

WORKERS' RIGHTS IN TERMINATION OF EMPLOYMENT

Daulat Sihombing^{1*}, Ida Hanifah², Surya Perdana³

^{*1, 2, 3}Universitas Muhammadiyah Sumatera Utara, Indonesia

^{*1}email: sihombing.daulat@gmail.com

Abstract: Law of the Republic of Indonesia Number 13 of 2003 concerning Employment as a product of employment law, as in the section considering, in essence this Law was formed to provide protection for workers, namely by guaranteeing the basic rights of workers/laborers and guaranteeing equal opportunities and treatment without any discrimination in any form for the welfare of workers/laborers and their families while still paying attention to the development of the business world. Workers are given protection through the provisions of this Law because workers have a role in national development. Through the Employment Law, workers have the right to receive fair compensation and proper treatment. This decision emphasizes the importance of companies to comply with existing legal procedures and provide workers with the rights guaranteed by law. In order to improve legal protection for workers' rights in cases of unilateral layoffs, it is necessary to increase awareness and understanding of employment law for both parties, both workers and companies. Education and socialization regarding rights and obligations in employment relations must be improved, as well as expanded access to industrial relations dispute resolution mechanisms.

Keywords: Workers Rights, Termination, Employment.

Introduction

Based on the definition of a company in the provisions of the Law, it can be seen that the purpose of the company, in addition to seeking profit, is also to have social business activities that certainly have social goals. The company that is established can be a company that is a legal entity and not a legal entity. To obtain the status of a legal entity, the company must obtain approval from the government through the relevant minister. The definition of a company in the provisions of Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower emphasizes that the company is a container in the form of a business form that employs workers/laborers by paying wages or other forms of compensation as agreed as an appreciation for the work that has been done by the workers/laborers.

Companies in carrying out business competition must be supported by adequate and expert workers or those in accordance with their fields. Companies that are basically established to seek profit and or profit, the company considers it necessary to employ laborers or workers in order to achieve its goals. Labor is an important component in the running of a company because the workforce is the driving force of a company that plays an important role in its activities, both producing goods and providing services.

Law of the Republic of Indonesia Number 13 of 2003 concerning Employment as a product of employment law, as in the section considering, in essence this Law was formed to provide protection for workers, namely by guaranteeing the basic rights of workers/laborers and guaranteeing equal opportunities and treatment without any discrimination in any form for the welfare of workers/laborers and their families while still paying attention to the development of the business world. Workers are given protection through the provisions of this Law because workers have a role in national development.

The interests of workers must be considered by employers when employers carry out mergers, amalgamations, takeovers, and closures of companies, because the employer's actions do not automatically end the employment relationship between the company and the workers. There needs to be a termination of employment process to end the employment relationship that has been established between the employer and the workers due to the employer's actions in carrying out mergers, amalgamations, takeovers, and closures of companies. Termination of employment is an effort that must be avoided as much as possible by workers and employers as referred to in Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower, but in cases where termination of employment cannot be avoided by each party, the employer is obliged to provide all workers' rights arising from the termination of employment, especially in the event of a merger, amalgamation, takeover, or closure of the company.

Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower, is a legal product formed to provide legal protection for workers, especially legal protection for workers due to mergers, amalgamations, takeovers, or company closures. Article 163 of Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower is a legal provision contained in the Manpower Law to provide legal protection for workers' rights arising in the event of termination of employment due to mergers, amalgamations, and takeovers of companies, while in the event of termination of employment due to company closure, workers' rights arising from the termination of employment are further regulated in the provisions of Article 164 of Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower.

Literature Review

1. Types Of Termination Of Industrial Relations

In the literature on Employment Law, there are several types of termination of employment, namely: (Lalu Husni, 2012)

- a. Termination of employment by employer/entrepreneur.
- b. Termination of employment by laborer.
- c. Employment relationship terminated by law.
- d. Termination of employment by court.

Termination of employment is an action that must be attempted to prevent, but in the case of workers committing acts that are detrimental to the company in the form of serious errors, the employer has the right to terminate the employment of the worker. The forms of serious errors in the provisions of Article 158 paragraph (1) of the Republic of Indonesia Law Number 13 of 2003 concerning Manpower, namely if the worker has committed a serious error in his work including:

- a. committing fraud, theft, or embezzlement of goods and/or money belonging to the company;
- b. providing false or falsified information that is detrimental to the company;
- c. being drunk, drinking intoxicating liquor, using and/or distributing narcotics, psychotropics, and other addictive substances in the work environment;
- d. committing immoral acts or gambling in the work environment;
- e. attacking, abusing, threatening, or intimidating co-workers or employers in the work environment;
- f. persuading co-workers or employers to commit acts that are contrary to laws and regulations;
- g. carelessly or intentionally damaging or leaving company property in a dangerous condition that causes losses to the company;

- h. carelessly or intentionally leaving co-workers or employers in a dangerous condition in the workplace;
- i. revealing or leaking company secrets that should be kept confidential except in the interests of the state; or
- j. committing other acts within the company environment that are punishable by imprisonment of 5 (five) years or more.”

