

# You may get temporary visa if there is an ongoing case



## LEGAL VIEW ASHISH MEHTA

**Q:** I filed a case against my company for my pending salary and end-of-service benefits. Since 2018, the case is ongoing at a Dubai court. My visa expired on April 23, 2019. Who will be responsible for the overstaying fines? Will it be me or my company? Is there a legal way for me to stay on and fight my case? If I get a new job, what is the procedure to apply for and get the visa?

**A:** It is understood that you had filed an employment case against your employer, claiming your unpaid salaries and end-of-service benefits, and the case is still pending at the Dubai Court. As your employment visa expired on April 23, you are eager to know if your employer should be held responsible for the overstaying fines. Further, you want to know if you can legally stay in the UAE while the employment case is still pending in court and what legal procedures are required to apply for a UAE visa once you find a new job.

It may be noted that upon the expiry of an employment visa, the employee may continue to legally stay in the UAE for a maximum grace period of 30 days from the date of expiry, with-



### Know the law

The Ministry of Human Resources and Emiratisation may issue a temporary work permit, usually with a six-month

validity, to allow the employee to take up a job and sustain his livelihood during the period of the ongoing litigation.

out any overstay fines. Staying in the country beyond the grace period incurs a penalty for the visa-holder and not for the employer.

However, if there is an employment case which is pending at a court in the UAE, an employee may continue to stay in the country until the case is finally dismissed. As you are a party to a pending employment case, you require an authorisation from the court to continue to stay in the UAE until the end of litigation. Hence, you may immediately apply for such an authorisation. Subsequently, in order to justify your reason for staying in the country and avoid the payment of penalties, you may approach the office of the General Directorate of Residency and Foreigners Affairs (GDRFA) and present the authorisation from the court, along with the documents pertaining to your employment dispute.

Further, it may be noted that a temporary work permit, usually with a six-month validity, is issued by the Ministry of Human Resource and Emiratisation (Mohre), allowing the employee to take up a job and sustain his livelihood during the period of the ongoing litigation. In line with this, it may be noted that upon the ex-

piry of one's original employment visa, one may continue to work, subject to the approval of the court. Hence, once you get a new employment, you may approach Mohre and apply for a temporary work visa.

On the other hand, if you find a new job, you may request the court to issue a letter to cancel your work permit and employment visa with your existing employer, and this shall be submitted to the GDRFA and Mohre. Then, you may request your new employer to apply for your work permit and employment visa. While the employment case that you have filed will continue, getting the new job will have no effect on your case, upon following the procedures.

### Salary cuts are unlawful unless employees agree to sign new contract

**Q:** I have been working in a private company in Dubai for the last eight years. Due to financial difficulties, our employer wants to reduce the salaries of all employees by 15 per cent. Can the employer reduce salaries? How should he need to inform the employees — by e-mail or an official letter? What does the law say about this? Once an employee accepts the reduction, should the employer give him end-of-service benefits till date and make a new contract with a revised salary?

**A:** It is understood that you are working for a private company in Dubai for the last eight years, and your employer intends to reduce the salaries of all employees by 15 per cent. In this regard, you want to know if it is lawful for the employer to reduce an employee's remunerations and if it is required for the firm to inform its staff by e-mail or an official notification. Further, you also want to know if the employer is required to provide the accrued end-of-service benefits and draft a new contract once an employee accepts the reduction. It is



### Know the law

An official letter or e-mail regarding the reduction in salaries will be valid only if a revised employment contract is signed and

submitted to Mohre.

unlawful for an employer to reduce an employee's remunerations, except as provided under Article 60 of the Federal Law No. 8 of 1980 Regulating Employment Relations in the UAE (Employment Law). According to the law, one's salary may be reduced if it has been agreed by both the employer and the employee. Both should enter into a fresh employment contract signed by both parties and it needs to be submitted and registered with the Ministry of

Human Resources and Emiratisation (Mohre) for approval.

Article 60 of the Employment Law states: "No amount of money may be deducted from an employee's remuneration in respect of private claims, except in the following cases:

(a) the recovery of advances or amount of money paid to the employee in excess of his entitlements, on condition that the amount deducted in this case does not exceed 10 per cent of his periodic remuneration;

(b) contributions which the law requires the employee to pay from his remuneration, e.g. towards social security, insurance schemes;

(c) the employee's contributions to a savings fund or repayment of advances repayable thereto;

(d) contributions towards any welfare scheme or in respect of any other privileges or services provided by the employer and approved by the labour department;

(e) fines imposed upon the employee for any offence he has committed;

(f) any debt payable in execution of the judgement of a court of law;

Provided the deduction shall not exceed one-quarter of the employee's remuneration. Where two or more debts are payable, the maximum shall be half the employee's remuneration and the sums of money attached shall be divided pro rata among the beneficiaries, after the payment of any legal alimony at the rate of one-quarter of the employee's remuneration."

Based on this provision of the law, even though the employer provides an employee with an official letter or e-mail regarding the reduction in salaries, it will be valid only if the employee agrees and a revised employment contract is signed and submitted to Mohre.

Further, an employee is entitled to end-of-service benefits, if he or she completes one continuous year of service under an unlimited-period contract. This is in accordance with Article 132 of the Employment Law. An employee under a limited-period contract is entitled to end-of-service benefits, if he or she completes five years of service. This is in accordance with Article 138 of the Employment Law.

Thus, your entitlement to benefits shall depend on the type of your employment contract and the tenure of your service with the employer. If you qualify for the end-of-service benefits, the amount shall be calculated based on your current basic remuneration. In the event that your basic remuneration is reduced due to the reduction in your entire salary, you may request your employer to pay the benefits until the date of reduction of your remuneration.

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