

LAW FIRMS OFFERING INCREMENT AFTER RESIGNATION – LONG-TERM CURE OR BAND-AID FOR THE TIME BEING?



Nipun Bhatia
Associate Vice President
Strategic Management & Process
Redesigning

Attrition is one issue that continues to bug the Law Firms despite the Firms taking best measures to retain their workforce. With law firms constantly looking to on-board fine legal talent at a premium price, the fraternity has been witnessing a lot of volatility in lawyer movements, especially in the past couple of years. While there are a number of law schools mushrooming in the country, the quality of the lawyers graduating therefrom has been under a constant scanner. Owing to lack of sufficient number of skilled lawyers, separation of a lawyer from the firm, especially home-grown ones, means letting go of all the training and man-hours invested in aligning them to firm's and clients' ways of working. In order to control the damage anticipated from such exits, it is a usual practice for law firms to offer increment, and sometimes a higher designation to a lawyer after resignation. But is it a long-term solution? This article aims to explore how can firms avoid circumstances that lead to such a situation and whether offering such consequential pay-hikes is a worthwhile solution to the same?

Receiving a resignation, unless it is from a resource that the Firm itself wants to get rid of, is never a pleasant experience for the Partner and the Human Resource (HR) Team! The impact is more gruesome if the resignation has come in without any prior verbal conversation with the Partners or HR Team; and has the potential of throwing quite a few things off-track. While it is true for most of the professional services, legal services are particularly impacted with sudden exits as most of the lawyers working in Law Firms are front-ending the clients and developing great levels of trust, confidentiality and personal rapport. Exit of a very senior lawyer from the Firm may sometimes be followed by exit of clients too, especially the ones who have found a comfort of working with such a lawyer. In fact such exits may disturb quite a few equations within the firm as well, since colleagues and team members also develop a way of working over a period of time. To add to this, there is a constantly increasing demand for skilled and trained lawyers who can render quality legal advice, both by Law Firms and Corporate In-house Legal Departments. All this has led to movement of lawyers from one avenue to another like never before. In desperate measures to prevent this brain drain, Law Firms have been offering increment in packages at very high percentages and sometime higher designations too, without even evaluating whether the exiting lawyer is fit to be promoted to a level above!

However, the point to be considered here is whether such exits are always 'out of the blue'? Could the firm have averted such a situation if they knew of it in advance and addressed underlying issues that built the circumstances of resignation by a lawyer. The answer is in affirmative. There are several tell-tale signs that perhaps the Partners and Reporting Heads miss to observe due to lack of their involvement with their resources. An Informed Partner would know the aspiration level of the team member and would understand what drives them. An even more Engaged Partner would know if there are any personal factors like marriage, pregnancy, aspiration for a better work-life balance, etc., building up in the personal life of a team member, which may eventually lead to a separation. However, Partners are not to be blamed entirely. With the pressure of practice development, execution and quality delivery, a Partner's interaction with the team may be limited to professional aspects only. Not all the Partners are best in gauging human behaviour and turning it around. This is where the need for professionals who are well-equipped to handle softer aspects arises.

While Law Firms in last decade have realized the need to professionalize their business support functions, the role of Human Resource (HR) Management is still quite under-rated in Law Firms. Contrary to their image of only being able to handle grievances, HR professionals are actually proficient in reading between the lines and forewarning the Partners and Firm of probable exits. Not just exits, HR Managers, whether internal or outsourced, are in fact professionally trained to engage with the resources in the Firm and skilfully manoeuvre them towards better productivity. Seasoned HR professionals are able to constantly align the aspirations of human resources with the growth of the Firm, nurturing them towards long-term association with the Firm. There are Law Firms where HR Professionals are so deeply entrenched in assisting the Partners in management of their practices that they even study the time records to ascertain whether any resources are over-worked or under-worked. Such a study paves way for equitable distribution of work amongst the team, avoiding a possible exit cases owing to being over-burdened. At a more senior level, HR professionals also moderate any negative feedback given by the Partners, so that it is construed by the lawyers in more positive light, rather than turning into a fight or blame-game, eventually leading to the exit of a lawyer. They are usually able to sense any inter-personal conflict that may result in a casualty, and many times come up with suggestions like conducting team-building exercises to bring the team together. If the situation is grave or is not showing improvement, they also contemplate solutions like a probable change of team of the lawyer, to mitigate inter-personal issues that build circumstances of resignation. In fact not just at the stage of exit, but role of HR professionals is quite important at the time of hiring as well. In absence of established HR procedures like 'Recruitment Planning' and 'Hiring Process', Firms are prone to hire any reasonably skilled lawyer available at arm's length, in the hope of training them and helping them imbibe firm's way of working. However, when HR professionals conduct the hiring process, they are adept to test softer issues like aspirations of the candidate (money, designation, high-profile work, etc.). Hiring of a resource can always not be limited to technical expertise. If a lawyer is driven by need for a higher salary year on year, and has changed several

