

Dishonouring cheques is a crime



LEGAL VIEW
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I am an Indian currently working with a reputed travel agency in Dubai. This is my second job in Dubai. I left my old job because I was very unhappy with my office circumstances.

I had completed three years contract with my company, as well as given them one-month notice before leaving. My three years' gratuity was requested the month before cancellation. My Indian employer promised that all the end-of-service benefits would be paid to me after my visa cancellation. But they deceived me and did not pay me any of the end-of-service benefits.

I had informed this to an officer in the Labour Department while my visa was being cancelled. He asked me not to worry and said that my boss will pay me. But instead of getting my passport released from my employer, I had to submit guarantee cheques worth Dh9,000 saying that I have outstanding dues payable to the company. I did not have any outstanding dues from my end. The accounts were not audited for the past two years in our Dubai branch and in these two years, managers, accountants and other staff have changed.

Nobody has completed his contract with this branch because of the deceiving ways of the management. The boss says I am the only one who has worked there for three years and hence I am witness to all transactions. But this is not true. Other staff members who were in-

involved in these transactions have already left the company without even paying a single penny. The accounting system in that branch is also formatted deliberately to hide all the data that could help me fight back.

When I found a job in another company, I realised that my new boss was a friend of my old employer. The latter came to know I am looking for a new job and did not give me a work certificate. The only proof I have is the three years visa on my passport from the old company. Now I am worried since the company has my guarantee cheques. And the old employer calls my husband asking him to pay Dh9,000. I don't know what to do.

It is understood that you had previously worked with a company for three years and subsequently you resigned from your employment after serving your employer a notice of one month.

Since you had served a notice prior to your leaving the employment, we assume that your employment contract was of unlimited duration, in accordance with the provisions of Article 117 of Federal Law No. 8 of 1980 on Labour Relations, which states -(1) Both the employer and the worker may terminate a contract of employment of unlimited duration for a valid reason at any time following its conclusion by giving the other party notice in writing at least 30 days before termination.

(2) In case of workers working on a daily basis, the period of notice shall be as follows:

(a) one week, if the worker has been employed for more than six months but less than one year;

(b) two weeks, if the worker has been employed for not less than one year;

(c) one month, if the worker has been employed for not less than five years;" Further, you mentioned that you had approached the Ministry of Labour with complaints against your previous employer for settlement of outstanding dues. It is further understood

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that your previous employer compelled you to issue guarantee cheques amounting to Dh9,000 as a guarantee against payment of certain dues to the previous employer. However, it is not clear whether your employer had asked you to deposit the guarantee cheques, or it was by virtue of a decision arrived at the Labour Department through an amicable settlement between you and your previous employer.

You may be aware that dishonour of a cheque is a criminal offence in the United Arab Emirates. It is assumed that the cheques issued by you have now been dishonoured upon presentation to your bank. Therefore you may consider to deposit the amount of Dh9,000

at the court of competent jurisdiction, and subsequently perhaps consider to file a case of criminal breach of trust against your employer for encashing guarantee cheques issued by you, pursuant to inducement and coercion by the previous employer.

It would be prudent to take the aid of a legal practitioner who may assist you to defend yourself on the dishonoured cheques and obtain the outstanding end of service benefits due to you.

Passport withheld by court

Two to three months ago, I was asked by my manager to keep my passport with the Dubai Courts as a guarantee in some case filed by supplier/sub-contractor for few days but now my passport is still with the court and exceeded the days my manager said it would take.

I even could not attend the funeral of my sister which is the most sad thing that has happened to me as the court rejected the replacement request. Upon this I was forced to resign from my current employer in order to get my passport back and reach home as soon as possible. Please inform me whether my resigna-

tion will help me get my passport back or I have to contact the Dubai Labour Ministry for help? It is understood that you had submitted your passport as a guarantee at the Dubai Courts in respect of a case filed by a supplier/sub-contractor against your employer. Further, it is understood that the passport is still in the court's custody and a replacement request for the same has also been rejected by the honourable court.

Pursuant to the aforesaid, you acted as a guarantor for your employer before the court in your individual/personal capacity; and not as an employee of your employer. Owing to this, even when you have resigned from your employment, your liability as a guarantor for the company shall not be over, as you had given your personal guarantee for your company.

Further, since the case is subjudice (pending before the honourable court), the Ministry of Labour may not have any jurisdiction pertaining to your case.

However, you may either file another request to the honourable court to release your passport by replacing it with another passport; or wait for the case to be determined by the honourable court.

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