

IMPLEMENTATION OF PRESIDENTIAL REGULATION NUMBER 98 OF 2020 ON SALARIES AND ALLOWANCES OF PPPK UNPAID BY THE CITY GOVERNMENT OF BANDAR LAMPUNG

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Abstract

State Civil Apparatus or ASN is a profession for Civil Servants (PNS) and Government Employees with Employment Agreements (PPPK) who work in central and regional government agencies. PPPK are Indonesian citizens who meet certain requirements, who are appointed based on a work agreement for a certain period of time in order to carry out government duties. Every ASN employee has the right to receive awards and recognition in the form of material or non-material. One of the components of appreciation and recognition for ASN employees is income consisting of salary and wages. PPPK salary is compensation in the form of money which the government must pay fairly and appropriately to PPPK in accordance with the workload, responsibilities and risks of the job. In implementing Presidential Regulation Number 98 of 2020, the Bandar Lampung City Government has prepared a personnel expenditure budget plan which is prepared based on the total APBD of the Bandar Lampung City Government. These employee expenditures are used to pay salaries and also additional income for ASN employees, both PPPK and PNS. PPPK has the right to receive salaries and allowances provided by related agencies, as stated in Presidential Regulation Number 98 of 2020 concerning PPPK salaries and allowances. Meanwhile, legal action that can be taken is by conducting mediation with the relevant agencies, but if no agreement is found, you can report it through the relevant agency or commission where the PPPK is affiliated.
Keywords: Salary, PPPK, Civil Servant Management.

INTRODUCTION

State Civil Apparatus, hereinafter abbreviated as ASN, is a profession for Civil Servants (PNS) and Government Employees with Work Agreements (PPPK) who work in government agencies. And what is meant by Government Agencies are central agencies and regional agencies. Central Agencies are ministries, non-ministerial government agencies, state agency secretariats, and non-structural agency secretariats. While Regional Agencies are provincial regional apparatuses and district/city regional apparatuses which include regional secretariats, regional people's representative council secretariats, regional offices, and regional technical institutions. ASN employees act as planners, implementers, and supervisors of the implementation of general government tasks and national development through the implementation of professional public policies and services, free from political intervention, and free from corrupt practices, collusion, and nepotism.

PNS and PPPK have similarities, namely their status as state civil servants or ASN.

Although both are included in ASN, PNS and PPPK have different definitions, rights, management, and selection processes. According to Law Number 20 of 2023 concerning State Civil Apparatus, it is explained that PNS are Indonesian citizens who meet certain requirements, appointed as permanent ASN Employees by personnel development officials to occupy government positions. While PPPK are Indonesian citizens who meet certain requirements, who are appointed based on a work agreement for a certain period of time in carrying out government duties and are appointed by the Personnel Development Officer (PPK) in accordance with the needs of government agencies and the provisions of the Law. PPPK regulated in the ASN law are not honorary workers with a new version, because to become PPPK, the entry point is clear, as is the case for CPNS, namely through the proposal and determination of formations, their performance is also measurable. Government employees with appointments based on Work Agreements are known to not be civil servants because these employees are appointed for a certain period of time to carry out their duties and work.

Every ASN employee has the right to receive awards and recognition in the form of material or non-material. One of the components of awards and recognition for ASN employees is in the form of income consisting of salary and wages. In Presidential Regulation Number 98 of 2020 concerning Salaries and Allowances for Government Employees with Work Agreements, it states that PPPK can be given periodic salary increases or special salary increases. PPPK are also given allowances in accordance with Civil Servant allowances at the Government Agency where PPPK works, which consist of family allowances, food allowances, structural position allowances, functional position allowances or other allowances. Salaries and allowances for PPPK who work in central agencies are charged to the State Revenue and Expenditure Budget (APBN). Meanwhile, salaries and allowances for PPPK who work in Regional Agencies are charged to the Regional Revenue and Expenditure Budget (APBD).

