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JURIDICAL ANALYSIS OF SUPREME COURT DECISION NUMBER 179K/PDT.SUS-PHI/2024 REGARDING THE FULFILLMENT OF PKWTT WORKERS RIGHTS AFTER TERMINATION FOR EFFICIENCY REASONS

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Abstract

The termination of employment relationship carried out by PT Synerga Tata Internasional to Muhammad Nasir on the grounds of efficiency in preventing losses resulted in a dispute between themuntil the issuance of the Supreme Court Decision Number: 179k/Pdt.Sus-PHI/2024. This layoff is carried out by injuring labor law due to the offer of layoff compensation that is not in accordance with applicable regulations. The difference between the decision of the panel of judges of the first instance stating that the lawsuit is inadmissible (niet ontcvankelijk verklaard) and the decision of the panel of judges of the cassation level stating that the Plaintiff's lawsuit was partially granted resulted in a significant difference in how the judge viewed, considered, and provided the basis for the decision on the settlement of the dispute that occurred. This study aims to examine the basis of legal considerations (ratio decidendi) used by the Panel of Judges in deciding disputes and understanding the appropriate case resolution in deciding disputes. The type of research used in this study is normative legal research or doctrinal hukm research which is carried out through literature review or secondary data. The results of this study show that the Plaintiff's lawsuit cannot be said to be formal and premature smallpox, so it cannot be declared that the lawsuit is inadmissible. Beside it,, based on Article 43 paragraph (2) of PP 35/2021, the Plaintiff is entitled to Severance Pay, Service Period Award Money, and Compensation Money as compensation received as a result of the layoffs experienced.

Keywords: Lawsuit, compensation, Termination, efficiency of preventing losses.

INTRODUCTION

Every citizen has the right to obtain basic rights in maintaining their lives, one of which is by working. The right to work cannot be taken away because doing work is an activity that is inherent in humans.(Pasaribu 2020). In today's era, the position of workers as development actors is crucial, thus affecting the progress of the company. A company must be optimally established, so that it can be called capable of competing, both in increasing productivity and in its welfare.(Shalihah and Nur 2019).

Based on the provisions of Article 1 Number 15 of Law Number 13 of 2003 concerning Employment (hereinafter referred to as UUK) which states that "Employment relations are relations between Employers and Workers/Laborers based on an Employment Agreement, which has elements of work, wages and orders."(Indonesia 2003). In an employment relationship, including the employer and the employee, so that an employment relationship requires an employment agreement which will then apply the provisions of employment law with valid regulations. Legal protection for workers is the fulfillment of basic rights that are inherent and protected by the constitution which are clearly stated in the provisions of Article 27 of the 1945 NRI Constitution which states that "Every citizen has the right to work and a decent living for humanity."

In reality, even though in the employment relationship there has been a work agreement that binds the parties, it does not rule out the possibility of industrial relations disputes that can disrupt the harmony in the employment relationship between the parties. Disputes that often occur in the world of work are types of disputes over termination of employment (hereinafter referred to as PHK). Basically, PHK is not an act that violates the law, especially labor law, but PHK which is an unlawful act is PHK caused by an error in the process of determining the PHK itself.(Prabowo 2021).

In the event that an employee is dismissed by the employer, based on the reason for the dismissal, the employee is entitled to severance pay, service award money, and replacement money with accumulated compensation adjusted to the provisions of PP 35/2021. If the employer tries to fulfill these rights, but by providing compensation offers that are not

in accordance with the law for any reason, it can harm employment law and allow disputes to arise as occurred in the case between Muhammad Nasir and PT Synerga Tata Internasional whose case was decided in Decision Number: 179K/Pdt.Sus-PHI/2024.

This dispute began in 2020, where the Defendant laid off employees on the grounds that the company was in a condition of continuous losses in the last few periods, so that layoffs were unavoidable in order to reduce financing from the company's side because it was feared that the Defendant would not be able to pay employee wages in the future. The Plaintiff's position is a PKWT worker with the position of General Manager of Marketing recorded from December 2016 to January 14, 2020.

The letter of termination of employment issued on January 14, 2020 and effective on January 27, 2020 was made to the Plaintiff along with ± 22 other workers. In terms of negotiations conducted between the parties after the letter of termination of employment was issued, among the workers who were dismissed, only the Plaintiff rejected the termination of employment on the grounds that the termination of employment was not in accordance with applicable procedures and provisions because it was carried out without prior negotiation and/or there was no determination from the PPHI institution.

In addition, the severance compensation offered is far from the nominal amount that should be according to the calculation per law, so it is considered inappropriate and violates labor law. Based on the inappropriate compensation offer, the Plaintiff asked for his rights to be fulfilled, namely in the form of severance pay, UPMK, and UPH in accordance with current legal regulations.

