

COMMUNITY EMPOWERMENT AND SERVICE
Workers' Assistance in Obtaining Severance Pay at PHI (Industrial Relations Court)

Marisa Kurnianingsih *, Kuswardani, Aristya Windiana Pamuncak and Winda Permata Sari
Faculty of Law, University of Muhammadiyah Surakarta

*email: mk122@ums.ac.id

Date received: January 2018, Last Revised: June 2018, Accepted: June 2018

ABSTRACT

The juridical state of Indonesia is a state with the concept of Welfare State or a welfare state. Welfare State as a form of government policy on public interests including labor regulations. In the era of industrialization that coincides with advances in science and technology, the level of complexity of industrial relations disputes is getting higher. The assistance provided covers all ex-PT.X workers in Sukoharjo regency. Assistance carried out for ex-PT.X workers aims to defend and fight for the right to severance pay for hundreds of ex-PT.X workers. Basically, the settlement of Industrial Relations Disputes is settled through the Industrial Relations Court. However, before reaching this stage, it is necessary to make other efforts or alternative stages in the form of: Bipartite Institutions, Mediation, Consolation and Arbitration

Keywords: : *Labor, Termination of Employment, Severance Pay, and Industrial Relations Disputes*

1. INTRODUCTION

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

Welfare State can be viewed from a limited perspective and a broad perspective (Elviandri et al., 2019) 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 policies, and environmental policies in which the purpose of these regulations is to public welfare.

Nowadays, the importance of the Labor Regulations is given to lawmakers, given that this regulation is very comprehensive and comprehensive. Manpower Development has many dimensions and linkages. (Utami, 2013) This is very broad and interrelated with other matters, not only focusing on work interests but also relating to the interests of entrepreneurs, government, and society. Therefore, in its development, the rules of labor

COMMUNITY EMPOWERMENT AND SERVICE

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 manpower.

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. (*Undang-Undang Republik Indonesia No. 13 Tahun 2003 Tentang Ketenagakerjaan*, 2003) The above definition 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 (Halim, 1990).

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 (Tobin, 2018).

Basically, industrial relations is the establishment of communication, consultation, which is to achieve an ideal system and institution so as to create a productive, dynamic, harmonious, and equitable 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 that has elements of work, wages, and orders based on a work agreement between the worker and the entrepreneur". (*Undang-Undang Republik Indonesia No. 13 Tahun 2003 Tentang Ketenagakerjaan*, 2003)

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. Similar to 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.

Disputes over rights are often one of the causes of industrial relations disputes. One of them is severance pay. Dismissal of employees should be based on existing laws and regulations so as not to cause problems, and be carried out in the best possible way. (Maringan, 2015) In principle, in the event of 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

COMMUNITY EMPOWERMENT AND SERVICE

Labor Union. (Wijayanti, 2011) 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 can 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.

2. RESEARCH METHODS

The assistance provided by the Legal Consultation and Assistance Agency (BKBH) covers all ex-laborers of PT.X in Sukoharjo Regency. The assistance carried out to the former workers of PT.X aims to defend and fight for the severance rights of hundreds of former workers of PT.X.

Table 1. Priority Issues and Programs to be Implemented

Masalah Prioritas	Program Kegiatan
Klien membutuhkan pendampingan pada saat proses perkara berjalan antara pihak Eks Buruh PT.X dan Pihak Perusahaan	Memberikan pendampingan kepada klien selama proses perkara berjalan
Klien mendapatkan hak pesangon yang seharusnya didapatkan setelah menerima Surat Pemutusan Hubungan Kerja.	Memberikan pendampingan dan berusaha mengembalikan hak-hak pesangon yang seharusnya didapatkan.
Klien membutuhkan pemahaman mengenai penyelesaian perselisihan hubungan kerja	Memberikan edukasi, informasi, dan pelatihan bagaimana menggunakan teknologi informasi yang baik dan benar.

3. 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. (Maswandi, 2017) Based on Law Number 13 of 2003 concerning Manpower, Article 136 Paragraph (1) states that in the event of 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 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,

COMMUNITY EMPOWERMENT AND SERVICE

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 collective agreement that has been made must be registered at the Industrial Relations Court and the District Court in the territory of the parties who entered 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 method of settlement 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) of 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. (*Undang-Undang Republik Indonesia Nomor. 30 Tahun 1999 Tentang Arbitrase Dan Alternatif Penyelesaian Sengketa*, 1999)

The process of resolving industrial relations disputes in terms of severance pay that has not been received by the former PT.X Labor in Sukoharjo Regency, there are several settlement lines, namely:

1. 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 needed. This activity was 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) of the UMS Faculty of Law.

2. 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 ex-Labourer PT.X mediates with the company at the Manpower Office of Sukoharjo Regency. after the mediation process was running, it turned out that no agreement was reached, so they continued to take other legal remedies.

3. Industrial Dispute Court

The 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

COMMUNITY EMPOWERMENT AND SERVICE

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 an agreement of their own to negotiate outside the court. Negotiation aims 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, with an agreement that the payment of severance pay was 51% of each severance pay that should have been received by Ex-Labourers PT.X in Sukoharjo Regency.



Gambar1 Mediasi Pengadilan Hubungan Industrial



Gambar 2 Mediasi Pengadilan Hubungan Industrial

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. The stages are through: 1. Bipartite Institutions, 2. Mediation, 3. Consolation, and 4. Arbitration.

5. REFERENCES

Elviandri, Dimiyati, K., & Absori. (2019). Quo Vadis Negara Kesejahteraan : Meneguhkan Ideologi Welfare State Negara Hukum Kesejahteraan Indonesia. *Mimbar Hukum*, 31(2), 254.

Halim, R. (1990). *Hukum Perburuhan dalam Tanya Jawab*. Ghalia Indonesia.

COMMUNITY EMPOWERMENT AND SERVICE

- Maringan, N. (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), 4.
- Maswandi. (2017). Penyelesaian Perselisihan Hubungan Kerja Di Pengadilan Hubungan Industrial. *Jurnal Administrasi Publik*, 5(1), 38.
- Tobin, C. N. (2018). Menggagas Pengadilan Hubungan Industrial Dalam Bingkai Ius Constituendum Sebagai Upaya Mewujudkan Kepastian Hukum Dan Keadilan. *Jurnal Hukum Dan Peradilan*, 7(2), 300.
- Undang-Undang Republik Indonesia No. 13 Tahun 2003 Tentang Ketenagakerjaan.* (2003).
- Undang-Undang Republik Indonesia Nomor. 30 Tahun 1999 Tentang Arbitrase dan Alternatif Penyelesaian Sengketa.* (1999).
- Utami, T. K. (2013). Peran Serikat Pekerja Dalam Penyelesaian Perselisihan Pemutusan Hubungan Kerja. *Jurnal Wawasan Hukum*, 28(1), 675.
- Wijayanti, A. (2011). Kejahatan Korporasi Dalam Pelaksanaan Hak Berserikat Buruh. *Equality*, 16(1).