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Protection of Workers' Rights in the Settlement of Industrial Relations Disputes and Termination of Employment

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Abstract. *Termination of employment is the beginning of the loss of a worker's livelihood. This impact is very complex and tends to give rise to disputes. Therefore, the mechanisms and procedures for termination of employment have been regulated in such a way that workers who remain receive proper protection and obtain their normative rights in accordance with the provisions. The formulation of the research problem is: How are the regulations for the protection of workers' rights in the settlement of industrial relations disputes regarding termination of employment. How do judges' decisions realize the protection of workers' rights in the just settlement of industrial relations disputes regarding termination of employment. The approaches used in this research are normative-juridical and empirical. Normative-juridical research refers to legislation and utilizes secondary data. Empirical research, on the other hand, is field research utilizing primary data. Termination of employment has legal consequences, both for the employer and the worker/laborer itself. The legal consequences in question are in the form of providing wage compensation to workers/laborers whose employment relationship is terminated with the employer. Protection of workers' rights in the settlement of industrial relations disputes regarding termination of employment by providing legal certainty in the form of workers' rights in accordance with applicable laws and regulations, namely providing workers' rights in the form of severance pay, housing and medical compensation, long service awards and severance pay, so as not to cause disputes over rights, this is caused by differences of opinion regarding the implementation or interpretation of the provisions contained in the laws and regulations. Based on the decisions analyzed in this thesis, regarding the wage compensation that must be provided by employers to workers/laborers due to termination of employment, the Judge must act fairly in his considerations as outlined in the main case, so as to reach a basis for dispute resolution. that the result of the cassation decision Number 1101 K/Pdt,Sus-PHI/2022 is that the Workers/Laborers of the former BPRS Haerukat have lost their rights to their service while*

working, and if the cassation decision Number 1101 K/Pdt,Sus-PHI/2022 is used as jurisprudence by other Industrial Relations Court Judges, it will result in the workers' right to receive compensation in cases of unilateral layoffs becoming more difficult to obtain legal certainty and a sense of justice.

Keywords: *Companies; Employment; Industrial; Laborers; Termination.*

1. Introduction

Employment development is an integral part of national development, in the framework of developing the whole Indonesian human being and the development of Indonesian society as a whole to create a prosperous, just and prosperous society that is equitable, materially and spiritually based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia states: Every citizen has the right to work and a decent living for humanity.

The workforce plays a crucial role and position as an actor in achieving development goals. Consequently, workforce development is directed at improving its quality and contribution to development while protecting its rights and interests in accordance with human dignity.[1]Manpower development is directed at improving the quality and contribution to development and protecting human rights and interests in accordance with human dignity.[2]In implementing

[1]B. Siswanto Sastrohadiwiryo, Indonesian Workforce Management, Administrative and Operational Approaches, Bumi Aksara, Jakarta, 2005, p. 1.

[2]Ibid. In relation to the objectives of workforce development, the explanation of Article 4 of Law Number 13 of 2003 states: Empowering and utilizing the workforce optimally and humanely. Empowerment and utilization of the workforce is an integrated activity to provide the widest possible employment opportunities for all Indonesian workers. Through this empowerment and utilization, it is hoped that Indonesian workers can participate optimally in national development. However, it still upholds humanitarian values so as to improve the dignity, dignity and self-esteem of workers and create a prosperous, just, prosperous and equitable society, both materially and spiritually; Realizing equal employment opportunities and the provision of workers in accordance with national and regional development. Equal employment opportunities must be sought throughout the territory of the Unitary State of the Republic of Indonesia as a unified labor market by providing equal opportunities to obtain employment for all Indonesian workers according to their talents, interests and abilities. Likewise, equal distribution of workers needs to be sought in order to fill needs in all sectors and regions; Providing protection to workers in realizing welfare. Manpower development must be regulated in such a way that the basic rights and protections for workers and laborers are fulfilled and at the same time can create conditions that are conducive to the development of the business world; Improving the welfare of workers and their families. The majority of Indonesian people are workers and their families have a large role in realizing social justice for all Indonesian people. A prosperous, just, and equitable society, both materially and spiritually, cannot be achieved if workers and their families are not prosperous. Improving the welfare of workers and their families is part of the framework for realizing the welfare of

national development, the role of the workforce is increasing, along with this, protection of the workforce must be improved, both regarding wages, welfare and dignity as human beings.[3]Employment development to improve the quality of workforce welfare, including providing protection to workers in terms of their rights if they are harmed.[4]

Among the efforts to protect workers/laborers is the Government with the approval of the House of Representatives, enacting Law Number 21 of 2000 concerning Workers/Laborers Unions, Law Number 13 of 2003 concerning Manpower and Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes, as well as various other laws and regulations.

A production system requires good cooperation between workers and employers. Since then, people have studied and discussed the relationship between workers and employers, which is the forerunner to the development of industrial relations formed between actors in the production of goods and services based on Pancasila and the 1945 Constitution of the Republic of Indonesia. This relationship has grown and developed based on the nation's character and is known as Pancasila Industrial Relations.

The principles of Pancasila industrial relations adopted by Indonesia must be mutually beneficial, based on mutual trust, mutual understanding, and a sense of belonging, so that both workers and employers can operate their companies in a safe and friendly manner. According to the principles adopted in Pancasila industrial relations, industrial relations aims to:[5]

1) Creating peace or tranquility at work and peace of mind in business;

2) Increase production;

3) Improving workers' welfare and their status in accordance with human dignity.

Industrial relations are influenced by many factors, besides the internal conditions of the company which play a role, such as the relationship between workers, trade

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Indonesian society. In an effort to realize this goal, it is the main key that every worker has the same rights and opportunities to obtain work and a decent living without differentiating gender, ethnicity, race, religion and political affiliation according to the interests and abilities of the worker concerned.

[3]Abdul Kadir, Introduction to Indonesian Employment Law, Citra Aditya Bakti, Bandung, 2002, p. 3.

[4]Workers are part of society and often experience unfair treatment from employers. See Hardijan Rusli, Employment Law, Ghalia Indonesia, Jakarta, 2004, p. 5. Worker protection is intended to guarantee their rights based on equal rights and opportunities to work without discrimination for any reason. See Sendjum H Manulang, Principles of Employment Law in Indonesia, Rineka Cipta, Jakarta, 2001, p. 8.

[5]Lalu Husni, Settlement of Industrial Relations Disputes, Raja Grafindo Persada, Jakarta, 2004, p. 17.

unions and employers, working conditions and culture within the company.[6]also the external conditions of the company, namely the existence of the government as a regulator in industrial relations.[7]

For workers, termination of employment is the beginning of the loss of livelihood, meaning the loss of employment and income. Termination of employment can be a nightmare for every worker because their and their families' livelihoods are threatened and they suffer the consequences of the termination. Considering the reality on the ground that finding work is not as easy as imagined. Increasing competition, a growing workforce, and fluctuating business conditions, it is very natural for workers or laborers to always worry about the threat of termination of employment. The impact of termination of employment is very complex and tends to give rise to disputes, therefore the mechanisms and procedures for termination of employment are regulated in such a way that workers continue to receive proper protection and obtain their rights.

With the enactment of Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes, the wider community, particularly workers and employers, is aware of their rights and obligations and understands how to resolve industrial relations disputes. With this understanding, stakeholders can determine which mechanism to use to resolve their industrial relations disputes.

