

The issue of "Time lapse" in lawsuit Islamic Republic of Iran

Ghobad Naderi

Department of law, Payam noor University, Kermanshah, Iran

Qaeeme Naderi

Department of law, Khoramabad branch, Islamic Azad University, Khoramabad, Iran

Abstract

We know that between Workers and Employers claims are subject to the law Work, 1992 approved by the expediency council, according to Article 157 of the law above mentioned shall be investigated and resolved and specific and clarified administrative authorities called "delegations identify and resolve differences" as provided in the foregoing Articles, are assigned to handle such claims. But the question may be raised in this regards, Inclusion or exclusion time lapse is relative to is the above claims. Of this research can be very important in different directions and dimensions. In this research, first define the passage of time lapse and nature of the legal its and judicial and administrative enforcement of time lapse better investigated to improve the services we have. Then look at the importance of time lapse in the rules and regulations of Iran the legal system we have.

Introduction

Spread Quantitative files, all references in dispute resolution and even is the Supreme Court of administrative Justice impressive and in terms of social, all employer activities environment and need special workshop which of claims tensions and controversy and summary, cross-claims employee and employer be devoid. And therefore rational circulation claims, does not harm the workshop and finally be done peace tranquility. In our legal system, only the duty of the claims against the employer of the worker is located consideration. According to the above hierarchy, the importance study of expertise opinions in refers to field of pros and legal dimensions of the problem, no one are not covered and considering that, in Article 1 of the Labor Law, all workshops, services, manufacturing, industry and agriculture are obliged to comply with of this Labor Law. Therefore can be said large number of the workshops. With issue of working passage of time claims, in topics have been familiar and acquainted the future, more details will give be evaluated.

First topic: the definition of Time lapse and its legal nature

"Time lapse" is a legal term. When we say such and such claim "became subject to Time lapse" the purpose of this time has been spent proceedings with claim mentioned and there is no other possibility proceedings with it, by the relevant authority (judicial, or administrative or

Trade Union, etc). One of the scholars and authors about the definition time lapse says: "time lapse" time is traverse prescribed in the law or commands passed which effect is applied to the following effects: A: The ownership of the property, this time lapse to say acquisition: B: cannibalized the right, especially the right to prosecuting litigation in courts or lawsuit ...; time lapse, "is affair ongoing curtailment or suspension that may be incurred.

Time lapse is in issues of civil, commercial, the executive and criminal flows. In Islamic culture it is "passage of time" they say jurisprudents Sunnis it's accepted (JaafariLangeroudi, 2006).

Second topic: look at the most important laws and regulations of time lapse governing in Iran in the legal system

Rules and regulations of time lapse in the our country due to the imitation of western countries have regulations and regulations record codified, that basically the creation of a legal basis has been done time lapse, especially France and Switzerland. However the study most important laws and regulations and requirements and commands explicitly allow multiple claims actions in the field of time lapse have passed, it seems useful. In this discussion, the approved regulations after the Islamic revolution will be studied compacted.

Islamic revolution, tremendous change in the perspective of the new government created. And beneficial in terms of the relationship between an employee and employer attitudes, it can be said; Source supporting laws and regulations, including labor law was passed in 1991 which eventually approved by the Expediency Council. The legal document which explicitly referred to the issue of time lapse, the legal bill is approved by the Islamic Revolution Council. Time lapse the Council actions in the field the work, in the Articles 32 and 33 of law mentioned is discussed.

According to this bill, in the form of one single and one amendment has been approved, Claims of time lapse due to work, and has identified the one year Time Spent for such claims is considered. The only the legal text that time lapse it is referred to the claims, A bill was approved by revolution Council. Which above-referred to and its text relates to the labor law the labor law of 1959 is approved. After the 1991 labor law until approved by the Expediency Council, been task is clear and among has not been problem and specific legal objection.

The 1991 labor law approved article 203 and is 121 notes and labor claims about time lapse has been silent since.

This was done while the formerly the Guardian Council materials (Former Civil Procedure approved 1940) that relating to time lapse was legal claims (Non-legal) has announced and it the annulment of regulations. According to the labor law approved in 1991 Claims to work concerning time lapse, No particular warrant In other words is silent. One of the authors, without being regarding time lapse work claims to express his views to final dispute resolution of the votes issued by the authorities (the subject of Chapter IX of the Labor Law) has pointed

out (Ranjbari, 1999). In this statement apparently the author, the deadline for claims subject specific time limitations labor law does not consider.

The Guardian Council Subject

The Guardian Council, except that the lines previously mentioned general opinion no comment on does not another on this subject. In Islamic punishment law approved 1992, is predicted of time lapse in deterrent punishments and is not objected to this council. Therefore expressly, a special viewpoint was not observed by The Guardian Council. And issue time lapse "work claims" can only refer to the same previously comments, it seems.

Legislative developments after the Islamic Revolution

The current legislator stance in recent few years, completely has undergone significant change has been. Predicting criminal issue of time lapse (not just in respect of deterrent punishment) a step toward the restoration of time lapse in the legal system - judicial are among our country, in particular issue approved by comments Islamic Consultative Assembly and also Guardian Council has accepted and approved by jurisprudents. Official documents on the legislation passed in 1976 pursuant to this law, directors of official documents, In terms of their disciplinary violations may be prosecuted and the trial according to citing of the passage of time lapse achieved their innocence. So should be said: Issue of time lapse in terms of the current legislation, is not categorically molested; and cases there is limited of time lapse in our country and it is running as well (Heydarzadeh, 1995).

Discussion

- 1.** Passage of time lapse and the rules governing its claims aimed at reducing the time raised in the legal organizations, administrative, professional and ... About the previous sentence is located the legal system.
- 2.** In the context claims for workers and employers just legal text that is invoked to it, revolution Council has legal bill.
- 3.** The Guardian Council as to why no way against revolution Council, it must be said: The decision by revolution Council for a decision consistent with public interests of society and due the secondary sentence.
- 4.** Finally, should be said that the claims between workers and employers. Despite the silence of the 1991 Labor Law Expediency Council in cases where revolution Council legal bill stated, invoked capability to have a single article and Just as legal office has been referred to the Judiciary, including both the 1959 and 1991 labor law is approved.

Acknowledgement

I thank Mr. Alireza shakarbeigi and Amir Ahmadi deeply grateful which I have contributed to the article publication and I wished them health.

References

Books and Journals

1. Aliabadi, Abdul Hussein, criminal law.
2. JaafariLangeroudi.(2006). MJ, legal terminology, the fifth volume. Under No. 12567. p 3314.
3. Heidarzadeh, M. (1995) "Police pursuit judges' Tehran, Azadeh Publications, 1995, pp. 69-68.
4. Ranjbari, A.(1999) employment law, labor law annexed to the Islamic Republic of Iran, Tehran - Majd Cultural Scientific Association, pp. 159-160.
5. Newspaper Islamic Republic of 10311 dated 30 \ 4 \ 1981.

Terms

6. The constitution of the Islamic Republic of Iran.
7. Labor law approved of the Expediency Council in 1991.
8. Penal Code Procedures approved in 2000.
9. Civil Procedure Law, adopted in 1940.