PPPK salary is a reward in the form of money that must be paid by the government fairly and appropriately to PPPK according to the workload, responsibilities, and risks of the job. However, the existence of rights and obligations contained in the State Civil Apparatus Law with the rights and obligations obtained by PPPK in Bandar Lampung City are very different. In the problem in Bandar Lampung City experienced by 1,166 PPPK teachers who have not received salaries for 9 months since November 2021, that in local government agencies PPPK salaries and allowances are charged in the Regional Revenue and Expenditure Budget (APBD) not from the central government. Based on the description above, it can be formulated that the purpose of the research in this thesis is to determine the implementation of Presidential Regulation Number 98 of 2020 concerning salaries and allowances for government employees with work agreements and to determine the inhibiting factors in the implementation of Presidential Regulation Number 98 of 2020 concerning salaries and allowances for government employees with work agreements, regarding salaries and allowances for government employees with work agreements that are not paid.

RESEARCH METHOD

A research cannot be said to be research if it does not have a research method (Koto, 2021). Research methods are one of the factors of a problem that will be discussed. The type of research used in this research is normative legal research. This research was conducted using a statutory approach. The statutory approach is carried out by reviewing all laws and regulations that are related to the legal issue being handled. (Marzuki, 2017). Analysis of legal materials is carried out using qualitative analysis methods which are used to explain legal events, legal materials or legal products

in detail to facilitate legal interpretation (Zainuddin & Ramadhani, 2021).

DISCUSS AND ANALYSIS

Implementation of Presidential Regulation Number 98 of 2020 Concerning Salaries and Allowances for Government Employees with Employment Agreements

The Republic of Indonesia is a State of Law, which is stated in Article 1 paragraph (3) of the fourth amendment to the 1945 Constitution. This provision is an affirmation of the ideals of the founding fathers, that the Republic of Indonesia that is aspired to is a state of law (*rechtsstaat*) not a state based on mere power (*machtsstaat*). The presence of law is shown to prevent various crimes or violations in community life. In addition, the existence of law lies in its ability to improve conditions so that they become safe, orderly and just. Indonesia is a state based on law. In that context, every policy taken must be based on law. Law functions to regulate all community life, especially making society a civilized community. Law has a general meaning of rules as a system of rules about human behavior. Thus, law does not accumulate in a single rule but a collection of rules that have a unity so that it can be understood as a system, the consequence is that it is impossible to understand the law if you only pay attention to the rules (Asshiddiqie & Safa'at, 2006). Another definition of law is a collection of rules or rules in a shared life, all regulations regarding behavior that apply in a shared life that can be enforced with sanctions (Mertokusumo, 1999).

Law has an important function in social life as a tool to create justice, order, peace and order, but also to ensure legal certainty. At the next level, law is directed as a means of progress and social welfare which is formed based on the desires and awareness of each individual in society, with the intention that the law can run as desired by society itself, namely wanting harmony and peace in social life together. Law also has five functions, namely:

1. Directive, as a guide in building to form a society that is to be achieved in accordance with the goals of national life
2. Integrative, as a fosterer of national unity
3. Stabilizing, as a maintainer (including development results) and guardian of harmony, balance and balance in national and social life.
4. Perfective, as a refiner of state administration actions, as well as citizen attitudes in national and social life
5. Corrective, both towards citizens and state administration in obtaining justice.

The law also has a goal, namely to create the greatest benefit for society. The Theory of Legal Benefit can be used as a reference in every policy issued by the Indonesian Government. Government policies are issued to provide benefits to society with the aim of improving the welfare of society. Each country has different policies based on the situation and conditions of the country (Abdoellah & Rusfiana, 2016).

The existence of laws and regulations and the activity of forming laws (legislation) has a very important and strategic role as the main supporter in the implementation of government. The government is an institution or public body that has the function of making efforts to achieve state goals. While in terms of dynamics, government is the activity of the institution or public body in carrying out its function to achieve state goals. Government is all organized activities that are based on sovereignty and independence, based on the basis of the State, the people or population and the territory of a State and has the aim of realizing the State based on the basic concept of the State (Budiarjo, 2003).