2. Research Methods

Soedjono Soekanto and Sri Mamudji classify legal research into two types: normative legal research and sociological/empirical legal research. This research is both normative and empirical in nature.[8]Normative legal research refers to legislation using secondary data, while empirical research is field research using primary data. The normative juridical approach by studying or analyzing secondary data in the form of secondary legal materials by understanding law as a set of regulations or positive norms in applicable legislation, so this research is understood as library research or secondary data research.[9] In the juridical-empirical approach, normative law or written statutory regulations are primary data that are used as fundamental references in the course of research, because they serve as guidelines for searching for data in the field, namely how society

[6]In the labor market, workers and employers have a mutually beneficial relationship. Workers provide labor for products and services, while employers pay wages for their services in creating products, whether goods or services. The government, as a facilitator, provides the infrastructure and profits through taxes paid by employers. See Djumadi, *The History of Labor Organizations in Indonesia*, Raja Grafindo Persada, Jakarta, 2005, p. 30.
[7]The government's role is realized by issuing various policies and laws and regulations that must be obeyed by the parties, as well as monitoring or enforcing these regulations effectively, and assisting in the resolution of industrial disputes. Ibid, p. 18.
[8]Soerjono Soekanto and Sri Mamuji, Normative Legal Research, A Brief Review, Rajawali, Jakarta, 1996, p. 15.
[9]Ibid, p. 15.

implements the written statutory regulations that have been established in their lives. Furthermore, the researcher will also use steps that support this research method by conducting research on all legal sources, whether in the form of applicable laws or regulations, legal theories, and the opinions of leading legal scholars or experts that are closely related to the research object.

3. Results and Discussion

3.1. Regulation of Workers' Rights, Settlement of Industrial Relations Disputes, Termination of Employment

Employment legal issues persist, with workers' rights denied by their employers a persistent problem. One such legal issue in the employment sector is termination of employment (PHK). Rights that should be respected as part of the implementation of the law are not being granted.

Since the enactment of Law Number 11 of 2020 concerning Job Creation (Omnibus Law), companies can carry out layoffs for reasons of efficiency, whether followed by company closure or not followed by company closure due to losses. Employers who lay off workers/laborers for reasons of efficiency aim to reduce the burden on the company so that the company continues to operate, such as in the current global crisis conditions that require the reduction of workers/laborers, employers do not need to worry about carrying out layoffs for reasons of efficiency because there are legal reasons regulated in Chapter IV concerning employment in Article 154 letter a paragraph (1) point b Omnibus Law, but employers are required to fulfill the rights of workers who experience layoffs as regulated in Article 156 paragraph (1) Omnibus Law.

The enactment of the Job Creation Law has resulted in a surge in layoffs across all industrial sectors, as well as a demarcation between the reasons for layoffs, prohibitions on layoffs, and the amount of rights in the form of severance pay, long-service awards, and compensation for rights that must be received.

The law's role is to create legal certainty because it aims to establish order in society. Legal certainty is an inseparable characteristic of law, especially written legal norms. Law without legal certainty loses its meaning because it can no longer serve as a guideline for behavior for everyone. Legal certainty is defined as the clarity of norms, allowing them to serve as guidelines for the people subject to these regulations. This definition of certainty can be interpreted as the existence of clarity and firmness in the application of law in society.

This is to avoid many misinterpretations. According to Van Apeldoorn, legal certainty can also mean something that can be determined by law in concrete matters. Legal certainty is the guarantee that the law is enforced, that those entitled to it can obtain their rights, and that decisions can be enforced. Legal certainty is justiciable protection against arbitrary action, meaning that a person

will be able to obtain what is expected under certain circumstances.

In 2020, the Indonesian government under President Joko Widodo enacted a major regulation called the Omnibus Law, which regulates aspects of employment and their legal certainty. The Omnibus Law is a legislative concept that replaces existing norms in several laws into a single, unified whole. Furthermore, according to Audrey O'Brien and Marc Bosc, the Omnibus Law is a draft law that aims to amend, revoke, or implement several provisions contained in several laws. This regulation is Law Number 11 of 2020 concerning Job Creation, commonly referred to as the Job Creation Law. The Job Creation Law was created with the aim of realizing a new scheme as an effort to develop the Indonesian economy, although it received much criticism and reaped opposition from the public and caused political instability that year. This law regulates various business sectors with provisions for their workers.

The Copyright Law on Work contains amendments to previous labor laws, specifically related to employment articles. These changes to several articles in the labor law have drawn attention because they are considered to have a significant impact on workers. Efforts to reduce or violate labor laws at the expense of worker protection are inappropriate. The government believes that the overly rigid nature of the previous labor laws is a barrier to investment, necessitating regulatory changes or deregulation.

In the concept of reinventing government, the government takes a steering position, not a rowing position. Its role is limited to facilitator, but it remains responsible for industrial relations issues. In the context of resolving industrial relations disputes, this involves providing excellent service specifically to workers and employers. The government is obligated to facilitate the resolution of industrial conflicts, even if it remains in the background as a last resort after the parties have rejected conciliation or arbitration, except in cases involving rights disputes.[10]

Settlement of Industrial Relations Disputes Outside the Court, namely by means of:

1) Bipartite and Tripartite Settlement of Industrial Relations Disputes

Law Number 2 of 2004 requires prior bipartite negotiations in the event of an industrial relations dispute. Bipartite negotiations are conducted primarily at the company level by workers/laborers and employers. This is not dissimilar to the mechanism of Law Number 22 of 1957. The difference lies in the parties in the negotiations. According to Law Number 22 of 1957, bipartite negotiations are

[10]Bambang S. Widagdo Kusumo, Legal Review of the Implementation of Law Number 2 of 2004, Paper of the Consultation Forum, Industrial Relations Mediators with Ad-Hoc Judges of the Industrial Relations Courts throughout Indonesia. Surabaya, April 24, 2009), Surabaya, 2009. p. 8.

conducted by labor unions or union coalitions, while Law Number 2 of 2004 only recognizes the involvement of individual workers/laborers or labor unions, but not unions of labor unions.

Good dispute resolution is a resolution by the parties through deliberation and consensus without interference from other parties, thus achieving mutually beneficial results by reducing costs and saving time. Similarly, in industrial relations disputes, the parties should resolve their problems through deliberation to reach a consensus. Law Number 13 of 2003 maintains one aspect of dispute resolution through bipartite institutions. Bipartite institutions can resolve disputes over rights, disputes over interests, disputes over termination of employment, and disputes between unions within a company.

2) Settlement of Industrial Relations Disputes Through Mediation

Settlement of industrial relations disputes through mediation is carried out if no agreement is reached in bipartite negotiations. Efforts to resolve industrial relations disputes through mediation are regulated in Articles 8 to 16 of Law Number 2 of 2004. Industrial relations disputes cannot be resolved directly through mediation. Settlement of industrial relations disputes through mediation according to the provisions of Article 4 of Law Number 2 of 2004 is preceded by the following stages:

a. In the event that bipartite negotiations fail, one or both parties shall register the dispute with the local agency responsible for the employment sector, attaching evidence that efforts to resolve the dispute through bipartite means have been made.

b. After receiving a note from one or both parties, the agency responsible for employment is obliged to offer the parties the option to agree to choose a resolution through conciliation or arbitration.

c. If within 7 (seven) days the parties do not make a choice, the agency responsible for employment affairs will delegate the resolution to a mediator.

