



TALKING POINT

OFFER OF EMPLOYMENT – CAN IT BE REVOKED?



Revocation of an offer may be permitted in case the offer and/or contract of employment is subject to fulfilment of specific conditions.



While revocation of an offer may be permitted under certain circumstances, but what are the essential points employers should be aware of and the legalities to avoid potential legal disputes and mitigate risks?


samagra
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OFFER OF EMPLOYMENT- CAN IT BE REVOKED?

Employers may come across situations where they may need to revoke an offer of employment. The revocation of an offer can be a challenging and sensitive situation for both employers and potential employees. When an offer of employment is revoked, it can have significant implications for all parties involved.

“ IN THIS ARTICLE, WE WILL EXPLORE ABOUT REVOCATION OF OFFER AND LEGALITIES SURROUNDING THE PROCESS. ”

Under Indian laws, the terms and conditions of employment are governed by the applicable Federal and State specific employment laws. But making of an offer and acceptance thereof are governed by the provisions of the Indian Contract Act, 1872 (“Contract Act”). The Contract Act defines offer as a proposal made by one person to another to do or to abstain from doing anything, with a view to obtain the assent of the other person to such act or abstinence. A proposal is accepted when the person to whom the proposal is made signifies his acceptance thereto, thus becoming a promise.

Every promise and every set of promises, forming the consideration for each other, is an agreement.

As per Contract Act, an offer can be revoked before the acceptance of offer is communicated to the proposer (employer). Similarly, an acceptance can be revoked at any time before the communication of acceptance is complete. Further, the Contract Act provides the method of revocation of offer.

Basis the aforesaid provisions of the Contract Act, if an employer provides an offer of employment and the same is accepted by the prospective employee/candidate, the consideration involved is that the candidate will be compensated for such services rendered.

Accordingly, an offer becomes legally binding once it has been accepted by the prospective employee as it forms a contract under the Contract Act. Thus, an offer of employment can be revoked or withdrawn by an employer before the same has been accepted by the prospective employee.

One vital aspect to consider here is the offer itself, whether the offer is conditional or not. When revoking an offer, it must be taken into consideration whether the offer made to the candidate was subject to certain conditions and/or was there a valid employment contract in place. There are scenarios where employers provide a conditional offer whereby if the candidate fails to satisfy conditions like, background checks, submission of past employment documents, etc., the offer may be withdrawn even after it has been accepted. In cases where no conditions are specified, such an offer after acceptance results into a binding agreement. Therefore, withdrawal of the said offer amounts to termination of employment thus making the employer liable.

CIRCUMSTANCES WHERE REVOCATION OF OFFER MAY BE PERMITTED



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CIRCUMSTANCES WHERE REVOCATION OF OFFER MAY BE PERMITTED

A. Revocation of Offer Before Acceptance:

An employer may revoke an offer at any time before it has been accepted by the candidate. This means that until acceptance of employment is not communicated, the offer can be withdrawn by the employer without exposure to any legal consequences. This is because offer of employment is not a legally binding contract until it has been accepted by the candidate and the same has been communicated to the employer. If an employer revokes the offer before it has been accepted, the candidate does not have any legal recourse because a valid contract had not come into existence.



B. Revocation of Offer After Acceptance:

Revocation of an offer may be permitted in case the offer and/or contract of employment is subject to fulfilment of specific conditions. Broadly an offer can be revoked in the following circumstances:

- **Negative Reference Checks:** If the employer receives negative reference checks or discovers information during the background verification process that raises concerns about the candidate's suitability for the role, the employer may have the right to revoke the offer.
- **Misrepresentation by Candidate:** If it is discovered that the candidate provided false or misleading information during the hiring process, such as fake educational qualifications or certificates, wrong details of work experience, etc, the employer may revoke the offer.

Additionally, if there is a significant change in business circumstances or requirements, an employer may revoke the job offer. For example, if there is a sudden downturn in the economy or the need for the particular position is no longer present, the employer may withdraw the offer subject to conditions, if any.

LEGAL CONSIDERATIONS FOR REVOCATION OF OFFER

While revocation of an offer may be permitted under certain circumstances, it is essential for employers to be aware of and follow legalities to avoid potential legal disputes and mitigate risks (including reputational damage):

- **Timeliness:** Employers should communicate the revocation of the offer promptly and provide a clear explanation for the revocation.
- **Written Communication:** It is advisable for employers to revoke the offer in writing, clearly stating the reasons for revocation.
- **Compensation:** Employers should consider providing reasonable compensation to the candidate in cases where the offer is revoked.
- **Non-Discrimination:** Employers must ensure that the revocation of an offer is not based on discriminatory factors such as race, gender, religion, or disability.
- **Offer Letter:** Employers should ensure that the offer letter clearly states that the offer is subject to verification of relevant details and fulfilment of any specific conditions.
- **Notice Pay:** Employers may choose to pay in lieu of notice period in situations where offer is not subject to conditions and/or contract of employment has been executed.

“ IN A NUTSHELL, REVOKING AN EMPLOYMENT OFFER BEFORE ACCEPTANCE IS PERMISSIBLE UNDER THE INDIAN LAWS. ”

In a nutshell, revoking an employment offer before acceptance is permissible under the Indian laws. The revocation must be effectively communicated to the employee in a timely manner, and there should be valid reasons for the withdrawal. However, once the offer has been accepted, revoking it can have legal consequences, and employers should exercise caution and adhere to applicable laws and terms and conditions of the contract of employment, if any, in case of revocation of an offer after acceptance.

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IF YOU HAVE ANY FURTHER
QUERIES OR REQUIRE MORE
INFORMATION ON THE SAME
THEN YOU MAY PLEASE
CONTACT US

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Employers should ensure that the offer letter clearly states that the offer is subject to verification of relevant details and fulfilment of any specific conditions.*



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