

# You're entitled to contract benefits regardless of age



**LEGAL VIEW**  
**ASHISH MEHTA**

**Q:** I am currently working in a school in Sharjah. My boss has asked me to retire since my date of birth on my passport is 25/07/1957. However, my date of birth on the secondary certificate (10th) is mentioned as 21/01/1958. Can I use my 10th class certificate as proof of birth year? My school has stopped giving me increment and allowances since 2018 based on my age (above 60) as per my passport. What should I do to get compensated?

**A:** Pursuant to your queries, the age factor may not be considered a criteria to determine the increment and allowance of an employee in the UAE. It should be noted that the date of birth mentioned in the passport of an individual shall be considered for all official purposes in the UAE and not any other dates mentioned in other documents.

Since January 2011, the Ministry of Human Resources & Emiratisation has been accepting requests for work permits of individuals over the age of 60 years up to the age of 65; thereby enhancing the retirement age from 60 to 65.

As per the prevailing provisions, for all employees working in private sector entities registered under the federal laws of the UAE, the retirement age is 65 years. However, the age limit of 65 years for retirement may be further increased considering the individuals' nature of work, his credentials, expertise which is important for the entity he is working for.

Further, granting of increment is discretion of the employer but the company cannot stop your other allowances from your remuneration if these are mentioned in your employment contract registered with the Ministry of Human Resources & Emiratisation (the 'Ministry'). This is in accordance with Article 60 of the Federal Law No. 8 of 1980 regulating Employment Relations in the UAE (the 'Employment Law'). It 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 employee is required by law to pay from his remuneration, e.g towards social security and insurance schemes;

(c) The employees 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 Ministry of Human Resources & Emiratisation;

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

(f) Any debt payable in execution of the judgment of a court of law;

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

Based on the aforementioned provision of law, if your employer has deducted allowances which are part of your employment contract you may inform the school that it is unlawful.

Therefore, they should pay you the arrears since 2018 along with your end of service benefits on or before your last working day. In the event the employer disagrees to pay the allowances, you may approach the Ministry and file a complaint.



## Know the law

The date of birth mentioned in the passport of an individual shall be considered for all official purposes in the UAE and not any other dates mentioned in other documents.

## How to apply for UAE residence visa if you had tuberculosis in the past

**Q:** I am currently employed by a bank in London but travel between the UAE and UK on a regular basis for work-related matters. I was recently approached by a major oil and gas company in the region and have accepted a senior role offered by them. I am aware that one must undergo a medical examination at the time of obtaining a residence visa in the UAE. However, I am slightly hesitant regarding the medical fitness test as I was diagnosed with tuberculosis (TB) in 2003 while I was on post-graduation

## Know the law



If a person is seeking a UAE residence visa, one must travel to the UAE with all his/her medical records duly notarised and legalised from the UK, UAE Embassy in the UK followed by attestation from Ministry of Foreign Affairs & International Co-operation in the UAE.

holiday in Germany and treated at a private medical hospital for over two months. The medical expenses were borne by the UK government as part of the EU rules. I returned to the UK later and completed my medication before starting a full-time employment and thereafter, never experienced any medical issues related to TB. Further, if I undergo medical fitness check in Abu Dhabi, I am not aware if the X-ray will reveal the TB scar.

**A:** For the purpose of residence visa, all matters related to the medical fitness tests in the UAE fall under the jurisdiction of Ministry of Health and Prevention (the 'Health Ministry'). Since you were cured of tuberculosis several years ago, you can apply for your residence visa and thereafter travel to the UAE.

It would be prudent to travel to the UAE with all your medical records duly notarised and legalised from the UK, UAE Embassy in the UK followed by attestation from Ministry of Foreign Affairs & International Co-operation in the UAE. The same set of documents may be filed with the Health Ministry if you fail in the medical fitness test due to TB scars from the past.

You may contact the Health Ministry and the office of the General Directorate of Residency and Foreigners' Affairs, Abu Dhabi for any further queries in this regard.

Further, you may write to us separately if you intend to seek our professional assistance. Your prospective employer may guide and provide you necessary assistance in the event TB scars are shown on the X-rays after conducting medical fitness test.

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