The requirement to report disputes between workers and employers to the relevant labor agency is in the government's best interest. The government must be aware of everything related to its role as labor regulator, especially regarding disputes. In this regard, the government still wants to play a role in resolving industrial relations disputes.

Settlement through mediation is carried out through an intermediary called a mediator. Mediation is an intervention in a dispute by an acceptable, impartial, and neutral third party who helps the disputing parties reach a voluntary agreement on the disputed issues. Settlement through mediation is a form of Alternative Disputes Resolution which can be used to resolve disputes in industrial

relations. Article 1 number 11 of Law Number 2 of 2004 states that industrial relations mediation, hereinafter referred to as mediation, is the resolution of disputes over rights, disputes over interests, disputes over termination of employment, and disputes between labor unions within a single company through deliberation mediated by one or more neutral mediators.

Article 1 number 12 of Law Number 2 of 2004, industrial relations mediators hereinafter referred to as mediators are government agency employees responsible for the field of employment who meet the requirements as mediators appointed by the minister to carry out mediation and have the obligation to provide written recommendations to the disputing parties to resolve disputes over rights, disputes over interests, disputes over termination of employment, and disputes between trade unions within one company only.

Settlement of industrial disputes through mediation is carried out by mediators at the Regency/City Manpower Office.[11]A mediator is a civil servant appointed based on the Decree of the Minister of Manpower and Transmigration Number Kep.92/Men/VI/2004 concerning the Appointment and Dismissal of Mediators and Mediation Work Procedures. To become a mediator, a person must fulfill the requirements as stipulated in Article 3 paragraph (1) of the Decree of the Minister of Manpower and Transmigration Number Kep.92/MEN/VI/2004. The requirements to become a mediator are:

a. Civil Servants at Agencies/Departments responsible for employment;

b. Have faith and devotion to God Almighty;

c. Indonesian citizens;

d. In good health according to a doctor's certificate;

e. Mastering laws and regulations in the field of employment;

f. Be authoritative, honest, fair and have irreproachable behavior;

g. Have at least a Bachelor's Degree (S1) education; And

h. Has legitimacy from the Minister of Manpower and Transmigration.

The most important thing that must be fulfilled to become a mediator in industrial relations disputes is the existence of legitimacy. To obtain legitimacy, the conditions as stipulated in Article 3 paragraph (2) of the Decree of the Minister of Manpower and Transmigration Number Kep.92/MEN/VI/2004 must be fulfilled, namely:

1) Have attended and passed technical education and training in industrial

[11]Article 8 of Law Number 2 of 2004.

relations and work requirements as evidenced by a certificate from the Department of Manpower and Transmigration.

2) Have carried out duties in the field of industrial relations development for at least 1 (one) year after graduating from industrial relations technical education and training and work requirements.

3) Settlement of Industrial Relations Disputes Through Conciliation

Settlement through conciliation is carried out by one or more individuals or bodies acting as mediators, called conciliators, by bringing together or providing facilities for the disputing parties to resolve their dispute peacefully. Dispute resolution through conciliation is carried out by one or more conciliators registered with the district/city Manpower Office.[12]Conciliators from the private sector are appointed based on the Regulation of the Minister of Manpower and Transmigration Number Per.10/Men/V/2005 concerning the Appointment and Dismissal of Conciliators and Conciliation Work Procedures.

In Article 1 number 13 of Law Number 2 of 2004 in conjunction with Article 1 number 2 of the Regulation of the Minister of Manpower and Transmigration Number Per.10/MEN/2005, it is stated that industrial relations conciliation, hereinafter referred to as conciliation, is the resolution of disputes of interest, disputes over termination of employment or disputes between workers/labor unions within one company only through deliberation mediated by one or more neutral conciliators.

In Article 1 number 14 of Law Number 2 of 2004 in conjunction with Article 1 number 1 of the Regulation of the Minister of Manpower and Transmigration Number Per.10/MEN/2005, it is stated that an industrial relations conciliator, hereinafter referred to as a conciliator, is one or more persons who meet the requirements as a conciliator appointed by the minister, whose duty is to carry out conciliation and is obliged to provide written recommendations to the disputing parties to resolve disputes over rights, disputes, interests, disputes over termination of employment or disputes between trade unions/laborers in only one company.

The conciliator comes from a third party, outside the employees of the agency responsible for the employment sector. The scope of disputes handled by the conciliator includes all types of industrial relations disputes except rights disputes. According to Article 17 of Law Number 2 of 2004, dispute resolution through conciliation is carried out by a conciliator registered at the office of the agency responsible for the employment sector in the district/city. In Article 19 of Law Number 2 of 2004 Article 2 paragraph (1) of the Regulation of the Minister of Manpower and Transmigration Number Per.10/MEN/2005 states that to be able

[12]Article 17 of Law Number 2 of 2004.

to become a conciliator, one must meet the following requirements:

a. Have faith and devotion to God Almighty;

b. Indonesian citizens;

c. At least 45 (forty five) years of age;

d. Minimum education is Bachelor's degree (S1);

e. In good health according to a doctor's certificate;

f. Authoritative, honest, fair and not behaving disgracefully;

g. Have at least 5 (five) years of experience in the industrial sector;

h. Mastering laws and regulations in the field of employment;

i. Not having the status of a Civil Servant or member of the TNI/POLRI;

j. Passed the training program organized by the government.

4) Settlement of Industrial Relations Disputes Through Arbitration

With the advent of democratization, all aspects of national and state life need to accommodate public involvement in resolving industrial relations disputes through conciliation and arbitration. Unlike mediation and conciliation, which are recommendations and not binding, arbitration decisions are binding on the parties. Arbitration is the resolution or decision of a dispute by a judge or judges, with the aim of requiring them to comply with or obey the decision rendered by the judge or judges they have chosen or appointed.[13]According to Asikin Kusuma Atmaja, arbitration is an out-of-court procedure determined by agreement, whereby the parties, in the event of a dispute arising regarding the implementation of the agreement, agree to hand over the resolution of the dispute to a referee chosen by the parties.[14]

Arbitration has existed since the Dutch era. The legal basis for arbitration at that time was Article 377 of the HIR, which stipulated that if an Indonesian and a foreigner wanted their dispute resolved by an arbitrator, they were required to comply with the court rules applicable to European nations. According to Sudikno Mertokusumo, arbitration is a procedure for resolving disputes outside the courts, which, based on an agreement between the parties, is submitted to one or more arbitrators.[15]

Frank El Kaoury and Edna El Kaoury, said that arbitration is a simple process that

[13]Eman Rajaguguk, Arbitration and Court Decisions, Chandra Pratama, Jakarta, 2000, p. 14.
[14]Asikin Kusuma Atmaja, International Trade Arbitration, Prisma, Jakarta, 1993, p. 55.
[15]Sudikno Mertokusumo, Indonesian Civil Procedure Law, Liberty, Yogyakarta, 1979, p. 190.

is voluntarily chosen by the parties who want their case to be decided by a neutral arbitrator according to their choice, where their decision is based on the arguments in the case.[16]Arbitration settlement is generally regulated by Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. Therefore, industrial relations arbitration, as regulated by Law Number 2 of 2004, constitutes a special regulation for the resolution of industrial relations disputes, in accordance with the principle of lex specialist derogate lex generalis.

