

Labour ban can be waived for certain professional levels



LEGAL VIEW ASHISH MEHTA

I was working for a private company in Dubai Investment Park (DIP) 1. I left the company after 13 months without completing my contract period and got my cancellation papers done. In the column where the ban was mentioned, nothing was written which meant there was no labour ban on me. I also checked online which said there was no such ban.

I then left the UAE and returned after two months for a new job with a company. When the company was processing my new visa, the PRO told me that there is a ban on me for six months and that to lift the ban, I have to pay Dh4,800. I don't know if such a ban can be enforced three months after my exit from the country and I have to pay to have it waived. Please shed light on this.

It is understood that you were employed at a company located in Dubai Investment Park and subsequently, you resigned from your employment before completion of the employment contract period and your work permit and visa were cancelled by your employer, upon your resignation. You understand that there was no labour ban imposed by the Ministry of Labour on you, upon cancellation of the work permit. Now you have an offer of employment from a company

based in the UAE and it is noted that your prospective employer is not able to process your visa due to a labour ban of six months imposed on you. It is assumed that your employment contract was of a limited duration and since you left your previous employment before completion of your contract period, your employer requested the Ministry of Labour to impose a six months' labour ban on you.

However, your prospective employer may apply for lifting the ban based on your proposed salary to be drawn by you, in accordance with Article (4) of the Ministerial Order No. 1186 of 2010 which states:

"As an exception to the provision of Item No. (2) of Article 2 of this Resolution, the Ministry may issue a work permit to an employee without requiring the two-year period in the following cases:

a) In the event that the employee is starting his new position at the first, second or third professional levels after fulfilling the conditions for joining any of these levels according to the rules in force at the Ministry, and provided that his new wage is not less than twelve thousand dirhams at the first professional level, seven thousand dirhams at the second professional level and five thousand dirhams at the third professional level..."

Service can be terminated without notice during probation
I have been working as a marketing executive in an Ajman company from March 25, 2014 and the contract is a limited one for two years. I went to India on August 23 for one week on emergency leave and extended it to one more week after informing my manager by phone, which was not accepted.

I returned on September 6 and went to office. They took my passport and labour card from me and told me to come after one week. They then delayed returning my passport and labour card on some pretext or the other. On September 17, I went again and they sought my resignation. My salary of one month and allowances are pending. Kindly advise me what I should do. Will there be a ban since I have not completed two years from the issue of my labour card?

It is understood that you have been working as a marketing executive with a company located in Ajman since March 25, 2014 on a limited duration employment contract. Further, we note that you travelled to India on emergency leave on August 23 duly approved by your employer and you unilaterally extended your leave for another one week even as your employer did not approve the extension of your leave. Subsequently on your return to work on September 6, your employer asked you to hand over your passport and work permit and subse-

quently, you resigned from your employment.

In our response to your questions, it is assumed that you were on probation period until September 24, 2014, if your employer contract stated probation period is for six months.

Article 37 of Federal Law No. 8 of 1980 (Labour Law) regulating Labour Relations states, "A worker may be engaged on probation for a period not exceeding six months, during which his services may be terminated by the employer without notice or severance pay; provided that a worker shall not be engaged on probation more than once in the service of any one employer. Where a worker successfully completes his period of probation and remains in his job, the said period shall be reckoned towards his period of service." Based on the aforementioned provision of the law, you are not entitled to any salary for the notice period and severance pay.

You may not be able to claim

remuneration from your employer for the unapproved leave availed by you in accordance with Article 89 of the Labour Law which states, "Subject to the provisions of this Law, any worker who fails to resume work immediately after the expiry of his leave shall automatically forfeit his remuneration for the period of his absence, with effect from the day following that on which the leave expires." However you may claim unpaid remuneration and allowances from your employer for the period you worked for the company.

Detention of passport of an employee by the employer against the will of the passport holder is unlawful in the United Arab Emirates. Therefore, you may file a complaint against your employer with the Ministry of Labour and the Ajman Police for unlawful detention of your passport. The Ministry of Labour, at the request of your employer or otherwise, may impose a ban on you from taking up a new employment.

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