

The Effectiveness of Disciplinary Punishment for Employees in Achieving Good Governance in the Regional Office of the Ministry of Law and Human Rights in Central Java

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Abstract

This study aims to analyse the mechanism for imposing penalties/punishments for violations of employee discipline cases within the Regional Office of the Ministry of Law and Human Rights of Central Java. In addition, this study also examines the effectiveness of the mechanism for imposing disciplinary penalties on employees in achieving Good Governance, as well as examines what factors are obstacles to imposing disciplinary penalties and solutions to overcome these obstacles. The research method with the Socio Legal-Approach where this research focuses on the identification of functions in social and legal symptoms within the Regional Office of the Ministry of Law and Human Rights of Central Java with qualitative methods, here emphasises the Purposive Non-Random Sampling interview method. The appointed informants represent Civil Servants who get disciplinary violations, other Civil Servants, Policy Makers namely structural officials and the surrounding community. The theories used to examine these problems are Legal Effectiveness Theory, Good Governance Theory, and Good Governance Theory from an Islamic perspective. The mechanism of imposing disciplinary actions for State Civil Servants at the Regional Office of the Ministry of Law and Human Rights of Central Java begins with an examination conducted by direct superiors as referred to in the laws and regulations governing the authority to appoint, transfer, and dismiss civil servants. The results showed that the mechanism for imposing disciplinary penalties/punishments on civil servants at the Regional Office in the Ministry of Law and Human Rights of Central Java is under Government Regulation No. 53 of 2010, although in the field there are obstacles and it has not been affected by the result that the officials in charge still tolerate to these employees, it also has a positive impact including a deterrent effect not to repeat either the same violation or one level higher than before either the Civil Servant concerned or others.

Keywords: Effectiveness, Disciplinary, Punishment.

1. Introduction

The Ministry of Law and Human Rights is a body that has the task of organising affairs in the field of law and human rights. In its authority, Kemenkumham RI is part of the implementation of a state of law. The State of Law is referred to as a state based on law and justice for its citizens. The point is that all authorities and actions of state science devices or otherwise are regulated by law. Such conditions will reflect a just social life for its citizens.¹ The term state of constitutional law, in Indonesia, has been mentioned in the 1945 Constitution legally using the term state

¹ Hakim Abdul Aziz (2011) *Negara Hukum dan Demokrasi*, Yogyakarta: Pustaka Pelajar, p. 8.

after the difference between the amendment and before the amendment. It is known that before the amendment of the 1945 Constitution, which reads "Indonesia is a state of law". While after the amendment of the 1945 Constitution that "Indonesia is a state of law". The conditions of statehood are contained in the 1945 Constitution, Article 1 paragraph 3. Indonesia has the objectives² *"To protect the entire Indonesian nation and all of its people, to promote the general welfare, to educate the nation, and to participate in the implementation of world order based on lasting peace and social justice."*

To understand these national goals, it is necessary to develop all areas of life, including employment, both private employment and civil servants. Total goals, Civil Servants as a key element of the human resources of the state apparatus have a very strategic role in tasks and governance and development. The perfection of a state apparatus substantially depends on the Civil Servants in the administration of government and national development.³ In the process of achieving reliable, professional, and moral civil servants,^{4 5} In general, the sentencing process has been adjusted to PP No. 53 of 2010 but in the process of imposing disciplinary actions, they often still use emotional relationships which are considered inconsistent because of the lack of supervision from the leadership on employee discipline which also results in inconsistent punishment. In addition, the level of desire for achievement from the employees themselves does not appear because both those who excel and those who do not are the same as not getting awards which ultimately reduce motivation.

2. Research Methods

The approach used in this research is Socio-Legal Approach, the specification of this research is included in descriptive legal analysis research. The data collection method consists of primary data and secondary data. Primary data includes interviews while the sampling technique uses purposive non-random sampling and observation. Data analysis method using descriptive qualitative.