Settlement of industrial relations disputes through arbitration is carried out to resolve disputes of interest and disputes between trade unions/laborers with other trade unions/laborers in one company only, due to the lack of agreement regarding membership, implementation of rights and obligations of the trade union. Law Number 30 of 1999 Article 1 number 1 provides a definition of arbitration as a method of resolving a civil case outside the general court based on an arbitration agreement made in writing by the disputing parties.

Arbitration is a civil agreement made based on the agreement of the parties to resolve their dispute which is decided by a third party called an arbitrator who is appointed jointly by the disputing parties. Because the settlement through arbitration must be based on an agreement made by the parties, the arbitration settlement is called a contractual process. Settlement through arbitration is carried out based on the agreement of the parties. The arbitration decision is final and binding, except in certain and very specific cases, an annulment can be submitted to the Supreme Court. The parties can appoint a single or multiple arbitrators in an odd number of up to 3 (three) people.[17]There are several reasons why parties use arbitration, namely:[18]

a. There is freedom, trust and security in resolving disputes;

b. Arbitrators have the expertise to examine and decide disputes objectively;

c. Faster and more cost-effective completion;

d. Confidential;

e. The arbitrator's sensitivity in making decisions;

f. Non-precedented in nature;

g. Implementation is easier to implement.

As a special law, Article 1 number 15 of Law Number 2 of 2004 in conjunction with

[16]M. Husseyn Umar, and A. Supriyani Kardono, Law and Arbitration Institutions in Indonesia - Economic Law Development Project and Improvement of Procurement Systems, Elips, Jakarta, 1995, p. 2.
[17]Bambang S. Widagdo Kusumo, Op., Cit., page 11.
[18]Adrian Sutedi, Op, Cit, p. 116.

Article 1 number 1 of the Regulation of the Minister of Manpower and Transmigration Number Per.02/MEN/I/2005 concerning Procedures for Registration, Testing, Imposing and Revoking Sanctions for Industrial Relations Arbitrators provides the definition of industrial relations arbitration, hereinafter referred to as Arbitration, as the resolution of a dispute of interest and disputes between trade unions/laborers only in one company outside the Industrial Relations Court through a written agreement of the disputing parties to submit the dispute resolution to an arbitrator whose decision is binding on the parties and is final. Article 1 number 16 of Law Number 2 of 2004 in conjunction with ... Article 1 number 2 of the Regulation of the Minister of Manpower and Transmigration Number Per.02/MEN/I/2005 states that industrial relations arbitrators, hereinafter referred to as arbitrators, are one or more persons selected by the disputing parties from the list of arbitrators appointed by the minister to make decisions regarding disputes of interest and disputes between trade unions/laborers in only one company, the resolution of which is submitted through arbitration, the decision of which is binding on the parties and is final.

Settlement through arbitration must be carried out through a written agreement between the disputing parties to submit to the resolution of their dispute, and the decision is binding on the parties and final. Furthermore, the scope of disputes that can be handled by arbitration is limited to disputes of interest and disputes between labor unions within a single company, which is regulated in Article 29 in conjunction with Article 30 of Law Number 2 of 2004.

The arbitrator authorized to resolve industrial relations disputes must be an arbitrator appointed by the minister. The arbitrator's work area covers the entire territory of the Republic of Indonesia. To be able to become an arbitrator for industrial relations disputes, the requirements as stipulated in Article 31 paragraph (1) of Law Number 2 of 2004 in conjunction with Article 2 Number 1 of the Regulation of the Minister of Manpower and Transmigration Number Per.02/MEN/I/2005 must be met, namely:

a. Have faith and devotion to God Almighty;

b. Capable of taking legal action;

c. Indonesian citizens;

d. At least Bachelor's Degree (S1);

e. At least 45 (forty five) years of age;

f. In good health according to a doctor's certificate;

g. Mastering employment laws and regulations as evidenced by a certificate or proof of passing an arbitration exam;

h. Have at least 5 (five) years of industrial experience.

Article 32 of Law Number 2 of 2004 requires that settlement through arbitration be carried out on the basis of an agreement between the disputing parties which is stated in writing in an arbitration agreement which at least contains:

a. Full names and addresses or domiciles of the parties to the dispute;

b. The main issue that is the subject of the dispute and which can be submitted to arbitration for resolution and a decision to be made;

c. The agreed number of arbitrators;

d. A statement by the disputing parties to submit to and implement the arbitration decision; and

e. Place, date of making the agreement and signatures of the disputing parties.

Settlement of Industrial Relations Disputes Through the Courts, namely in the following ways:

If bipartite, tripartite, mediation and conciliation resolutions fail, industrial relations dispute resolution can be pursued through an industrial relations court as a body or forum that provides justice, while the judiciary refers to the process of providing justice in order to uphold the law.[19]The court's primary duty is to receive, examine, try, and resolve any case submitted to it, provided the case falls within its jurisdiction. This therefore concerns the absolute competence or absolute authority of the judicial institution.[20]

Law Number 48 of 2009 concerning Judicial Power states that judicial power is the power of an independent state to administer justice to uphold law and justice based on Pancasila, for the sake of the implementation of the rule of law of the Republic of Indonesia. The implementation of judicial power is carried out by a Supreme Court and judicial bodies under it in the General Courts, Religious Courts, Military Courts, State Administrative Courts, and by a Constitutional Court.

Settlement of industrial relations disputes through the courts is the last resort if efforts to resolve them through deliberation outside the courts do not result in an agreement, then the path taken is through legal channels or the industrial relations court at the District Court in the jurisdiction where the dispute

[19] SJachran Basah, Existence and Benchmark of Administrative Court Bodies in Indonesia, Alumni, Bandung, 1989, p. 23.

[20] According to Sudikno Mertokusumo, what is meant by absolute competence or absolute authority of the judicial institution is the authority of the court institution in examining certain types of cases that absolutely cannot be examined by other similar court bodies (District Court, High Court, Supreme Court) or within other judicial scopes. Sudikno Mertokusumo, Op, Cit, p. 78.

occurred.[21]In Law Number 2 of 2004, it is stipulated that industrial relations disputes may only be sued in the Industrial Relations Court after the dispute has failed to be resolved bipartitely, through a mediation or conciliation institution. Therefore, the procedure used in resolving industrial relations disputes through the Industrial Relations Court is to file a dispute lawsuit in the Industrial Relations Court.[22]Through a lawsuit letter containing the Plaintiff's rights to be requested to be decided by a judge at the Industrial Relations Court at the District Court which has the authority to examine, try and make decisions on industrial relations disputes.

Based on Article 1 number 17 of Law Number 2 of 2004, the Industrial Relations Court is a special court established within the District Court with the authority to examine, adjudicate, and render decisions on industrial relations disputes. For the first time, the Industrial Relations Court was established in each District Court of Regency/City located in each Provincial Capital whose jurisdiction covers the relevant province.

Article 55 of Law Number 2 of 2004 states that the Industrial Relations Court is a special court within the general court system. As a special court, the Industrial Relations Court has the authority to examine, adjudicate, and render decisions on industrial relations disputes. The absolute authority or absolute competence of the Industrial Relations Court is stated in Article 56 of Law Number 2 of 2004, namely that the Industrial Relations Court has the duty and authority to examine and decide on:

a. The first level concerns rights disputes;

b. The first and final levels concern disputes of interest;

c. The first level concerns disputes regarding termination of employment; and

d. The first and final levels concern disputes between trade unions/laborers in one company.

