

Employment ban can be lifted if salary clause is met

I have been working in an LLC company in Dubai. Within one year I got an offer of more than double the salary so I left that company which slapped a one-year ban on me. My new company is in the free zone, but I'm having trouble lifting this ban even in the free zone. I have an MBA degree and so I think I am well qualified and there must be some way to remove this ban.

It is understood that you were employed at a mainland entity in Dubai and subsequently, you got an offer of employment from a free-zone entity which was offering you a better salary. Subsequently, your previous employer had imposed a ban of one year



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duration on you and you are currently unable to get it lifted. It is presumed that since you had left your previous employment within a period of one year of employment, your previous employer imposed the one-year labour ban on you.

Pursuant to this, no employment visa shall be issued in your name for a period of one year. However, it may be noted here that your prospective employer may make efforts to lift the ban by demonstrating that you will be given a salary as per the prescribed norms. The Ministerial Order No 1186 of 2010 lays down the provisions as to where a labour ban may not be imposed or where it may be lifted. Pursuant to this Ministerial Order, even if a labour ban gets imposed, the ban may be subsequently lifted if the professional qualifies for the salary requirements. This is 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 (12) thousand Dirham at the first professional level, (7) thousand Dirham at the second professional level and (5) thousand Dirham at the third professional level...."

Thus, as a holder of an MBA degree your prospective employer should provide you a salary of at least Dh12,000 in order to have the labour ban lifted from you.

You may also try to make a representation for yourself at the Ministry of Labour. In this regard, it shall be advisable to take the help of a legal practitioner, working in the UAE who may provide you with proper legal assistance based on the exact nature of your case.

Complaint against advocate

I seek your guidance as I have been cheated by an advocate in Dubai. I am based in India. I exported a shipment of foodstuffs from India, to a company in Dubai. The company has taken the delivery of goods and has not made the payments. So I appointed an advocate in Dubai to take legal action against the defaulters. I also made the initial payment of Dh1000 for his services. The advocate has acknowledged receipt of payment, but has not taken any action. Please advise me what to do.

It is understood that you were supposed to receive payment for a consignment of foodstuffs you had exported to Dubai, but the importer in Dubai did not pay your dues. Further to this you engaged an advocate in Dubai to initiate appropriate legal action against the defaulters. However, till now your advocate has not initiated any action even though you paid him a sum of Dh1,000 against which you also have an acknowledgement of receipt from the advocate concerned.

You have not mentioned whether you and the advocate executed any agreement or exchanged any written communication defining the scope of services to be rendered by the advocate and the fee to be paid by you for the services to be provided by the advocate. Further you have not mentioned whether you provided a power of attorney to the advocate. What was the scope of services for the Dh1,000 paid by you? Was the amount paid for initial consultation given by the advocate to you or did this amount also include any additional services to be provided by the advocate? Did you pay this amount to a licensed firm of advocate or you paid this amount to the personal bank account of the Advocate? We assume you executed a scope of services and fee agreement with the advocate. Further we assume that you did not grant a power of attorney to the advocate. In order to proceed in the matter the advo-

cate would require a power of attorney from the claimant.

It is advisable to seek a refund of the fee from the advocate if he did not initiate any work in the matter. However if you have firm evidence of professional malpractice against the advocate and should the advocate refuse to refund the fee, you may consider to file a complaint against the advocate with the 'Professional Conduct Section' of the Legal Affairs Department of the Government of Dubai. It may be noted here that the 'Professional Conduct Section' is empowered to receive complaints against Advocates and Legal Consultants and initiate investigation of the matter. Subsequently if any violation is found to have been conducted by the Advocate/Legal Consultant, the matter is referred to the "Professional Conduct Committee for Advocates and Legal Consultants" who may then review the matter and take necessary disciplinary action against the advocate concerned or legal consultant. This is in accordance with the following legislations of the Government of Dubai:

Law No (32) of 2008 Establishing the Government of Dubai Legal Affairs Department; and

Executive Council Resolution No (22) of 2011 Concerning Fees and Fines in the Emirate of Dubai.

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