
Labor Assistance in Obtaining Severance Rights at PHI (Industrial Relations Court)

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ABSTRACT

The Indonesian state is juridically as a country with the concept of a Welfare State or a welfare state. Welfare State as a form of government policy towards public interests, including labor regulations. In the era of industrialization which coincides with the advancement of science and technology, the level of complexity of industrial relations disputes is getting higher. The assistance provided includes all former PT.X workers in Sukoharjo Regency. The assistance carried out to Ex-Labourers of PT.X aims to defend and fight for the Severance Rights of Hundreds of Ex-Workers of PT.X. Basically, the settlement of Industrial Relations Disputes is settled through the Industrial Relations Court. However, before reaching that stage, it is necessary to make other efforts or alternative stages in the form of:

Keywords:Labor, Termination of Employment, Severance Rights, and Disputes

Industrial relations

INTRODUCTION

The Republic of Indonesia is a constitutional state based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Based on the Preamble to the 1945 Constitution, the purpose of the establishment of the Indonesian state is to prosper the entire Indonesian people. This is the reason why the State of Indonesia is said to be a country with the concept of a Welfare State or a welfare state.

Welfare state can be seen from a limited point of view and a broad perspective.¹ Viewed from a limited point of view, Welfare State is defined as a government financial management which is intended for the household sector which includes social funds, education, health, domestic consumption, and subsidies. In contrast to the limited point of view, a broad perspective defines the Welfare State as a form of government policy towards public interests including labor regulations, tax laws, housing policy, and environmental policy where the purpose of these regulations is for the welfare of the community.

At present, the urgency of the Manpower Regulation is paid attention to by the legislators, considering that this regulation is very comprehensive and comprehensive. Employment Development has many dimensions and interrelationships.² This is very broad and interrelated with other things, not only focusing on work interests but also relating to the interests of entrepreneurs, the government, and the community. Therefore, in its development, the rules of labor law, which were originally private law rules, shifted to public law rules. The state in this case actively regulates people's lives in the field of employment.

In article 1 number 2 of Law no. 13 of 2003 concerning Manpower, states that a manpower is anyone who is able to do a job, in order to produce goods and services to meet his own needs or the needs of the community.³ The above understanding contains a very general understanding. In particular, Ridwan Halim in his book entitled "Labor Law in Questions and Answers" writes that what is meant by workers or employees are:

1. Work for or for an employer
2. His work benefits are paid by the employer/company
3. Officially openly and continue to have a working relationship with the employer/company, either for a certain period of time or for an indefinite period of time.⁴

In the era of industrialization which coincides with the advancement of Science and Technology, the level of complexity of industrial relations disputes is getting higher. The lengthy process of resolving industrial relations disputes was partly due to the fact that the process was not simple, took a long time and cost a lot of money, and involved the authority of several institutions.⁵

¹ Khuzdaifah, Dimiyati., Elviandri, dan Absori. (2019). Quo Vadis Negara Kesejahteraan : Meneguhkan

Ideologi Welfare State Negara Hukum Kesejahteraan Indonesia. *Mimbar Hukum*, 31(2), Hal 254

² Kirana Utami, Tanti. (2013). Peran Serikat Pekerja Dalam Penyelesaian Perselisihan Pemutusan Hubungan

Kerja.Jurnal wawasan Hukum, 28(01) ,Hal 675.

³ Undang-Undang Republik Indonesia No. 13 Tahun 2003 Tentang Ketenagakerjaan

⁴ Ridwan Halim, *Hukum Perburuhan dalam Tanya Jawab*, Cet II, Ghalia Indonesia, Jakarta, 1990,hlm

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⁵ Tobing, Christina Nm. 2018. Menggagas Pengadilan Hubungan Industrial Dalam Bingkai Ius Constituendum Sebagai Upaya Mewujudkan Kepastian Hukum Dan Keadilan". *Jurnal Hukum Dan Peradilan*, 7(2), Hal 300.

Basically, industrial relations is the establishment of communication, consultation, which is to achieve an ideal system and institution so that it can create a productive, dynamic, harmonious, and just work environment. In Article 1 Number 15 of Law no. 13 of 2003 concerning Manpower states that:

"Employment Relationship is a relationship between an entrepreneur and a worker/laborer based on a work agreement which has elements of work, wages, and orders based on a work agreement between the worker and the entrepreneur".⁶

Industrial Relations is essentially a legal relationship between employers and workers. It is undeniable that, in a relationship, it certainly doesn't always go well. There are many factors that can cause problems and divisions in a relationship. As with industrial relations, the increasing number of industrial relations disputes proves that it is necessary to find a solution to the problems concerning industrial relations disputes. The industrial relations disputes referred to are labor relations disputes, which include rights disputes, interest disputes, and disputes between trade unions.