The Industrial Relations Court resolves industrial relations disputes through the filing of a lawsuit by one of the parties. A lawsuit in a civil dispute must be drafted clearly and accurately. Failure to do so can result in the lawsuit being rejected, particularly in industrial relations disputes. A lawsuit is a demand for rights filed by an individual, several individuals, or a group of individuals, whether bound by a legal entity, against another party through the courts in connection with a

[21] It is a settlement of industrial relations disputes that is taken as a last resort and is not legally an obligation of the disputing parties, but rather a right. Abdul Khakim,*Basics of Indonesian Labor Law*, Op, Cit, , p. 154.

[22] Healthy Damanik,*Op, Cit*, p. 64.

dispute.[23]In contrast to the provisions in civil procedural law (HIR/RBg), in proceedings based on Law Number 2 of 2004, if an industrial relations dispute occurs that will be resolved through the Industrial Relations Court, then:

1) The law suit is filed with the Industrial Relations Court at the district court whose jurisdiction covers the place where the worker/laborer works (Article 81 of Law Number 2 of 2004).

So far, the general public's understanding of the provisions of civil procedural law, especially regarding filing a lawsuit, the provisions of Article 118 HIR / Article 142 RBg regulate that in principle the lawsuit is filed in the (District) Court in the area where the defendant resides or is domiciled. Another thing is Article 81 of Law Number 2 of 2004 which regulates industrial relations dispute lawsuits are filed to the Industrial Relations Court at the District Court whose jurisdiction covers the place where the worker/laborer works. That the principle of actor sequitrum forum rei which has been known for a long time, is abandoned. The legislators did not provide an explanation for the application of the principle of lawsuits being filed at the place where the worker/laborer works.

2) Law suits involving more than one plaintiff can be filed collectively by providing a special power of attorney. That is why trade unions/laborers and employers' organizations can act as legal counsel in proceedings in the Industrial Relations Court representing their members (Article 87 of Law Number 2 of 2004). Similarly, regarding how industrial relations dispute lawsuits are filed, whether the lawsuit must be in written form, or can be submitted verbally, it turns out that the provisions of the law do not explicitly regulate. Because in current judicial practice, lawsuits can be submitted in writing or verbally, however, it turns out that the majority of lawsuits are filed in writing, considering that the parties are represented by their legal counsel. As with the provisions of civil procedural law in general, parties are given the freedom to file a lawsuit in court when they wish, the same applies to parties who will file an industrial relations dispute lawsuit in the Industrial Relations Court. However, specifically for workers/laborers who will file a lawsuit based on a dispute over termination of employment as referred to in Article 159 and Article 171 of Law Number 13 of 2003, it is determined that the lawsuit can be filed only within a period of 1 (one) year from the receipt or notification of the decision from the employer (Article 82 of Law Number 2 of 2004) is no longer applied because it was canceled by the Constitutional Court. For other industrial relations disputes, including disputes over rights, disputes over interests and disputes between workers/labor unions in one company, there is no time limit for filing a lawsuit with the Industrial Relations Court.

Before an industrial relations dispute is brought to the Industrial Relations Court,

[23]Achmad Fauzan, and Suhartono, Techniques for Drafting Civil Lawsuits in District Court, Yrama Widya, Jakarta, 2006, p. 13.

it must first be resolved bipartitely, tripartitely, through mediation or conciliation by attaching the minutes of the mediation or conciliation negotiations to the plaintiff's lawsuit. A lawsuit without the minutes of the mediation or conciliation negotiations attached, the Industrial Relations Court Judge is obliged to return the lawsuit to the plaintiff.[24]Minutes of mediation or conciliation negotiations are a formal requirement for filing a lawsuit with the Industrial Relations Court.[25]The resolution of industrial relations disputes is regulated by law and must be resolved through deliberation and consensus between the employer and the employee/laborer, or between the employer and the employee/laborer union within the company. Both parties must work together to find a solution to the problem, achieving a mutually satisfactory outcome.

The Industrial Relations Regulations (HIR) and the Industrial Relations Regulations (RBg) only regulate the procedure for filing a lawsuit; however, the content of the lawsuit is not specified in these provisions. A plaintiff must always remember that when filing a lawsuit with the Industrial Relations Court, a report of the settlement through mediation or conciliation must be attached. Article 119 of the HIR/Article 143 of the Industrial Relations Regulations (RBg) authorizes the Chief Justice of the District Court to provide advice and assistance to the plaintiff in filing their lawsuit. This is intended to prevent unclear or incomplete lawsuits.[26]This provision aligns with Article 83 of Law Number 2 of 2004, which requires judges to examine the contents of a lawsuit and, if deficiencies remain, to request the plaintiff to revise their lawsuit. Furthermore, the requirements for the contents of a lawsuit can be found in Article 8 Number 3 RV, which stipulates that a lawsuit must generally contain:

1) The identities of the parties are name, age, occupation and address.

2) Posita (Fundamentum Petendi) which is a concrete argument regarding the existence of a legal relationship which is the basis and reason for the claim (middelen van den eis)

3) The demand or petitum is what the plaintiff requests or expects the judge to decide.

The basis for a claim, or fundamentalum petendi, consists of two parts: one describing the incident or event, which is intended to explain the circumstances of the case. The second part describes the law, which explains the legal relationship that serves as the legal basis for the claim. If someone is going to file a lawsuit with the Industrial Relations Court, it is important to pay attention to the completeness

[24] Article 83 of Law Number 2 of 2004.

[25] SUparno, Industrial Relations Court Procedure, Techniques and Methods for Filing Lawsuits, Paper on Education of Ad Hoc PHI Judges, Director of Law and Justice of the Supreme Court, Jakarta, 5 October 2005, page 2.

[26] Sudikno Mertokusumo,*Op, Cit*, p. 50.

of the lawsuit documents, namely:

1) A stamped lawsuit letter is submitted to the Head of the District Court/Industrial Relations Court;

2) Identity of the plaintiff/employer/name of the trade union/labor/employer organization;

3) Full name, address or domicile of the parties;

4) Minutes of mediation/conciliation negotiations;

5) Original special power of attorney with a stamp (if the parties are represented by a power of attorney);

6) Legal Advisor Permission (if the parties are represented by legal advisors);

7) Work agreement/collective work agreement (if in a foreign language, it must be translated into Indonesian by an official translator);

8) Company regulations; and

9) Proof of the last wage payment received by the worker/laborer.

Copies of documents/letters made abroad must be legalized by the Indonesian Embassy/Representative Office in that country and translated by an official (sworn) translator. Photocopies of documents (letters) must be legalized in accordance with the original by an authorized official (court clerk).

Law Number 2 of 2004 does not fully regulate the procedures for examinations in Industrial Relations Court trials. Based on Article 57 of Law Number 2 of 2004, for matters already regulated in Law Number 2 of 2004, the provisions of the relevant law apply, while for matters not regulated, the provisions of civil procedural law, namely HIR/RBg, apply.

The panel of judges may summon witnesses or experts to attend the trial to request and hear their final statements (Article 90 paragraph (1) of Law Number 2 of 2004). Anyone who is requested to provide information by the panel of judges for the purposes of investigating the need to resolve industrial relations disputes based on this law, is obliged to provide it unconditionally, including opening books and showing the necessary documents (Article 91 paragraph (1) of Law Number 2 of 2004).