In Article 1 paragraph (6) of Law Number 10 of 2004 concerning the Formation of Legislation, it is explained that the Presidential Regulation is a Legislation made by the President. The content of the Presidential Regulation is material ordered by law or material to implement Government Regulations. It can be said that the Presidential Regulation is a statutory regulation stipulated by the president to carry out the orders of higher statutory regulations or in carrying out government power.

Employees are human labor, both physical and spiritual, that are always needed and

therefore become one of the main capital in cooperative efforts to achieve certain goals in an organization. Employees are people who work in a certain body, both in government institutions and in business entities. Meanwhile, according to the Indonesian dictionary, employees are people who work in an institution (office, company) and receive a salary (wage) (Widjaja, 2006).

State Civil Apparatus or ASN is a profession for civil servants and government employees with work agreements who work in government agencies. Article 1 paragraph 2 of Law Number 20 of 2023 concerning ASN explains that ASN Employees are civil servants and government employees with work agreements who are appointed by personnel development officials and assigned duties in a government position or assigned other state duties and are given income based on statutory regulations. Based on Government Regulation No. 17 of 2020 concerning Amendments to Government Regulation Number 11 of 2017 concerning Civil Servant Management, PPPK are Indonesian citizens who meet certain requirements, who are appointed based on a work agreement for a certain period of time in order to carry out government duties. PPPK who are appointed to carry out job duties are given a salary, the amount of which is based on the group and length of service.

Salary is a fixed amount paid to workers for services or work performed. Salary is calculated weekly, monthly, or annually. It is designated to pay workers. Salary refers to an individual's income through work. Salary is income and at the same time a guarantee for the survival of the worker and his family. In a company or agency, providing salary is an important thing because salary is the right and main goal for workers. A person's salary also determines their social status in society. Salary is a reward in the form of money received by employees as a consequence and position as an employee who contributes to achieving organizational goals. This is proof that salary is an important aspect. Therefore, salary planning or determination is an important issue in human resource management and must be done carefully and through certain steps.

PPPK salary is a reward in the form of money that must be paid by the government fairly and appropriately to PPPK according to the workload, responsibilities, and risks of the job. The amount of PPPK salary is the amount of salary before being subject to income tax deductions in accordance with the provisions of laws and regulations in the field of income tax. PPPK can also be given periodic salary increases or special salary increases, this is explained in Article 3 of Presidential Regulation Number 98 of 2020 concerning PPPK Salaries and Allowances. In Article 5 of Presidential Regulation Number 98 of 2020 concerning PPPK Salaries and Allowances, it states Salaries and allowances for PPPK working in central agencies are charged to the state revenue and expenditure budget, Salaries and allowances for PPPK working in regional agencies are charged to the regional revenue and expenditure budget.

So that PPPK income, both salaries and allowances, are paid through the respective agencies where PPPK are under. For PPPK who are under the auspices of central agencies, salaries and allowances are charged to the APBN, while for regional agencies, they are charged to the APBD of each region where PPPK are under. The impact of the Covid-19 pandemic has caused a shift in regional financial functions. Initially, the regional financial budget that had been budgeted according to the budget plan changed its allocation to deal with the Covid pandemic. This was done for economic recovery and health assistance in order to directly deal with the impact of the Covid pandemic. In general, the Bandar Lampung City Education and Culture Office has been able to carry out its duties in order to achieve the goals and targets that have been set.

In Law Number 17 of 2003 concerning State Finance, it is explained that the State Budget is the annual financial plan of the state government approved by the People's Representative Council. The State Budget contains a systematic and detailed list containing the state's revenue and expenditure plan for one budget year. The State Budget is implemented openly and responsibly and is intended for the greatest prosperity of the people. The state budget or state revenue and expenditure budget is a document containing estimates, revenues, and expenditures as well as details of various activities in the field of state government originating from the

government for a period of one year. The legal basis for the State Budget is the 1945 Constitution, which is the highest legal basis in the legal structure in Indonesia. Therefore, regulations regarding state finances are always based on laws.