3. Results And Discussion

3.1 The Effectiveness of Disciplinary Actions for Employees in Achieving Good Governance in the Regional Office of the Ministry of Law and Human Rights at Central Java

² SF. Marbun dan Moh. Mahfud MD (1987) *Pokok-pokok Hukum Administrasi Negara*, Yogyakarta: Kemerdekaan, p. 98

³ Nainggolan (1987) *Pembinaan Pegawai Negeri Sipil*, Jakarta: PT. Pertja, p. 23.

⁴ Widya Pratiwi Asmara, Sri Kusriyah, dan Widayati (2019) *"Staffing Application System In The Development And Supervision Of Employees Based On Information Technology (It) In Order To Good Government At Regional Office In The Ministry Of Justice And Human Rights Of Central Java (Case Study At Regional Office of the Ministry of Justice and Human Rights of Central Java)"*, Jurnal Daulat Hukum (Vol. 2 No. 4)

⁵ Interview with Febri Nurdian Satriatama, Head of General Affairs at the Regional Office of the Ministry of Law and Human Rights of Central Java, 7 July 2022.

A good and dignified government starts with the enforcement of discipline within the state apparatus. More specifically for Civil Servants who are an element of the state civil apparatus itself. The Ministry of Law and Human Rights massively continues to improve its planning through socialisation, education and training, guidance and consultation assignments and coaching, healthy official discipline supported by a solid personnel information system and equipped with a reasonable reward system. The mechanism for imposing disciplinary actions is a process that must be passed before a civil servant is sentenced to disciplinary punishment by an official authorised to punish, including summons, investigation, punishment and submission of a decision. If civil servants who are sentenced to disciplinary actions are not satisfied with the disciplinary actions in the form of light, medium or heavy disciplinary actions, civil servants can make administrative efforts or objections or administrative appeals.

In carrying out examinations and imposing disciplinary penalties for civil servants within the Ministry of Law and Human Rights, the Inspectorate General of the Ministry of Law and Human Rights is based on Regulation of the Minister of Law and Human Rights Number 23 of 2015 concerning Procedures for imposing disciplinary penalties and administrative actions for employees within the Ministry of Law and Human Rights. However, in 2019 this regulation has been amended as now known as Regulation of the Minister of Law and Human Rights Number 28 of 2019 concerning Procedures for Imposing Disciplinary Penalties and Dismissal Due to Criminal Offences for Employees within the Ministry of Law and Human Rights. This regulation states that what is meant by the disciplinary action process is a series of activities starting from the summons until the decision on disciplinary actions is determined.⁶

One of the reasons underlying the change in the regulation is that at that time the existing data could not be displayed in an actual and valid manner because it did not yet have a definite database of the number of employees sentenced to light, medium and heavy disciplinary penalties. Thus, some employees are affected and or are still in the process of disciplinary punishment being transferred or promoted, some employees are still in the process of enforcing discipline moving to other units and some employees are still in the process of disciplinary punishment being included in advanced training.

Seeing from several examples of disciplinary violations both mild, moderate, and severe, this is the background for researching violations of Civil Servant discipline and the process of imposing punishment/punishments procedurally both applied at the Regional Office of the Ministry of Law and Human Rights of Central Java itself based on Law Number 5 of 2014 concerning State Civil Apparatus and the provisions governing therein, namely Government Regulation Number 53 of 2010 concerning Civil Servant Discipline for the creation of Civil Servant Discipline in the framework of good governance.

In the practice of governance, development, and public services must also be accompanied by the application of good governance principles. The Regional Office of the Ministry of Law and Human Rights of Central Java is required to play its role and responsibility in applying the principles of good governance, it is hoped that

⁶ Interview with Febri Nurdian Satriatama, Head of General Affairs at the Regional Office of the Ministry of Law and Human Rights of Central Java, 7 July 2022.

using and exercising political, economic and administrative authority it can be carried out properly. The smooth implementation of governance and national development mainly depends on the perfection of the state apparatus is substantially dependent on the perfection of Servants.⁷ Therefore, in practice, the concept of good governance must be supported by the commitment of all parties, namely the state (government), private (private) and society (society). Good Governance is the practice of governance to providing services to the community. For its implementation, the Regional Office of the Ministry of Law and Human Rights of Central Java has a Vision and Mission, namely the Realisation of the Regional Office of the Ministry of Law and Human Rights of Central Java which is Reliable, Professional, Innovative, and Integrity in service to the President and Vice President to Realise the President's Vision and Mission "Advanced Indonesia which is Sovereign, Independent and Personality based on Mutual Support."

