
LEGAL PERSPECTIVE ON HOLIDAY BENEFITS FOR WORKERS DURING PANDEMIC**THIS ARTICLE WAS DONE TO FULFILL THE DUTY OF THE COURSE OF LABOR LAW AND INDUSTRIAL RELATIONS**

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ABSTRACT

Indonesia is a country of law based on Pancasila and law. In Indonesia, labor issues are regulated in the law in Law No. 13 of 2003, as well as Government Regulation No. 78 of 2015 concerning wages and Regulation of the Minister of Manpower of the Republic of Indonesia Number 6 of 2016 concerning holiday allowances. Holiday allowances are wages for workers that are not basic wages. Holiday allowances are a right for workers. However, regarding violations of companies that do not pay for holidays, there are no criminal sanctions that are less clear. In this study, researchers used study literature which is used in collecting data from relevant journals or sources. In this study will examine the legal perspective on holiday allowances for workers in accordance with the Regulation of the Minister of Manpower Number 6 of 2016.

Keywords: Employment, Holiday Allowance, Covid 19 Pandemic

CHAPTER I PRELIMINARY

Religious Holiday Allowance or commonly called THR is a worker's income right that must be paid by employers to workers ahead of Religious Holidays in the form of money. Religious holidays here are Eid al-Fitr for Muslim workers, Christmas Day for Catholic and Protestant Christian workers, Nyepi Day for Hindu workers, Vesak Day for Buddhist workers, and Chinese New Year. for Confucian workers.

The 2022 Eid al-Fitr holiday allowance (THR) given by employers to their workers cannot be paid in installments. This was confirmed by the Ministry of Manpower (Kemnaker). Two years earlier, the government allowed entrepreneurs to provide THR in installments. The decision was made by the Minister of Manpower Ida Fauziyah due to the Covid-19 pandemic. However, the government currently considers that the Indonesian economy has gradually improved. Therefore, the government through the Ministry of Manpower emphasized that the 2022 Lebaran THR must be paid in full.

Based on article 5 of PP Number 6 of 2016 concerning Religious Holiday Allowances for Workers/Labourers in the Company, THR will be given no later than 7 days before the Religious Holiday. The THR will be paid according to the worker's religious holiday. For employers who are late or do not pay THR to their workers, they will be subject to fines and administrative sanctions. In accordance with applicable regulations, employers who are late in providing THR to their workers will be subject to a fine of 5% of the total THR that must be paid since the expiration of the deadline for the employer's obligation to pay. The fine given does not eliminate the employer's obligation to pay THR to his workers. This means that in addition to being subject to sanctions, employers are also still required to pay THR according to their respective amounts to their workers.

As for entrepreneurs who do not pay THR, they will receive a written warning, then limit their business activities, temporarily suspend part or all of their business activities, and freeze their business. If the worker is a daily worker, the amount of one month's salary is calculated from the average salary received each month. Although the rules regarding the provision of THR have been stated in PP No. 6/2016, the Ministry of Manpower stated that it will still issue a Circular (SE) of the Minister of Manpower regarding Payment of THR 2022. The SE aims to provide technical certainty for the implementation of THR, especially during the Covid-19 pandemic.

CHAPTER II DISCUSSION

A. Definition of THR and its history

THR or Hari Raya Allowance is a non-wage income that is given every approaching Eid al-Fitr. This allowance is normal in the world of work, especially workers. This is a tradition and as a form of efforts to prosper workers/laborers in meeting the needs of religious holidays, especially Eid al-Fitr.

The holiday allowance or THR was first introduced in Indonesia in the 1950s by the Prime Minister of Masyumi, Soekiman Wirjosandjojo. Soekiman Wirjosandjojo is the younger brother of the founder of Jong Java, namely Satiman Wirjosandjojo. Initially, THR was only given to civil servants in the form of advance payments or loans which would later be paid with salary deductions. Previously, the amount of THR for civil servants was only Rp. 125 to Rp. 200 and was disbursed every month of Ramadan before Idul Fitri.