PeDisputes over rights are often one of the causes of industrial relations disputes.

regulations so as not to cause problems, and be carried out in the best possible way.⁷ Paand in principle, if there is a layoff (Termination of Employment), the entrepreneur or company is obliged to pay severance pay and/or gratuity for years of service. According to Moekijat, it means that dismissal is the termination of an employee's employment relationship with a company organization. The struggle to get their rights is easier to do through union activities in the forum of the Labor Union.⁸ However, the reality is that many companies deliberately do not provide severance pay to their workers or workers. Juridically, the settlement of industrial relations disputes is settled in the Industrial Relations Dispute Court (PHI Court). In resolving the Dispute as above, before being transferred to the Court, it may go through the initial or alternative stages as follows: 1. Bipartite Institution 2. Mediation 3. Conciliation, and 4. Arbitration. If such steps cannot resolve the industrial relations dispute, the next step is the Industrial Relations Court.

METHOD

Peassistance provided by the Legal Consulting and Assistance Agency

(BKBH) covers all Ex-Labourers of PT.X in Sukoharjo Regency.

⁶ Undang-Undang Republik Indonesia Nomor 13 Tahun 2003 Tentang Ketenagakerjaan

⁷ Maringan Nikodemus. 2015. Tinjauan Yuridis pelaksanaan pemutusan hubungan kerja (PHK) secara Sepihak oleh perusahaan menurut undang-undang No.13 Tahun 2003 Tentang Ketenagakerjaan. *Jurnal Ilmu Hukum Legal Opinion*. 3(3), Hal 4

⁸ Wijayanti, Asri. 2011. Kejahatan Korporasi Dalam Pelaksanaan Hak Berserikat Buruh. *Equality*. 16(1).

The assistance carried out to Ex-Labourers of PT.X aims to defend and fight for the Severance Rights of Hundreds of Ex-Workers of PT.X.

tabell 1. Priority Issues and Programs to be Conducted

Klien requires assistance when the case process is running between the Ex-Labourers of PT.X and the Company

Mprovide assistance to clients during the case process

Klien get the severance pay that should be obtained after receiving the Termination Letter

Mprovide assistance and try to restore the severance rights

Work relationship. should be obtained.

Klien requires an understanding of the solution
pwork relationship disputes

Mprovide education, information, and training
likewhich uses good and correct information technology

RESULTS AND DISCUSSION

Industrial relations disputes are very broad in scope, therefore industrial relations dispute cases are also resolved specifically at the Industrial Relations Court. Before delegating industrial relations disputes to the Court, alternative steps are taken, namely, 1. Bipartite Institutions 2. Mediation 3. Conciliation, and 4. Arbitration.

Bipartite Institution is a form of negotiation between labor workers or labor unions and employers to resolve employment disputes.⁹ Based on Law Number 13 of 2003 concerning Manpower, Article 136 Paragraph (1) states that if there is an industrial relations dispute, it is the entrepreneur and the labor or labor union who are obliged to settle it, and in this case it is carried out by deliberation and consensus.

Industrial relations disputes that are settled through this Bipartite are legally obligatory to implement. The purpose of the deliberation is to reach a mutual agreement, so that the trade unions and employers are obliged to settle the dispute which is expected to get a common thread that is fair to both parties. In Bipartite, a Bipartite treatise must be made which is signed by both parties. This settlement must be completed within 30 days, if one of the parties refuses to negotiate within the time specified, then the Bipartite negotiations are said to have failed. However, if the Bipartite negotiations reach a mutual agreement, a collective agreement must be made that binds the parties. The joint agreement that has been made, must be registered at the Industrial Relations Court and the District Court in the territory of the parties entering into the agreement. An application for execution to the Industrial Relations Court can be made by a party who is disadvantaged due to the non-registration of a collective agreement by one of the parties.

Bipartite negotiations are the first step when an industrial relations dispute occurs. If the process fails, then the next effort that can be done is the Mediation of Employment Relations. Mediation is a settlement method by involving a mediator. In the event that an agreement is not reached between the worker and the entrepreneur, the mediator must make a written recommendation. If the disputing parties accept the mediator's recommendation, the agreement must be formulated in a mutual agreement.