Discipline is the main key to success for Civil Servants, Discipline parameters are complying with working hours and other personnel regulations. Discipline is easy to say but difficult to apply. This is evidenced by the fact that there are still Civil Servants who violate discipline and are eventually subject to Disciplinary Punishment. The Regional Office of the Ministry of Law and Human Rights of Central Java is currently actively enforcing discipline for its employees. Discipline will be able to be enforced when the reward and punishment are implemented. Because with rewards and punishments enforced there will be an impact on Civil Servants who have done it, in the end, it will have an impact on increasing their discipline.

3.2. Problems in implementing disciplinary punishment for employees in achieving Good Governance in the Regional Office of the Ministry of Law and Human Rights in Central Java

The administration of disciplinary punishment/punishments for Civil Servants at the Regional Office of the Ministry of Law and Human Rights in Central Java often encounters obstacles. The obstacles that are usually encountered in carrying out disciplinary penalties for employees within the Regional Office of the Ministry of Law and Human Rights in Central Java are the low awareness of employees to act and being disciplined in carrying out tasks, such as late arrivals to work, lack of disciplinary regulations, lack of a supervisory system and every violation of employee discipline always argues to be fostered administratively. The application of the principles of good governance used is the principle/theory of effectiveness. We recommend that there is a need for firmness from the Subdivision of Personnel regarding disciplinary penalties that violate Civil Servants so that services can be maximized. Constraints to the application of discipline are sometimes due to the weak supervision of direct superiors. As a result of such an attitude, it results in slow service and decreased work performance which can be seen from the fast or slow factor of service.

The application of the principles of good governance used is the principle of Participation, Penalties / Discipline for Civil Servants at the Regional Office of the Ministry of Law and Human Rights, Central Java, which brings various impacts, both positive and negative to the Civil Servants concerned, as well as other existing Civil

⁷ Nainggolan (1987) *Pembinaan Pegawai Negeri Sipil*, Jakarta: PT. Pertja

Servants in their environment. The positive impacts will include a deterrent effect on Civil Servants, and the impact on Civil Servants and other Civil Servants not to follow/violate and repeat such disciplinary actions. The negative impact is caused by a small number of Civil Servants who think that the sentence is still within light limits and does not make a problem with it.

The factors that cause obstacles in the Regional Office of the Ministry of Law and Human Rights in Central Java, the following are the obstacles/obstacles and efforts to overcome the provision of disciplinary penalties for Civil Servants at the Regional Office of the Ministry of Law and Human Rights Central Java, among others:⁸

- Tolerance of superiors towards their employees is quite high. The tolerance given by superiors to employees under them who violate minor discipline is still quite high. Even though there is a warning, the superior does not report it to the Staffing Subdivision at the Regional Office of the Ministry of Law and Human Rights of Central Java so the Staffing Subdivision cannot take action against unreported violations. For example, an employee who leaves the office during working hours, of course, it is the superior who gives permission, the superior should be able to firmly play a role in improving discipline by not permitting because the Personnel Subdivision cannot monitor employees one by one at the Regional Office of the Ministry of Law and Human Rights of Central Java. It is the superior who should monitor, and guide his employees.
- Awareness of the discipline of employees is still lacking. The formation of discipline can be carried out in two ways, namely through the development of personal discipline or the development of a discipline that comes from individuals and through the application of strict disciplinary measures, meaning that an employee who is not disciplined will be subject to punishment or punishment under the level of error. An employee who is aware of his duties and responsibilities will certainly carry out the obligations imposed on him and stay away from prohibitions that will reduce his credibility. As a State Civil Apparatus, of course, he must carry out the obligations imposed on him as stated in Article 2 of Government Regulation Number 53 of 2010 concerning Civil Servant Discipline.
- Factors influenced by law enforcers, namely, there are direct superiors who tend to not want to bother in handling allegations of serious disciplinary violations. The attitude of not wanting to bother is: First, do not want to bother in the sense that the immediate superior does not seem to know about the alleged serious disciplinary violations that occur in the organisation he leads. Second, the attitude of not wanting to bother because they do not understand the process of enforcing disciplinary penalties for Civil Servants. Many reports regarding allegations of minor, moderate and severe disciplinary violations are directly reported to the Personnel Subdivision at the Regional Office of the Ministry of Law and Human Rights of Central Java.