Article 98 paragraph (1) of Law Number 2 of 2004 states that if there is an urgent interest of the parties and/or one of the parties which must be concluded from the reasons for the request from the interested party, the parties and/or one of the parties can request the industrial relations court to expedite the examination of the dispute. If there is a request for an examination with a fast procedure, then

within 7 (seven) working days after receiving the request, the Head of the District Court will issue a decision regarding whether or not the request will be granted (Article 98 paragraph (2) of Law Number 2 of 2004). The Head of the Court's decision is final and no legal action can be taken.

If a lawsuit is filed through a fast-track trial, the request from the interested party must be accompanied by supporting evidence, including:

1) Notification of planned strike;

2) Notification of planned company closure;

3) Police statements regarding damage or riotous acts or anarchic actions related to the lawsuit;

4) A court decision or announcement declaring a company bankrupt or a decision to suspend debt payment obligations.

If the Application as referred to in Article 98 paragraph (1) is granted, the Head of the District Court within a period of 7 (seven) working days after the issuance of the decision as referred to in Article 98 paragraph (2) will determine the panel of judges, day, place and time of the trial without going through the examination procedure (Article 99 paragraph (1) of Law Number 2 of 2004). The time limit for responses and proof from both parties is determined not to exceed 14 (fourteen) working days.

Proving is a crucial process in a trial to determine the truth of the parties' claims. The truth of an event is established through the presentation of evidence. To render a just decision, the judge must be familiar with the proven facts. The truth sought in civil proceedings is formal truth, based on the available formal evidence, and the judge may not issue a decision beyond that requested by the disputing parties.

According to the provisions of civil procedural law, judges are bound by valid evidence, meaning judges may only make decisions based on evidence determined by law. Evidence in civil proceedings as stated in Article 164 HIR jo. Article 284 RBg jo. Article 1866 of the Civil Code, namely written evidence, witnesses, allegations, confessions and oaths.[27]In civil procedural law, the parties to a case are required to prove and submit evidence. The plaintiff is primarily required to prove the alleged incident, and the defendant is required to provide proof of its rebuttal. This burden of proof is stipulated in Article 163 of the HIR in conjunction with Article 283 of the RBg.[28]Letters as written evidence are divided into two, namely letters that are deeds and other letters that are not deeds.

[27] Teguh Samudera, Law of Evidence in Civil Procedure Law, Alumni, Bandung, 2004, p. 35. See also R Subekti and R Tjitrosudibio, Civil Code, Pradnya Paramitha, Jakarta, 2001, p. 475.
[28] M Yahya Harahap, Civil Procedure Law, Sinar Grafika, Jakarta, 2005, p. 518.

Meanwhile, deeds themselves are divided into authentic deeds and private deeds. In employment relationships, several agreements/provisions made by the parties can be classified as deeds, such as work agreements, collective work agreements and company regulations that can be used as evidence if problems arise in the future. A decision letter that determines that a worker/laborer's employment relationship is terminated based on a reason that according to the employer is in accordance with labor laws and regulations but not according to the worker/laborer can also be used as evidence.

In addition, in the Industrial Relations Court, the role of experts will greatly assist the judge in finding the truth in the case being examined. Therefore, Law Number 2 of 2004, Article 90 paragraph (1) and paragraph (2) states that the panel of judges can summon witnesses or experts to attend the trial to be asked for and have their statements heard. Every person summoned as a witness or expert is obliged to comply with the summons and provide testimony under oath.

The panel of judges at the Industrial Relations Court may issue an interim decision, which is not a final decision, pronounced during the hearing and recorded only in the minutes of the hearing. In issuing this interim decision, the judge must be able to clearly determine at the first or second hearing that the employer has been proven to have failed to fulfill its obligations.

This obligation must be clearly proven in order for an interim decision to be issued, requiring the employer to continue paying the workers' entitlements while suspended due to the termination process. The interim decision aims to legitimize an urgent action, the failure of which would have significant consequences.[29]After the Panel of Judges has conducted a series of final examinations on the industrial relations dispute case, it is then their turn to issue a decision. The Panel of Judges is required to issue a decision on the case no later than 50 (fifty) working days from the first hearing (Article 103 of Law Number 2 of 2004). After the decision of the panel of judges is read out in a hearing open to the public (Article 100 paragraph (1) of Law Number 2 of 2004). In this regard, the Panel of Judges must consider the law, existing agreements, customs and justice. The decision is pronounced in a hearing open to the public. If it turns out that on the agenda to announce the decision one of the parties is not present at the hearing, then the decision will still be pronounced, with the provision that the chairman of the panel of judges orders the substitute clerk to provide notification of the contents of the decision to the absent party. In relation to the decision, the provisions of Article 102 of Law Number 2 of 2004 stipulate that the decision of the Industrial Relations Court must contain the following:

a. The head of the decision reads: FOR JUSTICE BASED ON THE ALMIGHTY GOD;

[29] Healthy Damanik,*Op, Cit*, p. 82.

b. Name, position, nationality, place of residence or domicile of the parties to the dispute;

c. A clear summary of the applicant/plaintiff and the respondent/defendant's response;

d. Consideration of all evidence and data submitted regarding what happened in the trial during the dispute being examined;

e. The legal reasons that form the basis of the decision;

f. Decision on dispute case

g. Day, date of decision, name of judge, ad-hoc judge who made the decision, name of court clerk, and information about whether or not the parties were present.

The substitute clerk of the Industrial Relations Court must, no later than 7 (seven) days after the decision of the panel of judges is read, have delivered notification of the decision to the parties who were not present at the hearing (Article 105 of Law Number 2 of 2004). Furthermore, the junior clerk must have issued a copy of the decision within 14 (fourteen) days since the decision was signed by the panel of judges (Article 106 of Law Number 2 of 2004), and a copy of the decision must have been sent by the clerk to the parties in the case within 7 (seven) days since the copy of the decision was issued (Article 107 of Law Number 2 of 2004).

3.2. Judge's Decision in the Settlement of Industrial Relations Disputes on Fair Termination of Employment

The purpose of the judiciary is to resolve disputes between members of society. These disputes are linked to the existence of the judiciary and give rise to issues of judicial power/jurisdiction, or competence and authority to adjudicate.

The issue of jurisdiction or power to adjudicate is caused by government agencies distinguishing between the existence of appellate and cassation courts as superior courts versus inferior courts. Cases fall under the jurisdiction of the superior court. Disputes must first be resolved by the first-instance court; they cannot be submitted directly to the appellate or cassation court, and vice versa.[30]

In Law Number 2 of 2004, the authority for disputes between employers and workers/laborers or trade unions/labor unions, becomes the absolute jurisdiction of the Industrial Relations Court which acts: As a special court; its authority is to examine, try and make decisions on industrial relations disputes; and its organization is formed within the District Court.

[30]M. Yahya Harahap, Op, Cit, p 179.

As a judicial organ, judges play a crucial role in upholding law and justice. As enforcers of law and justice, judges are obligated to explore, adhere to, and understand the legal values that exist within society. This article emphasizes that judges play a role and act as formulators and disseminators of legal values that exist within society.[31]

The task of law is to reconcile two contradictory worlds: ideal and reality. This is no easy task, as society cannot wait until an ideal balance is reached. Implicitly, according to scholars, the goals of law are legal certainty, justice, and utility. The role of judges is to implement the goals of the law itself, and each judge's decision ultimately represents a concrete implementation of those goals.[32]In this regard, the roles of judges, especially judges at the Industrial Relations Court, include:[33]

1) The existence of a legal need to fill the gap in regulations, gives rise to practical demands, namely the necessity for regulations, by providing legal certainty.