Meanwhile, the Regional Budget in Law Number 17 of 2003 concerning State Finance is the annual financial plan of the regional government approved by the Regional People's Representative Council. The Regional Budget is also stipulated by laws and regulations. The budget year of the Regional Budget is one year, starting from January 1 to December 31. The Regional Budget is the authority of the regional government in order to achieve development targets within a period of one year. The regional income or revenue and expenditure budget needs to be accounted for financially and accounted for by the regional head.

Based on Bandar Lampung City Regional Regulation Number 11 of 2022 concerning the Regional Revenue and Expenditure Budget for the 2023 Fiscal Year, the draft regional regulation concerning the 2023 APBD is explained in Article 2, which explains that the Bandar Lampung City APBD for the 2023 Fiscal Year amounts to IDR 2,364,847,300,275.00 (Two Trillion Three Hundred Sixty Four Billion Eight Hundred Forty Seven Million Three Hundred Thousand Two Hundred Seventy Five Rupiah) consisting of Regional Revenue, Regional Expenditure, and Regional Financing. Article 7 of Bandar Lampung City Regional Regulation Number 11 of 2022 concerning the Regional Revenue and Expenditure Budget for the 2023 Fiscal Year states that the Operational Expenditure Budget as referred to in Article 6 letter a is planned to be IDR 2,053,856,466,682.91 (Two Trillion Fifty Three Billion Eight Hundred Fifty Six Million Four Hundred Sixty Six Thousand Six Hundred Eighty Two Rupiah Ninety One Sen) consisting of employee expenditure, goods and services expenditure, interest expenditure, subsidy expenditure, grant expenditure and social assistance expenditure. Employee expenditure as referred to in paragraph (1) letter a is planned at IDR 1,055,125,019,346.34 (One Trillion Fifty Five Billion One Hundred Twenty Five Million Nineteen Thousand Three Hundred Forty Six Rupiah Thirty Four Cents). Based on the descriptions above, it can be concluded that in implementing the application of Presidential Regulation Number 98 of 2020 concerning Salaries and Allowances for Government Employees with Work Agreements, the Bandar Lampung City Government has prepared an employee expenditure budget plan which is based on the amount of the Bandar Lampung City Government APBD. The employee expenditure consists of PNS and PPPK for 2023 which has been planned with a budget of IDR 1,055,125,019,346.34 (One Trillion Fifty Five Billion One Hundred Twenty Five Million Nineteen Thousand Three Hundred Forty Six Rupiah Thirty Four Cents). These employee expenses are used to pay salaries and also additional income for ASN employees, both PNS and PPPK.

Legal Actions That Can Be Taken By Government Employees With Employment Agreements (PPPK) Regarding Unreceived Salary Rights

Legal consequences are events that arise due to a cause, namely actions carried out by legal subjects, both actions that are in accordance with the law, and actions that are not in accordance with the law. Legal consequences are consequences caused by the law, against an action carried out by a legal subject. Legal consequences are the consequences of actions taken, to obtain a result expected by the legal actor. The consequences in question are the consequences regulated by law, while the actions taken are legal actions, namely actions that are in accordance with applicable law (Soeroso, 2006).

Legal consequences are events that arise due to a cause, namely acts committed by legal subjects, both acts that are in accordance with the law and acts that are not in accordance with the law. Legal consequences are the consequences caused by a legal event, which can be tangible. Legal consequences contain the intention of direct, strong, or explicit legal impact or consequences. In the legal literature, three types of legal consequences are known, namely Legal consequences in the form of the birth, change, or disappearance of a certain legal situation, Legal consequences in the form of the birth, change, or disappearance of a certain legal relationship and Legal consequences in the form of sanctions, which are not desired by the legal subject (unlawful

acts) (Hamidi, 2006).

