regarded as arbitrary if it is prompted by a formal complaint filed by the worker with the competent authorities or a legal action instituted against the employer that proved to be valid.

**Article 123:** 1. Where a worker is arbitrarily dismissed, the competent court may order the employer to pay him a compensation, to be assessed by the court with due regard to the nature of the work, the extent of damage sustained by the worker and his period of service, and after investigating the work circumstances, provided that such compensation shall in no case exceed the worker's wage for three months, calculated on the basis of his last wage.

2. The provisions of the preceding paragraph shall not prejudice the worker's right to the gratuity he is entitled to and the compensation in lieu of notice provided for in this law."

In view of the foregoing, your wife may prevail upon her employer to pay her compensation for arbitrary termination of employment contract as well.

Further, it is noted that the insurance coverage for your wife shall be expiring this month. Since her visa is under your sponsorship, you shall be liable to obtain a medical insurance for your wife. This is in accordance with the rules prescribing mandatory insurance coverage vis-à-vis the provisions of Article 9 of



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- A. The responsibility of prescription to health insurance shall be as follows:
- The government, as for nationals, shall be in accordance with the policy of health insurance and the controls determined by the authority pursuant to the resolutions issued in such concern.
  - The employer, as for the employees thereof, in accordance with the policy of health insurance applicable by such employer, providing that the health benefits prescribed by such policy shall not be less than the basic coverage.
  - The sponsor, as for the persons sponsored thereby, providing that the health benefits provided by such sponsor shall not be less than basic coverage.
  - The entity specified by the authority in coordination with the competent authorities as for visitors.
- B. Health insurance shall be provided to the persons entitled

by Paragraph (A) of this Article and the insurance company or the entity specified by the authority in accordance with the standards issued by the authority is such concern.

C. The cost of covering the beneficiary by health insurance shall be borne by the entities referred to by Paragraph (A) of this Article." As such, the insurance coverage may be provided by you individually, or you may arrange to extend the insurance coverage provided by your employer to your wife as well, if such option be available. You may contact the Ministry of Human Resources and Emiratization for further enquiries.

**Cheated by real estate firm**  
*I have been renting a 2BHK flat in Abu Dhabi since October 2012 on a single payment for one year contract. Initially there was a delay of two months to handing over the flat and the real estate firm gave me a new tenancy contact with the new date, starting from January 1, 2013. Since then I have been renewing the flat for one year on the month of October. On October 10, 2016, I renewed the flat by paying the complete amount for the year 2017 with the same company and I received the tenancy contract along with the bill from the company. On November 15, 2016, I saw a notice on the building from a new real estate company, saying that the contract with the old company had expired on May 21, 2016, and this new company has taken over from November 15, 2016. There is a gap of almost six months between two companies as per the notice. Now, this new real estate company refused to give me the tawtheeq and the Abu Dhabi*

*that I shall show the tawtheeq for reconnection. On my request the company reconnected the same for 15 days and informed me that the power will be disconnected again if I failed to show the tawtheeq. When I contacted the owner of the building, he said he was helpless as the previous real estate company has disappeared. I am in a dilemma and kindly advise me.*

It may be noted that the tawtheeq system was introduced as means of registration of leasable property details and tenancy contracts in the Emirate of Abu Dhabi. In accordance with the existing regulations people having made bona fide payments of rents are entitled to receive all services pertaining to tawtheeq.

However, following the facts stated hereinabove, it may be noted that as you had sought to renew your tenancy, the erstwhile agent had deliberately concealed facts from you in respect of expiry of their contract with the owner, and may have committed fraud as they accepted rent payment for property and issued tenancy contract even when they were no longer authorised to do so.

It may therefore be advisable for you to initiate legal action. You may approach the Rent Disputes Settlement Committee/ the Department of Municipal Affairs of Abu Dhabi in this regard. You may also consider to take the assistance of a legal practitioner who may aid and advise you further in this regard.

Ashish Mehta is the founder and Managing Partner of Ashish Mehta & Associates. He is qualified to practise law in Dubai, the United Kingdom, Singapore and India. Full details of his firm on: [www.amalawyers.com](http://www.amalawyers.com). Readers may e-mail their questions to [news@khaleejtimes.com](mailto:news@khaleejtimes.com) or send their