The role of the Judge in providing legal certainty is seen in the application of the law. In other words, every act that is considered an unlawful act is adjusted to the violation of the contents of the article. In every decision of the Industrial Relations Court, there are cuts in workers' wages by employers, the judge's consideration, this is an unlawful act. Therefore, to provide a greater sense of legal certainty for workers or employees, the judge requires the employer to fulfill the normative rights of workers/employees who are missed, whether wages due to termination of employment, wages of workers/employees who are cut during their work or other compensation. This is of course regulated in the articles of Law Number 13 of 2003, especially regarding wages that must be paid in Article 156. Legal certainty means that with the existence of the law, everyone knows which and how much their rights and obligations are. The benefit is the creation of order and peace in community life;

2) In providing a sense of justice, the concept of justice according to the Indonesian people is embodied in Pancasila, the nation's philosophy. In Indonesian literature, many opinions refer to Pancasila as a philosophy.

The concept of justice in Pancasila is formulated in the 2nd and 5th principles. The meaning of justice in the 2nd principle was first outlined in the MPR Decree Number II/MPR/1978, which was later revoked by the MPR Decree Number XVIII/MPR/1998. In its formulation, a just attitude is described as an attitude of

[31]Ibid, p. 798.
[32]Ibid, p. 8.
[33]Bahder Johan Nasution, Employment Law, Freedom of Association for Workers, Mandar Maju, Bandung, 2004, p. 61, that several scholars are of the opinion: a. Notonagoro said that Pancasila in the Republic of Indonesia is the basis of the state; in the philosophical sense; Drijakara said that Pancasila is the philosophical postulates; Soediman Kartohadiprojo said that Pancasila is the philosophy of the Indonesian nation; and Ruslan Abdul Gani said that Pancasila is the state philosophy that was born as a collective ideology of the entire Indonesian nation.

dignity, equality, mutual love, an attitude of tolerance, not arbitrary, having human values, defending truth and justice and mutual respect, while the meaning of justice in the 5th principle is mutual cooperation, balance between rights and obligations, having the social function of property rights and a simple life. These concepts of justice are based on the views of the Indonesian nation, the essence of which is social justice.

Social justice is not only the foundation of national life, but also serves as a guideline for implementation and goals to be achieved by law. This is a decisive step towards achieving a just and prosperous Indonesia. In the field of labor law, the first step in this direction is the implementation of Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia. Therefore, the legislators are tasked with creating laws that regulate how to realize the ideals of this law, for example in determining the minimum wage by finding a criterion as a benchmark for the principle of fairness or unfairness according to law, so that the meaning of the determination is clear. In every decision of the judge of the Industrial Relations Court, the wage component determines the value of justice for the worker/laborer, because injustice is often carried out by employers who arbitrarily determine the minimum wage that workers/laborers must receive. Therefore, in every decision, the judge of the Industrial Relations Court tries to create a sense of justice for the worker/laborer by requiring the employer to pay the worker/laborer's wages in accordance with the provisions of the UMP/UMK that have been set by the government. In addition, the role of the judge of the Industrial Relations Court in law enforcement is no less important. Law enforcement as a concrete form of law application has a real influence on legal feelings, legal satisfaction, legal benefits, legal needs and justice individually or socially.

In reality, the functions of creating, implementing, and enforcing laws overlap. A law created but not enforced is meaningless, and conversely, no law can be enforced without its own. For a law to be enforced or enforced, there must first be a law. Judges are required and prohibited from rejecting, examining, and ruling on the grounds that the law is unclear or non-existent. This must be seen as a special circumstance. Judges are obligated to rule according to or based on the law. In a legal vacuum, where the law is unclear, judges are obligated to find the law as the basis for their decisions, not on any other basis.[34]The power to enforce the law (judicial), namely the function of upholding the law (rechthandhaving) against violations or potential violations of the law or acts against or potential acts against the law. This is not intended solely as an act of upholding the law in a repressive sense, but also includes preventive measures.[35]

[34]Bagir Manan, Op, Cit, p. 30.
[35]Ibid., p. 33, states that preventive law enforcement can be carried out through a system of control, supervision, and the provision of facilities and rewards for those who implement or comply

3) The law must be directed towards what is useful, meaning that the law aims to realize solely what is beneficial for individuals.

Based on the theory of utilitarianism, the law aims to guarantee the greatest happiness for the greatest number of people (the greatest good of the greatest number). If we pay attention, what is formulated by this theory only pays attention to things that are beneficial/useful without considering concrete things. If this is emphasized, it will certainly shift the value of justice. The role of Industrial Relations Court judges in providing benefits/usefulness is indeed not very large, this can eventually cause a shift in values. If we refer to the decisions of Industrial Relations Court judges, what can be taken as something useful is that every decision that has provided legal certainty and a sense of justice for each individual is certainly able to provide the best solution for resolving industrial relations disputes.

Regarding the judge's inability to decide more or less than what the disputing parties demand, this can be clearly seen in the issue of wage compensation that must be paid by the judge. In practice, parties who are terminated from employment or workers often demand more of their normative rights. In accordance with the freedom of judges in the micro sense, Industrial Relations Court judges do not simply fulfill it, judges are guided by Article 156 of Law Number 13 of 2003 concerning Manpower. To find the law, it is proven during the evidence and question-and-answer session between the two parties, and the Industrial Relations Court judge finds the legal facts.

Based on this, the judge finally reached a decision on the case. In his deliberations, the Industrial Relations Court judge, in the decision analyzed by the author, first outlined the legal facts from the ongoing trial. These facts then served as the basis for the judge's deliberations, reflecting legal certainty.

That, the Cassation Decision Number 1101 K/Pdt,Sus-PHI/2022 is initiated from a request from the Deposit Insurance Corporation (LPS), located at Equity Tower, 20th Floor, SCBD Lot 9, Jalan Jenderal Sudirman Kav. 52-53 Jakarta 12190, which was previously the losing party against BPRS Hareukat Employees with the Industrial Relations Court Decision at the Banda Aceh District Court Number 1/Pdt.Sus/PHI/2022/PN.Bna regarding the decision;

That, the decision of the Industrial Relations Court at the Banda Aceh District Court Number 1/Pdt.Sus/PHI/2022/PN.Bna, Amar and its legal considerations are in essence as follows:

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with the law. Preventive law enforcement means upholding the law against potential violations or unlawful acts. Therefore, the definition of law enforcement also includes the concept of violating or unlawful acts.