Method

A study cannot be said to be research if it does not have a research method (Koto & Faisal 2021). The research method is a process of collecting and analyzing data that is carried out systematically, to achieve certain goals. Data collection and analysis is carried out naturally, both quantitatively and qualitatively, experimentally and non-experimentally, interactively and non-interactively (Koto, 2020). The research method used is normative juridical research, namely legal research conducted by examining literature or secondary data (Koto & Zainuddin 2022). In qualitative research, the process of obtaining data is in accordance with the research objectives or problems, studied in depth and with a holistic approach (Rahimah & Koto, 2022).

Result and Discussion

Workers' rights in the context of unilateral termination of employment (PHK) by the company include various aspects that are important to consider. One important right is the right to compensation. According to the Indonesian Manpower Law, workers who are laid off are entitled to severance pay, length of service awards, and replacement rights. However, in practice, it is not uncommon for workers to face obstacles in obtaining the compensation they should receive. This can be caused by various reasons, such as the company's inability to pay compensation or the company's non-compliance with legal provisions. Therefore, legal protection of the right to worker compensation in unilateral layoffs must be strengthened to ensure that workers receive fair compensation in accordance with their contributions and length of service (Mansur, 2018).

In addition to the right to compensation, workers also have the right to proper and timely notice before being laid off. This notice gives workers the opportunity to prepare for being laid off, such as looking for a new job or managing their finances. However, in some cases, companies do not provide adequate notice or even lay off workers without giving any notice at all. This causes uncertainty and anxiety for workers who are laid off. Therefore, legal protection of the right to notice must be strengthened to ensure that companies comply with their obligations to provide sufficient notice to workers before laying off workers (Supriyadi, 2015).

In addition, workers also have the right to demand fair and non-discriminatory treatment in the termination process. Discrimination in termination can occur if the company terminates the employment based on factors that are not relevant to the employee's performance or work ability, such as religion, gender, or ethnicity. The right to fair treatment also includes transparent and objective procedures in carrying out terminations. In this case, legal protection of the right to fair and non-discriminatory treatment is very important to prevent abuse of authority by the company and ensure that terminations are carried out based on objective and fair considerations.

In addition to these rights, workers also have the right to receive support and assistance in finding new employment after being laid off. This support can be in the form of training or skills enhancement programs that help workers improve their chances of finding new employment. In addition, workers also have the right to receive information about job vacancies and other employment opportunities that match their qualifications and experience. Thus, legal protection of the right to support and assistance in finding new employment must be strengthened to ensure that laid-off workers can return to work quickly and without significant

difficulties. Furthermore, workers also have the right to social security and welfare in the event of a layoff. The Indonesian Manpower Law stipulates that companies must provide social security to laid-off workers, such as old-age security, health security, and work accident security. These guarantees aim to protect workers from the risk of losing income due to layoffs and to ensure that they still have access to the necessary health services. Therefore, legal protection of the right to social security and welfare in layoffs must be strengthened to ensure that workers receive adequate protection in layoff situations.

In addition to these rights, workers also have the right not to experience pressure or threats in the termination process. Companies may not use intimidation or violence to force workers to accept termination or to influence their decisions. The right to protection from pressure or threats is important to ensure that workers can make decisions that are in accordance with their interests and rights without fear of adverse consequences. Furthermore, workers also have the right to demand additional compensation or damages for losses they experience due to illegal termination. If a company carries out illegal terminations or violates the legal provisions governing terminations, workers have the right to demand additional compensation or damages for the losses they experience, such as loss of income or reputation. The right to additional compensation or damages is important to provide incentives for companies to comply with the legal provisions governing terminations and to prevent abuse of authority by companies in carrying out terminations.

Conclusion

Through the Employment Law, workers have the right to receive fair compensation and proper treatment. This decision emphasizes the importance of companies to comply with existing legal procedures and provide workers with the rights guaranteed by law. In order to improve legal protection for workers' rights in cases of unilateral layoffs, it is necessary to increase awareness and understanding of employment law for both parties, both workers and companies. Education and socialization regarding rights and obligations in employment relations must be improved, as well as expanded access to industrial relations dispute resolution mechanisms.

Bibliography

- Koto, I., & Faisal, F. (2021). Penerapan Eksekusi Jaminan Fidusia Pada Benda Bergerak Terhadap Debitur Wanprestasi. *Journal of Education, Humaniora and Social Sciences (JEHSS)*, 4(2), 774-781.
- Lalu Husni. (2012). *Pengantar Hukum Ketenagakerjaan Indonesia*, Rajagrafindo Persada, Jakarta.
- Mansur, M. Arief. 2018. "Perlindungan Hukum Bagi Pekerja Yang Diberhentikan Secara Tidak Benar." *Jurnal Hukum Bisnis* 22(3): 301-320..
- Rahimah, R., & Koto, I. (2022). Implications of Parenting Patterns in the Development of Early Childhood Social Attitudes. *International Journal Reglement & Society (IJRS)*, 3(2), 129-133.
- Simatupang, R. S. A. (2024). Pelaksanaan Sistem Peradilan Pidana Anak Di Indonesia Perspektif Nilai Keadilan. *Jurnal Yuridis*, 11(1), 54-63.
- Supriyadi, A. 2015. "Pemutusan Hubungan Kerja (PHK) dan Kewenangan Pengadilan Hubungan Industrial." *Jurnal Hukum & Pembangunan* 45(4): 489-502.
- Zainuddin, Z. (2022). Implementation Of The Change Of The Chairman Of The Labuhan Batu Selatan Regional People's Representative Council. *International Journal Reglement & Society (IJRS)*, 3(1), 11-18.