

Indian cooks allegedly coerced into paying thousands in cash in return for visa support

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An Albury café owner allegedly coerced two Indian workers into paying him thousands of dollars in cash in return for his support for their visas.

The two young workers faced the prospect of having to leave Australia within 28 days if the employer withdrew support for their visas.

Fair Work Ombudsman Natalie James has put the matter before Court, expressing concern about the businessman's alleged coercive behaviour.

Facing legal proceedings is Fares Ghazale, now of Chirnside Park in Victoria, and his company Rubee Enterprises Pty Ltd.

Mr Ghazale formerly owned and operated Albury's Canteen Cuisine café until it closed last September.

Documents lodged in the Federal Court in Sydney allege that Mr Ghazale was involved in multiple breaches of workplace laws.

Allegations in the Fair Work Ombudsman's Statement of Claim include coercion, adverse action, providing false records and underpaying five employees more than \$87,000.

The Fair Work Ombudsman alleges the five underpaid staff included two Indian workers in their late 20s employed as cooks.

One had been sponsored by Rubee Enterprises on a 457 skilled worker visa and the second had an application pending for the same visa.

The two cooks were allegedly paid a flat rate of \$1000 and \$830 respectively for working a 60-hour week, including nights and weekends.

This is significantly less than the minimum wage and penalty rates they were entitled to under Australia's Restaurant Industry Award 2010.

The Fair Work Ombudsman claims the two employees were each underpaid amounts of \$32,063 and \$28,858.

However, in addition to allegedly short-changing the workers, the Fair Work Ombudsman claims Mr Ghazale coerced the pair into going to a local ATM to withdraw cash and then repay him large amounts of their wage - threatening to withdraw his support for their visas if they refused

One employee was allegedly required to repay Mr Ghazale more than \$11,000 over a period of several months in amounts ranging from \$550 to \$940 a week.

Similarly, it is alleged Mr Ghazale coerced the second Indian cook into repaying more than \$10,000 cash through weekly repayments ranging from \$200 to \$700.

The Fair Work Ombudsman says the employee complained that he was being exploited, but Mr Ghazale's alleged response was to threaten to withdraw his support for a pending 457 visa application.

The employee allegedly subsequently told Mr Ghazale he could no longer surrender his weekly wages, to which Mr Ghazale allegedly responded by shouting at him and demanding \$500 cash each week if he wanted to get the visa.

At one point during this exchange, Mr Ghazale allegedly took hold of him by the collar. The alleged conduct was reported to Albury police.

It is alleged the cook continued working at the café and provided cash on a weekly basis to Mr Ghazale.

When the other cook allegedly complained about the repayment requests, Mr Ghazale allegedly threatened he would "contact Immigration" if the employee refused to hand over the cash.

In addition to the alleged underpayment of the Indian visa-holders, Fair Work inspectors allegedly found three Australian citizens employed at the café had also been underpaid their wages and entitlements.

The Fair Work Ombudsman says a waitress was underpaid \$11,273, a cook \$8946 and an apprentice cook \$6766.

The Agency investigated after receiving a request for assistance from one of the employees.

Mr Ghazale and Rubee Enterprises allegedly knowingly provided false time-and-wages records to Fair Work inspectors and failed to issue payslips to employees.

Mr Ghazale faces maximum penalties of up to \$10,200 per contravention and Rubee Enterprises faces maximum penalties of up to \$51,000 per contravention.

The Fair Work Ombudsman is also seeking a Court Order for the company to back-pay the workers in full.

Ms James says her Agency has placed the matter before Court because of the seriousness of the alleged conduct and the involvement of vulnerable overseas workers.

She says the Fair Work Ombudsman places a high priority on protecting the workplace rights of overseas workers, who can be vulnerable if they are not fully aware of their rights or are reluctant to complain.

Employers and employees seeking assistance can visit www.fairwork.gov.au or contact the Fair Work Infoline on 13 13 94.

Overseas workers can call 13 14 50 if they need interpreter services.

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