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Cases of false declaration of Singapore migrant workers' salaries rising, says NGO



Cases of false declaration of migrant worker salaries have been rising as more employers and agents become aware of loopholes, says Home. ST PHOTO: KUA CHEE SIONG



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SINGAPORE - He was offered a job in construction with a monthly pay of \$1,600, and was shown an in-principle approval (IPA) letter reflecting this.

But when he received his first pay cheque, Ahmed (not his real name) discovered that his basic wage was only about \$200.

For seven months, he continued to be underpaid.

Then came another twist.

After he made a salary claim and was referred to the Tripartite Alliance for Dispute Management (TADM), his employer showed up with an entirely different IPA.

Instead of a basic and fixed monthly salary of \$1,600, what the employer said was declared to the Ministry of Manpower (MOM) was a basic pay of \$286 and a fixed monthly pay of \$800 after accounting for allowances and deductions.

Ahmed's story is a familiar one to advocacy groups such as the Humanitarian Organisation for Migration Economics (Home).

It told The Straits Times that such cases have been going on for years, and have been increasing as more employers and agents become aware of loopholes.

Last year, Home handled 274 cases involving issues with the salary declared on IPAs.

This is a 24.5 per cent increase from the 220 cases it had in 2019.

Many employers also circumvent the S Pass, Employment Pass (EP) and Direct R1 schemes, which require minimum salaries, by inflating the salaries on paper with no intention of paying workers the rightful amount, said Home case work manager Luke Tan.

MOM said it received an average of 560 false salary declaration complaints every year over a five-year period between 2015 and 2019.

Over the same five-year period, MOM took enforcement action against 950 employers for not paying foreign workers their contractual fixed monthly salary or inflating salaries with no intention of paying the declared amounts.

These are Employment of Foreign Manpower Act offences that carry a fine of up to \$10,000, jail for up to a year, or both.

About 1,400 foreign workers were affected in these 950 cases.

MOM did not disclose how much money was involved, but said it will help victims of underpayment recover the salaries owed to them.

ST understands that in false salary declaration cases, MOM requires errant employers to make full restitution, even during investigations.

Employers that fail to do so can be ordered by the courts to compensate workers if they are convicted, and may face additional penalties if they fail to comply with the order.

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However, in cases where the employee is complicit and willingly agrees to an inflated salary, MOM said it will instead take enforcement action against the worker and bar him from working here.

Salary restitution in this case is not applicable, MOM added.

The ministry said false declaration of salary cases typically involve S Pass or EP holders due to the minimum salary requirements. This is \$2,500 a month for the S Pass and \$4,500 a month currently for the EP.

The tightening of S Pass quotas for some sectors, such as the service industry, is also a factor, Mr Alex Au, vice-president of migrant rights group Transient Workers Count Too (TWC2), told ST.

The Direct R1 Scheme, introduced in 2015, which allows construction firms to pay a lower levy when hiring higher-skilled foreign workers, has also led to more cases.

This is because there is a minimum monthly salary of \$1,600, and at least 10 per cent of a construction firm's work permit holders must be in the R1 scheme before it can hire lower-skilled workers.

Mr Au said TWC2 saw a spate of false salary declaration cases involving R1 scheme workers in 2017 and 2018, but has not seen more than two or three such cases in the last 12 months. One reason could be rising salaries in the construction sector.

Mr Ian Lim, TSMP Law Corporation's head of employment and labour, said false declarations of salaries may overlap with regular salary disputes.

Such disputes - which usually involve an employer failing to pay an employee's agreed salary - are Employment Act offences but are also generally seen as private contractual matters and left to employees to pursue, mainly through TADM and the Employment Claims Tribunals, Mr Lim said.

False salary declaration offences can be tough to detect, he added.

But once discovered, they are usually prosecuted as they involve employers lying to the authorities, circumventing the law and bringing in more foreign workers than they otherwise could.

However, getting justice is not always clear-cut.