Legal consequences begin with the existence of legal relations, legal events, and legal objects. Legal consequences arise because of the existence of legal relations where in legal relations there are rights and obligations. Events or incidents that can give rise to legal consequences between parties who have legal relations, these legal events exist in various legal aspects, both public and private law. Legal remedies are remedies provided by law to a person or legal entity in certain cases. Legal remedies are remedies to avoid or correct wrong decisions. Article 1 number 12 of the Criminal Procedure Code states that legal remedies are the right of the accused or public prosecutor not to accept a court decision in the form of resistance or appeal or cassation or the right of the convict to file a request for judicial review in cases and according to the methods regulated in this law (Mertokusumo, 2009).

Due to non-payment of salaries and allowances, it will cause a dispute between the two parties, namely between the agency and the workers. If the situation shows a difference of opinion, what is called a dispute occurs. In the context of law, especially contract law, a dispute is a dispute between parties due to a violation of an agreement in a contract. A dispute is a situation where one party feels disadvantaged by another party, which then the party conveys this dissatisfaction to the second party. If the situation shows a difference of opinion, then what is called a dispute occurs. In the context of law, especially contract law, what is meant by a dispute is a dispute that occurs between the parties due to a violation of the agreement that has been stated in a contract, either in part or in whole. In other words, there has been a breach of contract by the parties or one of the parties (Harahap, 2008).

So that every ASN, both PNS and PPPK, has the right to receive income, either salary or allowances. Salary is an amount of money paid at a fixed time to workers. This means that salary is compensation from a company or agency to workers in the same period. While allowances are additional income outside of the main salary. Article 27 of Law Number 20 of 2023 concerning ASN states that ASN management includes PNS management and PPPK management. PNS management is regulated in Government Regulation Number 17 of 2020 concerning Amendments to Government Regulation Number 11 of 2017 concerning Civil Servant Management. While PPPK management is regulated in Government Regulation Number 49 of 2018 concerning Management of Government Employees with Work Agreements.

In Presidential Regulation Number 98 of 2020 concerning Salaries and Allowances for Government Employees with Work Agreements, it is stated that PPPK salaries, hereinafter referred to as Salaries, are compensation in the form of money that must be paid by the government fairly and appropriately to PPPK in accordance with the workload, responsibilities, and risks of the job. Article 2 of Presidential Regulation Number 98 of 2020 concerning Salaries and Allowances for Government Employees with Work Agreements states that PPPK who are appointed to carry out job duties are given a salary, the amount of which is based on the group and length of service of the group. The amount of PPPK salary is the amount of salary before being subject to income tax deductions in accordance with the provisions of laws and regulations in the field of income tax. In addition, PPPK are also entitled to periodic salary increases and also family, food, position and other allowances. Salaries and allowances for PPPK who work in Central Agencies are charged to the State Revenue and Expenditure Budget. While salaries and allowances for PPPK who work in Regional Agencies are charged to the Regional Revenue and Expenditure Budget. Thus, it can be concluded that PPPK salaries are the rights of every PPPK employee. This has been stated in Law Number 20 of 2023 concerning ASN and Presidential Regulation Number 98 of 2020 concerning Salaries and Allowances for Government Employees with Work Agreements. The right to salary is a right inherent in every PPPK employee as compensation for the work done. Not paying salaries is a violation of PPPK rights as stipulated in applicable laws and regulations.

CLOSURE

Conclusion

In implementing the application of Presidential Regulation Number 98 of 2020 concerning Salaries and Allowances for Government Employees with Work Agreements, the Bandar Lampung City Government has prepared a budget plan for employee expenditures which is based on the amount of the Bandar Lampung City Government APBD. The employee expenditure is used to pay salaries and also additional income for PPPK employees. PPPK has the right to receive salaries and allowances provided by related agencies, this is stated in Presidential Regulation Number 98 of 2020 concerning PPPK salaries and allowances. Meanwhile, legal efforts that can be taken are by conducting mediation with related agencies, but if no agreement is reached, it can be reported through the relevant agency or commission where the PPPK is under the auspices.

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