In this case, the Defendant offered an equal amount of compensation to its laid-off workers, which is 3 times the wages without any division of types of compensation as per the applicable regulations. The settlement of this dispute has been carried out through bipartite, tripartite efforts through mediation with the South Jakarta Manpower Office which resulted in the mediator's recommendation, filing a lawsuit at the First Instance Court (hereinafter referred to as PHI) until the issuance of Decision Number: 48/Pdt.Sus-PHI/2023/PN Jkt Pst, and filing a lawsuit at the Cassation Court until the issuance of Supreme Court Decision Number: 179K/Pdt.Sus-PHI/2024.

The lawsuit filed by the Plaintiff against the Plaintiff at the first level resulted in Decision Number 48/Pdt.Sus-PHI/202/PN Jkt Pst with the decision stating that the lawsuit filed by the Plaintiff cannot be accepted (niet ontcvankelijk verklaard) on the grounds that the lawsuit was formally flawed and premature due to the absence of a mediation report as a formal requirement in filing a lawsuit and that in the lawsuit letter there were claims for rights that had not been fulfilled during work, where these claims were never mentioned in the mediator's recommendations, and had never been discussed with the Defendant in bipartite negotiations.

As stated in the decision of the first instance court above, the Plaintiff who felt unsatisfied finally re-registered his lawsuit at the Cassation level until the Supreme Court Decision Number: 179K/Pdt.Sus-PHI/2024 was issued with the decision stating that there were sufficient reasons for the Panel of Judges to grant the cassation request from the Cassation Applicant which automatically canceled Decision Number: 48/Pdt.Sus-PHI/2023/PN Jkt Pst.

Thus, there is a significant difference between the Panel of Judges at first instance and the Panel of Judges at Cassation regarding how the judges view, consider, and provide a basis for the decision on the settlement of the dispute between the Plaintiff and the Defendant. This makes the researcher interested in conducting research on workers' rights that should be obtained after a layoff due to efficiency in preventing losses through considerations given by the Panel of Judges, because the difference in considerations results in different verdicts.

Based on the description that has been presented in the background, the researcher is interested in conducting a study entitled "Legal Analysis of the Supreme Court Decision Number: 179K/Pdt.Sus-PHI/2024 concerning the Fulfillment of PKWTT Workers' Rights After Unilateral Layoffs" with the formulation of the problem [1] What is the basis for legal considerations (ratio decidendi) used by the Panel of Judges in deciding the dispute that occurred in the Supreme Court Decision Number 179K/Pdt.Sus-PHI/2024 concerning the fulfillment of PKWTT workers' rights after unilateral layoffs? [2] What is the appropriate case resolution in deciding the dispute that occurred related to the fulfillment of PKWTT workers' rights after unilateral layoffs between Muhammad Nasir and PT Synerga Tata Internasional? By conducting research on the legal considerations made by the Panel of Judges, it is hoped that the conformity between the Panel of Judges' decision and laws and regulations, especially labor law in its real implementation in the real world can be determined.

METHOD

The type of research used in this study is normative legal research or doctrinal legal research conducted through literature studies or secondary data.Normative legal research is defined as a type of method that positions law as a

normal system, relating to principles, norms, rules, which are taken from laws, court decisions, agreements and doctrines or teachings.(Dewata and Achmad 2022).

The research approach method used in compiling this research is the statute approach and the case approach. This approach is carried out by studying and analyzing all laws related to the legal issue being studied.(Muhaimin 2020), while the case approach is carried out by studying and analyzing cases that are similar to the main problem that has become a court decision that has permanent legal force.(Solikin 2019).

The legal materials used in this study include primary, secondary, and tertiary legal materials or non-legal materials with legal material collection techniques carried out through literature studies that can support the discussion of the main problems being discussed. This study was also carried out using prescriptive legal material analysis techniques which aim to obtain suggestions regarding research results, arguments, concepts or new theories in resolving legal problems that occur.

RESULTS AND DISCUSSION

Legal Considerations of the Panel of Judges in Supreme Court Decision Number: 179K/Pdt.Sus-PHI/2024

The Panel of Judges in the First Instance Court at the Central Jakarta District Court stated that it could not accept the lawsuit filed by the Plaintiff. In this case, the Panel of Judges was of the opinion that the absence of a mediation settlement report in the lawsuit submission file was contrary to the provisions of Article 83 paragraph (1) of the PPHI Law which states "Submission of a lawsuit that is not accompanied by a settlement report through mediation or conciliation, then the Industrial Relations Court judge is obliged to return the lawsuit to the Plaintiff."