Arbitration is the settlement of disputes out of court. article 1

Paragraph (1) Law no. 30 of 1999 concerning Arbitration explains that Arbitration is a way of settling civil disputes outside the general court, which is based on an arbitration agreement made in writing by the disputing parties.¹⁰

Industrial relations dispute settlement process in terms of severance pay

⁹ Maswandi.(2017). Penyelesaian Perselisihan Hubungan Kerja Di Pengadilan Hubungan Industrial. Jurnal Administrasi Publik, 5(1),Hal 38

Journal of Public Administration, 5(1),Page 38

¹⁰ Undang-Undang Republik Indonesia Nomor. 30 Tahun 1999 Tentang Arbitrase dan Alternatif Penyelesaian Sengketa which have not been received by the former PT.X Labor in Sukoharjo Regency, there are several settlement lines, namely:

1. Labor Representative Consultation

Consultation is the initial effort to solve a problem. In industrial relations disputes, especially to claim severance pay, competent assistance in this field is required. This activity is carried out due to a lack of knowledge from the party who will resolve the case and requires assistance to maximize settlement outside the court. The activity was carried out in October 2019 at the Office of the Legal Aid Consultancy Agency (BKBH) Faculty of Law UMS.



2. Sign the Power of Attorney

The consultation carried out by Labor representatives to BKBH FH UMS, finally reached the conclusion to hand over the Power of Attorney to BKBH FH UMS with the signing of a Power of Attorney signed by the Authorizer and the Proxy. The signing of this Power of Attorney was carried out at the Hall of the Faculty of Law, University of Muhammadiyah Surakarta which was carried out on February 26, 2020. This stage which was attended by more than 700 people who gave the power of attorney took place from 07.00 to 14.00. which is divided into 14 tables are provided for signatures, and have been arranged in such a way that when workers come they are immediately directed to a certain table number according to the number that has been arranged by the Paralegal BKBH FH UMS.

3. FGD with Labor

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Forum Group Discussion (FGD) is a focused discussion of a group to discuss a particular problem, in an informal and relaxed atmosphere. Thus FGD means a systematic process of collecting data and information about a particular problem that is very specific through the discussion.

Forum Group Discussion (FGD) conducted by BKBH FH UMS with Labor was carried out to discuss in order to obtain settlement steps to be taken in fighting for workers' severance pay rights that have not been fulfilled.



4. Preparation and Preparation of PHI Documents

The GD conducted by the Consultation and Legal Aid Agency (BKBH) FH UMS with Labor, decided to take this case to the Industrial Relations Court (PHI). From the results of these negotiations, the next step is the process of preparing and making PHI documents in which all Paralegals of BKBH FH UMS prepare documents in the form of a power of attorney signed by the workers, Identity Collection in the form of Identity Cards (KTP), Collective Agreements (PB), Work Experience Letters, Application documents for security, and application documents for confiscation of execution.

5. PHI Mediation

Mediation is a method of settlement by involving a mediator, in which the mediator will issue a recommendation when the parties do not reach an agreement. In this case, the mediation carried out by the labor attorney with PT.X did not reach a mutual agreement.



6. contributed to the PKPU lawsuit

PeBankruptcy cases and postponement of debt repayment obligations are very similar to the settlement of labor cases. Bankruptcy is a process in which a debtor who has difficulty paying his debts is managed by a curator whose job is to sell assets owned by the debtor and pay it to creditors. However, if possible, the debtor can apply for reconciliation to avoid bankruptcy. While PKPU is a process where the court prohibits creditors from forcing debtors to pay their debts within a certain period of time. In this case, BKBH FH UMS, as the legal representative of the ex-Labourer PT. X, was once another creditor in the PKPU lawsuit, but this effort ended in peace between the creditor and the debtor.

7. Mediation Results of the Industrial Dispute Court (PHI)

PeThe Industrial Relations Court is a means for the settlement of industrial relations disputes. After the signing of the power of attorney, the last resort is to file a lawsuit with the Industrial Relations Court. In the process, mediation was carried out by the Industrial Relations Court and again failed to reach a mutual agreement. Finally, the parties made their own agreement to negotiate outside the court. Negotiations aim to get an agreement that is considered mutually beneficial, resolve problems, and get the best solution for both parties. From the results of these negotiations, a mutual agreement was reached, in which the company finally gave severance rights to Ex-Labourers PT.X,

8. Coordination and Submission of Mediation Results with Labor

The results of the negotiations carried out by BKBH FH UMS as the legal representative of PT. X's Ex-Labourers with the PT. X company finally resulted in a mutual agreement. which the collective agreement contains the argument that the payment of arrears in severance pay is 51% of each severance pay that should have been received by Ex-Labourers PT.X in Sukoharjo Regency. This severance payment will be transferred directly to the account of each worker.

4. Conclusion

The mentoring process for former PT.X workers in Sukoharjo Regency was completed through several stages. Basically, the settlement of Industrial Relations Disputes is settled through the Industrial Relations Court. However, before reaching that stage, it is necessary to make other efforts or alternative stages. These stages are through:

1. Bipartite Institution,
2. Mediation
3. Consolation, and
4. Arbitration.

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Ulaw

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