84956 - Deducting from an employees wages because of his mistakes

the question

We work in a company that punishes employees for mistakes by deducting one or two days' pay from their wages. This is not based on any specific law about deductions, rather the deductions are made according to what the boss thinks. But we are angry because a deduction may be made because of a very minor mistake. Is it o.k. for us to use some of the work time for our own business, commensurate with what has been deducted wrongfully from our wages? Do they have the right to wrong us in this manner? Please note that this was not discussed when the contract was drawn up.

Detailed answer

Praise be to Allah.

Firstly:

The employee in the public or private sector is a "private worker" according to the terminology of sharee'ah, and the private worker is the one with whom a contract has been made stating that he will work for the hirer for a specific length of time. This is the case with jobs nowadays, where there is an agreement on set number of working hours each day.

The fuqaha' have explained the ruling on private workers at length in their books.

One of these rulings is that the worker does not deserve the wages agreed upon (salary) unless he completes the work required of him as agreed in the contract.

It says in al-Mawsoo'ah al-Fiqhiyyah (1/292):

The boss is required to pay the worker in return for his making himself available, so long as he does not refuse to do the work that is required of him. If he refuses with no good reason, then he is

not entitled to his wages, and there is no difference of scholarly opinion on this point. End quote.

It says in Fatawa al-Lajnah al-Daa'imah (15/153):

The one who is entrusted with some work in return for a salary is required to do the work in the manner required. If he fails to do that with no valid reason, then it is not permissible for him to take the salary. End quote.

Secondly:

If an employee makes a mistake or destroys something (such as one of the machines or tools that he is working with), is he liable to pay for it or not?

The answer is that one of two scenarios must apply. If that was due to a transgression or shortcoming on his part, such as if he was using the machine or equipment in the wrong way, which led to it breaking, or he overworked the machine, or he did not do his work properly, or he was careless in his work, etc., in this case he is liable to replace what he destroyed, and there is no difference of opinion among the fuqaha'. The employer may deduct the value of the damaged item from the employee's salary.

In the second scenario, if the damage was done with no transgression or shortcoming on his part, then there is a difference of opinion among the scholars. The view of the majority is that he is not liable unless he transgressed or fell short. Others (such as Imam al-Shaafa'i, according to one of his two opinions) were of the view that he is liable.

See: Takmilat al-Majmoo' (15/354) and al-Mawsoo'ah al-Fiqhiyyah (1/290).

This issue is one that is subject to ijtihaad. If the employer, whether it is an individual or a company follows the view that the employee's is liable, then the employer is not to be blamed for deductions that are made, provided that the deduction is commensurate with the mistaken and is done in a fair manner. But if the company and the employee disagree on what is fair, then referral for judgement between them should be made to the shar'i qaadi.

But if the employee makes a mistake that does not result in damage to or loss of property, such as if he is late in coming to work or he is absent without an excuse, and so on, then can the boss deduct something from his salary in return for that, or not?

The answer is: Yes, he may do that, and some of these deductions may be stipulated in the contract or in the regulations governing the company. Moreover, this is something that is very common. The employee works for the company and he knows that if he falls short in his work or goes against the company's regulations, he will face the consequences, one of which is deduction from his salary. Even if it is not stated in his contract, this is well known and is customary in the workplace.

But the company owner or boss should strive to be fair and avoid being unfair. The deduction should be commensurate with the shortcoming or mistake, and the penalty should not be exaggerated.

The scholars of the Standing Committee were asked:

When I fire a supervisor or worker, or make harsh deductions in order to set things straight, is this haram?

They replied:

It is not permissible to deduct salaries from employees or fire them except in accordance within the framework dictated by the regulations set out by those who are in charge. End quote.

Fatawa al-Lajnah al-Daa'imah (23/410).

Thirdly:

You have made a number of mistakes, as mentioned in the question. If you find that the deduction is greater than the mistake warrants, or that it was a minor mistake of a type for which deductions are not made in other companies, then the only option you have is to make a complaint to those who are in charge of the company, and explain your point of view. If they insist and you are not

convinced of their argument, then you can refer to the shar'i court to judge fairly between you, in sha Allah.

But with regard to your deliberately being absent, coming late or falling short in your work, or taking back what has been deducted in ways that are not Islamically acceptable – as some employees do – as a response to the disputed issue, that is not the way of the believers and it is not permissible to do that, because taking back contested rights can only be done through the shar'i courts, and cannot be done on the basis of people's whims and desires and opinions.

The scholars of the Standing Committee were asked:

If a person steals or takes something without permission from his workplace in return for a deduction from his salary, is this regarded as stealing and as haram?

They replied:

Yes, this is regarded as haram, and if he has a clear case he may ask for his rights from the authorities. End quote.

Fatawa al-Lajnah al-Daa'imah (19/221)

In Fatawa al-Lajnah (15/123) it also says that the committee was asked about an employee who was mistreated by his boss who deducted from his salary. They replied:

If there is a dispute between you and him, then you have to refer to the shar'i court to examine your case. It is not permissible for you to take anything from his wealth without his permission or knowledge. End quote.

They also said (15/144):

It is not permissible for you to take from the boss the equivalent of what is owing to you without his knowledge, but you have the right to demand what he owes to you through Islamically acceptable means, even if that involves referring to the courts. End quote.

Shaykh Ibn Baaz (may Allah have mercy on him) was asked the following question in Fatawa Noor ‘ala al-Darb (tape no. 410):

There is a young man who was working in a company, but the company suddenly deducted something from me with no good reason. This is one problem. I also did some work for which I deserved to be rewarded and they did not give me any reward. I resorted to doing the following: When I bought something for the company, I would get a big discount from the storekeepers, but that was between me and the storekeepers. I would keep the discount in my pocket, so the invoice would say one hundred pounds, and I would keep twenty-five pounds but the invoice would say one hundred. Please note that the prices on the invoice are similar to the prices in regular stores and the value shown on the invoice is no greater than it would be ordinarily, but what happens is that I get a discount because I buy in large quantities and the discount is not shown on the invoice. Please advise us in the light of that.

He replied:

What you have to do is to explain to them so that things will be clear. You may be mistaken in what you are claiming as your right. So you should set things straight between you and them, with the intervention of arbitrators or the courts, or between you and them directly. This is what you should do, so that you will not take more than you are entitled to. End quote.

And Allah knows best.