In Ahmed's case, it was hard to prove that the IPA letter stating his basic pay was \$1,600 was genuine.

While he claimed he was owed more than \$20,000 in wages, including overtime, his employer was ordered to pay about \$4,600, only a fifth of what was claimed.

Home, which helped Ahmed during his claim, said it highlighted the IPA issues to MOM.

So far, it is not aware of any court proceedings or investigations against Ahmed's employer in relation to the discrepancies in the declared salaries.

Ms Goh Seow Hui, a partner at law firm Bird & Bird ATMD, said false salary declarations occur when there is extremely unequal bargaining power between employer and employee, a point also raised by Home and TWC2.

Associate Professor Ravi Chandran, who teaches employment law at the National University of Singapore Business School, said workers may be afraid of complaining as they may lose their jobs.

This is especially so for workers who have to take huge loans to come to Singapore to work.

Mr Au said the authorities should address this imbalance of power, instead of pouring more resources into policing and investigations.

"We have to explore various ways to address recruitment fees, and we need to give workers the right, and a reasonable period of time, to change jobs," he said. "The price of resigning is too high in Singapore."

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MOM tackling false salary reports with tech, education

The Ministry of Manpower (MOM) said it takes a multi-pronged approach to tackling false declarations of salaries.

The ministry told The Straits Times that it has improved the detection of such offences by using data analytics and machine learning tools to find unusual recruitment patterns.

It has also stepped up efforts to educate foreign workers that it is wrong for their employers not to pay them their declared salaries, and to seek help or report cases to MOM early.

Employers are also reminded of their responsibilities.

Mr Luke Tan, a case work manager at the Humanitarian Organisation for Migration Economics (Home), said the non-profit group makes a great effort to empower workers with knowledge of such practices, but it is near impossible to reach workers while they are in their home countries.

Mr Tan added: "Workers are disadvantaged because work pass applications do not require verification of their informed consent. Everything is done by the employer or agents. Workers can be unaware of what is declared to MOM."

Ms Goh Seow Hui, a partner at law firm Bird & Bird ATMD, said one way to deter such cases is for MOM to require employers to produce a copy of the written employment agreement at the work pass application stage.

Another solution being mooted is electronic salary payment.

Currently, work permit holders are able to request that their salaries be paid to their bank accounts electronically, and it is mandatory for their employers to do so upon request.

An S Pass holder's salary must be paid electronically.

Due to Covid-19, the vast majority of foreign workers living in dormitories are also paid electronically.

Singapore National Employers Federation (SNEF) executive director Sim Gim Guan said: "There will be records, which would make it harder for irresponsible employers to make false declarations."

MOM, SNEF and the National Trades Union Congress are in discussions to extend this arrangement to more workers, he added.

Associate Professor Ravi Chandran, who teaches employment law at the National University of Singapore Business School, suggests making it mandatory for salary payments to be made via Giro, noting that electronic salary transfers are mandatory in Gulf states such as Saudi Arabia, Kuwait and Qatar.

But both Prof Ravi and Home's Mr Tan said electronic payments are not foolproof.

Mr Tan said: "We have had cases where employers paid the correct amount electronically, but forced workers to repay it in cash."

This modus operandi was employed in the recent case involving confectionery chain Twelve Cupcakes.

For months in 2018, the firm credited the full fixed salaries of seven employees, but made them return part of their wages in cash.

This enabled Twelve Cupcakes to avoid detection by not leaving a paper trail, MOM's prosecutor said during a hearing in December last year.

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A more drastic measure to prevent false declarations could be to have a third party handle salary payments, said Prof Ravi.

One possibility could be the Central Provident Fund Board, which already collects foreign worker levies on MOM's behalf.

"The question would be whether all employers, and the Government, have to pay the price for the actions of a few bad sheep," added Prof Ravi.

Mr Sim said most employers are responsible.

"They are also making efforts to transform their business so as to reduce their reliance on manpower," he added.

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