organizations in the past to cater to the same, perhaps, the candidate may not be a right fit for the Firm, unless the Firm intends to offer annual increments to match that range. Such a resource is most likely to move on the moment a next-best offer comes his or her way. Hiring resource with the approach of just filling a vacancy or just increasing head-count to manage surge of work is only a stop-gap arrangement. In a nutshell, it is better to have a professionally managed HR practice, since it would minimize instances of abrupt hiring and subsequently abrupt exits.

Having examined some of the ways in which an exit can be managed by the Firm with the help of professionals, let us also examine if offering an increment to a resource, after being intimated of exit, is the best solution? The answer is, no. Unless the Firm identifies that the real reason behind tendering a resignation is driven by aspirations to earn better, offering an increment may not always be the best option to retain a resource. This can be further examined from two perspectives – an aspiration to earn better resulting from a sudden development or a deep-rooted aspiration to constantly earn higher. Let us take the first case. If a resource is about to get married, or is planning a family or is about to buy a house, the need to earn better is a one-off eventuality that has arisen owing to a development in the life of a resource. In such cases, if a resource plans to exit purely for monetary reasons and is otherwise happy in the Firm, the Firms should evaluate their budgets to ascertain such monetary need. HR professionals may suitably study the circumstances and come-up with custom solutions, say, offering a better pay package with one-time correction or giving a one-time payment by way of say a bonus or incentive. With such a solution, the resource may stay back, and perhaps for a longer time because his or her immediate requirement is catered to.

However, in the latter cases of deep-rooted aspirations to constantly earn higher or to maintain a certain standard of living (though there is nothing wrong in it!), a Firm should ideally not offer increment as an after-thought of resignation. The reason is that such a resource will always keep evaluating the market for better opportunities. To add to that, once the resource feels that the Firm has 'kind-of' given in to the demand of better pay, there are chances of such behaviour being repeated in future and letting the firm pay ransom for re-considering the decision to exit the Firm. Further, such a move by the Firm may set a bad precedent for other lawyers in the Firm who may follow the suit and start negotiating better pay packages by way of putting in their papers.

An ideal scenario is when the Firm is able to pre-empt the possible causes that may lead to an exit and address them timely with the help of professionals. Offering an increment as an after-thought to resignation doesn't project the firm in good light. Such moves come across as desperate measures towards retaining an outgoing lawyer. In fact, if the resignation is not due to issues with pay, it may even upset an exiting resource. Therefore, unless it comes out very clearly in the exit conversation that the cause of resignation is driven by pay package and the Firm is sure that such a need is a genuine one owing to certain development which, if catered to, will ease the lawyer and encourage him to perform better, an increment should not be offered. Also, it is a better practice to couple such an increment with a larger responsibility and an enhanced role of the lawyer, so that there is a business case warranting such pay-hike. If the Firm is able to manage this, there are lesser clarifications sought by other lawyers within the Firm. Skilled HR Professionals can take care of the messaging to be spread across and they can handle the queries that may come their way with logical explanations.

Law Firms need to find ways where Partners engage with their resources in informal environment once in a while. Team outings, Lunch Hour conversations, Team Building Sessions, Team Presentations and Weekly Huddles are some very basic activities that enhance the camaraderie between the team members. It is a much wiser approach to invest in professional business support, especially for HR Management, rather than lose resources and pay double the price in replacing the resources, on boarding them and then spending precious man-hours in training them. Of course, there will be never be zero attrition. But skilled Human Resource professionals can identify circumstances that may possibly lead to an exit case and offer timely remedies before the likelihood turns into a reality. Delegation of responsibility to HR Professionals will go a long way in sensing the probable circumstances that may lead to casualties in terms of Exit and turn them around.