The Qur'an has also explained the basics of government, as contained in chapter 5 of Surah An Nisaa' 4 verses 58 - 70. Two verses of which read: *"Indeed,*

⁸ Interview with Jusman, Head of Administration Division of the Regional Office of the Ministry of Law and Human Rights of Central Java, 7 July 2022.

Allah commands you to convey the message to those who are entitled to receive it, and (orders you) when setting a law between people so that you judge with justice. Verily, Allah has taught you the best. Verily, Allah is All-Hearing, All-Seeing." "O you who believe, obey Allah and obey His Messenger, and Ulil Amri among you. Then if you disagree about something, return it to Allah (the Qur'an) and the Messenger (his Sunnah), if you truly believe in Allah and the Last Day. That is more important (for you) and better as a result."

The existence of such punishment will at least have an effect on the Civil Servant where there will be concerns those punishment/penalties imposed on the Civil Servant should be used as learning for the employee and his colleagues. However, what is more, important is the existence of guidance and supervision so that other violations do not occur. Sometimes they respond in a relaxed and carefree manner. However, not all Civil Servants are deterred from the punishment given. Some of the civil servants who have problems feel that the sentence is still at the light sentence level, so they are not afraid of the punishment.

Other negative impacts include community dissatisfaction, and if the Civil Servant still has family dependents, their needs will be threatened and disrupted, for example, education and so on. The positive impact on the community will be to see and assess the government's commitment and seriousness in fostering Civil Servants. With a firm attitude and courage to make decisions, there is no longer the assumption that Civil Servants cannot be punished or fired. With the enactment of Government Regulation No. 53 of 2010 concerning Civil Servant Discipline, no more Civil Servants can act disciplinary without getting disciplinary punishment, ranging from light, moderate and severe punishments.

4. Conclusion

The mechanism for imposing disciplinary penalties for Civil Servants carried out at the Regional Office of the Ministry of Law and Human Rights in Central Java is under Government Regulation Number 53 of 2010. The effectiveness in imposing disciplinary penalties for civil servants in the Regional Office of the Ministry of Law and Human Rights in Central Java has not been the best. In general, the sentencing process has been adjusted to PP No. 53 of 2010 but the process of imposing disciplinary penalties sometimes still uses emotional relationships, this is considered inconsistent because of the lack of supervision from the leadership on employee discipline which also results in inconsistent punishment.

5. References

Journal:

- [1] Hakim Abdul Aziz (2011) *Negara Hukum dan Demokrasi*, Yogyakarta: Pustaka Pelajar, p. 8.
- [2] Nainggolan (1987) *Pembinaan Pegawai Negeri Sipil*, Jakarta: PT. Pertja, p. 23.
- [3] SF. Marbun dan Moh. Mahfud MD (1987) *Pokok-pokok Hukum Administrasi Negara*, Yogyakarta: Kemerdekaan, p. 98
- [4] Widya Pratiwi Asmara, Sri Kusriyah, dan Widayati (2019) *"Staffing Application System in The Development and Supervision Of Employees Based On Information Technology (It) In Order To Good Government At Regional Office In The Ministry Of Justice And Human Rights Of Central Java (Case Study At Regional Office of the*

Ministry of Justice and Human Rights of Central Java)”, Jurnal Daulat Hukum
(Vol. 2 No. 4)

Interview:

- [1] Interview with Febri Nurdian Satriatama, Head of General Affairs at the Regional Office of the Ministry of Law and Human Rights of Central Java, 7 July 2022.
- [2] Interview with Jusman, Head of Administration Division of the Regional Office of the Ministry of Law and Human Rights of Central Java, 7 July 2022.