The rules regarding the provision of THR for civil servants at that time were contained in PP No. 27 of 1954 concerning the Granting of King's Day Perkot to Civil Servants. According to the regulation, THR is only given to Civil Servants, not Private Employees. This was met with opposition from the workers, especially the Labor Organization affiliated with the Indonesian Communist Party or PKI.

Even the largest labor organization at that time, the Central Indonesian Labor Organization (SOBSI) was at the forefront of the workers' struggle in demanding the government so that all workers/laborers could receive THR. Even on February 13, 1952 the workers staged a demonstration by striking.

At that time, the government initially ignored the voices of the workers. However, SOBSI continues to struggle to ask workers to get a THR equal to one month's salary. Then, the cabinet of Ali Sastroamidjojo, the eighth Prime Minister of Indonesia, issued Government Regulation No. 27 of 1954 concerning the Granting of King's Day Perkot to Civil Servants. Meanwhile, the workers are aggressively demanding the government. To accommodate workers, the government through the Minister of Labor SM Abidin then issued Circular Letter No. 3667 of 1954. The amount of THR for private workers is one-twelfth of the salary received in a span of one year. The minimum amount is Rp. 50 and the maximum is Rp. 300.

Until 1994 there was a definite rule regarding THR through the Minister of Manpower Regulation No. 04/1994 which required giving THR to workers who had worked at least 3 months of work.

B. THR certainty for workers / laborers in Indonesia

Based on the applicable article, Article 1 paragraph (1) of Permanker 6/2016 and Article 9 paragraph (1) of PP 36/2021, paying THR is the obligation of everyone who employs other people in exchange for wages, whether in the form of individuals, foundations, company or association. And the amount of THR is regulated in Article 3 paragraph (1) of the Regulation of the Minister of Manpower and Transmigration No. 6 of 2016 concerning Religious Holiday Allowances for workers/workers in companies (Permanker 6/2016) is stipulated as follows;

- A. Workers who have worked continuously for 12 (twelve) months or more, are given 1 (month) wage, and
- B. Workers who have a continuous working period of 1 (one) month but less than 12 (twelve) months, are given proportionally according to the period of service in the calculation: years of service/12 X 1 (month) wages.

However, article 4 of the Minister of Manpower 6/2016 also confirms that if the company has a work agreement, company regulation (PP), or Collective Labor Agreement (PKB), or a custom that contains provisions for the amount of THR greater than the provision of 1 (one) month's wages, then the applicable is the THR whose amount is greater.

The company is required to pay a minimum of 7 days after Eid according to Article 5 paragraph (4) of Permenter 6/2016 in order to enjoy the freedom of religious holidays with their families. This provision is also confirmed in Article 9 paragraph (2) of PP No. 36 of 2021 and the Minister of Manpower's Decree No. M /6/HK.04/IV/2021 regarding the implementation of the provision of THR to workers. for example, the incident that occurred in May 2018. The Minister of Manpower issued a circular letter no. 2 of 2018 concerning the payment of 2018 Religious Holiday Allowances. The circular issued to all governors, regents and mayors throughout Indonesia essentially emphasizes the obligation of employers to pay thr to workers. THR is given to workers with a working period of one month or more. At the latest, THR is given 7 days before religious holidays (H-7).

CHAPTER III CLOSING

Conclusion

Holiday allowance or commonly called THR is an income or rights of workers given by each company or entrepreneur who has many workers in each company or entrepreneur. THR is also regulated in article 1 paragraph (1) of the Minister of Manpower 6/2016 and article 9 paragraph (1) of PP 36/2021, paying THR is the obligation of everyone who employs other people in exchange for wages, whether in the form of companies, individuals, foundations, or association. Then in 2020-2021 the year was carried out in installments due to the Covid-19 pandemic which made every company, entrepreneur, foundation, or association unable to pay full credit to each of its workers.

Suggestion

After looking at the discussion and conclusions above, the author gives suggestions, In implementing THR or Holiday Allowances for entrepreneurs or companies that have a lot of workers, do what already exists and in accordance with the regulations that have been issued by the government so that workers can enjoy the thr properly and avoid any demonstrations carried out by workers due to lack of or no thr from companies or employers from where they work.

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