JUDGING

In Exception:

a. Rejecting the Defendant's Exception in its entirety

In the Main Case:

b. Granted the Plaintiffs' lawsuit in part;

c. Declaring that the employment relationship between the Plaintiffs and Defendants has been terminated since this decision was read out due to the company closing as per Article 165 of Law Number 13 of 2003 concerning Employment; Ordering the Defendants to pay the rights of the Plaintiffs as per Article 156 paragraph (2), Article 156 paragraph (3) and Article 156 paragraph (4) and process wages for 6 (six) months, the details of which are as follows:

Plaintiff's Name	Normative Rights	Process Wages
Ainul Mardhiah	IDR 66,642,500,-	IDR 18,300,000,-
Ratna Dewi	IDR 73,197,500,-	IDR 20,100,000,-
Safrina	IDR 46,690,000,-	IDR 17,400,000,-
Ali Ridho	IDR 43,355,000,-	IDR 17,400,000,-
Nur Azizah	IDR 43,355,000,-	IDR 17,400,000,-
Edi Gunawan	IDR 43,355,000,-	IDR 17,400,000,-
Rais Santi	IDR 33,350,000,-	IDR 17,400,000,-
Reza Syahputra	IDR 23,345,000,-	IDR 17,400,000,-
Martha Amin	IDR 3,335,000,-	IDR 17,400,000,-
Amount	IDR 376,625,000,-	IDR 160,200,000,-
Total	IDR 536,825,000,- (five hundred thirty six million eight hundred twenty five thousand rupiah);	

d. Ordering the Defendant to pay court costs of IDR 628,000 (six hundred twenty eight thousand rupiah);

e. Reject the Plaintiff's lawsuit in addition to and beyond;

That, the Industrial Relations Court at the Industrial Relations Court at the District Court has provided legal certainty to the parties, especially to the workers/employees of BPRS Hareukat which has been taken over by the Deposit Insurance Agency;

That, quoting from the considerations of the Panel of Judges at the Industrial Relations Court at the Banda Aceh District Court regarding this case, the main points are as follows:

In Exception

The Plaintiffs' Lawsuit Alleges Error In Persona Due to Placing the Deposit Insurance Corporation (LPS) as the Defendant in the A Quo Case.

Considering, that the Defendant in his Exception stated that the Deposit Insurance Corporation (LPS) is a State Institution that is Independent, Transparent and Accountable in carrying out its duties and authorities and is directly responsible to the President in accordance with the provisions of Law Number 24 of 2004 concerning the Deposit Insurance Corporation, whereas based on Article 1 number 1 of Law Number 2 of 2004 concerning Industrial Relations Disputes, it states that Industrial Relations Disputes are differences of opinion that result in conflict between employers or associations of employers and workers/laborers;

That, due to this matter, the Deposit Insurance Corporation (LPS) as the losing party has filed a cassation appeal against the Industrial Relations Court Decision at the Banda Aceh District Court Number 1/Pdt.Sus/PHI/2022/PN.Bna. The Deposit Insurance Corporation's application by the Panel of Cassation Judges with cassation decision Number 1101 K/Pdt,Sus-PHI/2022 which quotes from the decision and its legal considerations in essence are as follows:

JUDGING

f. Granting the Cassation Request from the Cassation Applicant: the Deposit Insurance Corporation (LPS);

g. Canceling the decision of the Industrial Relations Court at the Banda Aceh District Court Number 1/Pdt.Sus/PHI/2022/PN.Bna, dated April 25, 2022;

JUDGING BY YOURSELF:

In Exception

h. Granting the Defendant's exception claim regarding the error in persona claim;

In the Main Case

i. Declaring the plaintiffs' lawsuit inadmissible (niet ontsvankelijke verklaard);

j. Sentencing the Respondents in the Cassation/Plaintiffs to pay court costs at the cassation level set at IDR 500,000.00,- (five hundred thousand rupiah);

That, from the considerations of the Panel of Cassation Judges in this case, it can be concluded in essence as follows:

That the applicant's objection can be justified and the Industrial Relations Court at the Banda Aceh District Court which examined, tried and decided the case was wrong in applying the law.

That, the Deposit Insurance Corporation as an Independent State Institution carries out part of its duties to supervise the liquidation process carried out by the

Liquidation Team and the Deposit Insurance Corporation is not an Entrepreneur/Company as referred to in Article 1 number 6 of Law Number 13 of 2003 in conjunction with Article 1 number 6 of Law Number 2 of 2004.

Examining the cassation decision Number 1101 K/Pdt,Sus-PHI/2022 in relation to decision Number 1/Pdt.Sus/PHI/2022/PN.Bna, there is a difference of opinion where the view of the Panel of Judges of the cassation looks at the text book regarding Article 1 number 6 of Law Number 13 of 2003 in conjunction with Article 1 number 6 of Law Number 2 of 2004; That the decision of the Industrial Relations Court at the Banda Aceh District Court Number 1/Pdt.Sus/PHI/2022/PN.Bna, if read at a glance and only as a textbook regarding the employment relationship between LPS as the Defendant against Ainul Mardhah et al., former employees of BPRS Hareukat, then if seen from the provisions of Article 1 number 6 of Law Number 13 of 2003 in conjunction with Article 1 number 6 of Law Number 2 of 2004, the opinion of the Panel of Cassation Judges in Decision 1101 K/Pdt,Sus-PHI/2022 is correct; However, if we read very carefully, precisely and cautiously the considerations of the Industrial Relations Court at the District Court Number 1/Pdt.Sus/PHI/2022/PN.Bna, it can be concluded clearly and very clearly that the Deposit Insurance Corporation as an Independent State Institution carries out part of its duties to supervise the liquidation process carried out by the Liquidation Team and the Deposit Insurance Corporation has taken over all legal relations of BPRS Hareukat including with workers/laborers regarding salary payments, severance pay and so on, because BPRS Herukat has been liquidated and all Directors of BPRS Hareukat no longer have any legal authority regarding BPRS Hareukat;

That in the Defendant's answer in his exception he clearly acknowledged that the responsibility of the Deposit Insurance Corporation is the responsibility of the Liquidation Team, the quote from the answer from the Deposit Insurance Corporation in his exception is as follows:

The impact of the cassation decision resulted in uncertainty for former BPRS Hareukat employees (the Plaintiffs) where based on data from the lawsuit of the former workers/laborers there were employees who worked for over 25 years, meaning that all former BPRS Hareukat workers had lost their rights as a result of the Cassation Decision Number 1101 K/Pdt,Sus-PHI/2022 considering that the cassation decision had inkracht van gewijsde or which had permanent or final legal force, there was no other remedy in the industrial relations case; That far more than that, if the decision was used as jurisprudence in similar cases by other Judges in the Industrial Relations Court in Indonesia, it would be a big problem for workers/laborers in the world of industrial relations courts in Indonesia;

4. Conclusion

Based on the analyzed decision, regarding the wage compensation that must be given by the employer to the worker/laborer due to the termination of employment, the Judge must act fairly in his considerations as outlined in the main case, so that the basis for resolving the dispute can be reached. that the result of the cassation decision Number 1101 K/Pdt,Sus-PHI/2022 is that the Workers/Laborers of the former BPRS Haerukat have lost their rights for their service during their work, and if the cassation decision Number 1101 K/Pdt,Sus-PHI/2022 is used as jurisprudence by other Industrial Relations Court Judges, it will result in the worker's right to receive compensation in unilateral layoff cases becoming more difficult to obtain legal certainty and a sense of justice. It is hoped that employers will no longer carry out arbitrary layoffs or terminations of employment. As is known, the implementation of termination of employment, there are legal procedures that must be followed first. By going through the proper procedures, the issue of termination of employment does not need to be extended to the court. The Industrial Relations Court Judge's role in providing legal certainty should be realized in every decision. However, it is hoped that the decisions will also contain values of justice and expediency, so that ultimately, it can become a law enforcement system in which the individual within it is the Judge.

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