Furthermore, the consideration of the Panel of Judges at first instance was not only limited to the issue of mediation recommendations, but also to the existence of efforts to merge the lawsuits, namely the merger of the Rights dispute lawsuit with the PHK dispute. In this case, the lawsuit for the rights dispute contains demands related to the fulfillment of rights that have not been resolved during the work period, namely the 2019 THR, 2019 bonus money, and replacement money for the right to leave in 2019. Based on the facts in the trial, it was stated that the rights dispute had not gone through the bipartite or tripartite stages (evidence P-12) and even based on evidence of the mediation recommendation, there was never a discussion regarding the Plaintiff's rights that were fulfilled in 2019, so that the lawsuit by the Panel of Judges was declared too early to be filed and had legal grounds to be declared a premature lawsuit.

Meanwhile, the Panel of Judges at the Cassation Court in its decision stated to grant the Plaintiff's lawsuit and cancel the decision of the Panel of Judges of the first instance. The Panel of Judges in its consideration stated that the Panel of Judges at the HI Court had applied the law incorrectly, thus making the Plaintiff's lawsuit unacceptable due to formal and premature defects which resulted in the Plaintiff's rights as a PKWTT worker not being fulfilled in the PHK. The following are the considerations of the Panel of Judges at the cassation court recorded in the Supreme Court Decision Number: 179K/Pdt-Sus-PHI/2024 as follows:

A. Mediation Minutes as a Requirement for Registering a Lawsuit

In the process of filing a lawsuit, one of the formal requirements is the existence of a mediation report. This is regulated in Article 83 paragraph (1) of the PPHI Law which requires a mediation report in registering a lawsuit. A lawsuit cannot be processed if there is no mediation or conciliation report in the lawsuit registration files. Furthermore, Article 13 paragraph (2) of the PPHI Law states that if there is a discrepancy between the agreement between the parties, the mediator can issue a written recommendation which must be responded to within 10 working days after receipt of the recommendation.(Justice 2023).

That according to the Panel of Judges of the Cassation Court, the legal considerations of the Panel of Judges of the first instance cannot be justified because based on Article 13 paragraph (2) of the PPHI Law, the results of mediation with the mediator have made written recommendations containing minutes of the parties' opinions on the dispute which were then made into recommendations by the mediator. Regarding the considerations of the Panel of Judges of the Cassation which stated that the lawsuit was not formally flawed, the Researcher is of the opinion that the Panel of Judges was correct in deciding the case.

That the Panel of Judges of the first instance in providing its considerations was not carried out properly because it ignored the evidence in the form of a mediation recommendation (evidence P-12). Whereas the recommendation can also be called the minutes of the implementation of the mediation. The recommendation cannot be falsified because it is related to the authority of the mediator as a neutral party in the employment agency that handles mediation in a dispute.

B. Merging Claims for Rights and Claims for Termination of Employment in One Lawsuit

The Panel of Cassation Judges in its consideration of the lawsuit declared premature so that it cannot be accepted at the first instance court stated that the Plaintiff's lawsuit containing demands for workers' rights after the termination of employment and the Plaintiff's rights during the ongoing work period that have not been fulfilled, namely in the form of 2019 bonus money, 2019 religious THR money, and replacement money for annual leave rights that have not been taken in 2019 does not cause the Plaintiff's lawsuit to be formally flawed and premature. Article 86 of the PPHI Law states that:

"In the case of a dispute over rights and/or a dispute over interests followed by a dispute over termination of employment, the Industrial Relations Court is obliged to first decide on the case of the dispute over rights and/or the dispute over interests."

Premature can be interpreted as a lawsuit that is still too early to be filed. A lawsuit is declared premature because the lawsuit or posita is not in sync with the petitum (claim). There are two premature conditions, namely:

1. The time limit for suing according to the time period agreed in the agreement has not yet arrived.
2. The deadline for filing a lawsuit has not yet passed because bipartite or tripartite negotiations have not yet taken place.

In principle, the lawsuits filed should indeed be carried out separately, examined and decided in a separate examination and decision process. Researchers argue that in certain cases it is permissible to combine lawsuits in one lawsuit letter if there is a close relationship between one lawsuit and another. This aims to facilitate the process and avoid the possibility of conflicting decisions. This merger is considered beneficial in terms of the procedure.

The researcher argues that the cassation decision can still be executed, while the rights that were not granted such as the 2019 religious THR money, the 2019 bonus money, and replacement money for the right to leave as demanded by the Plaintiff must be filed a new lawsuit, when the Plaintiff continues to demand his rights. The absence of discussion regarding the demands of rights can be called a form of negligence by the Plaintiff, so that the claim cannot be processed and does not get sufficient evidence of recognition of its truth.

C. Employment Status of Plaintiff

The Panel of Cassation Judges in its consideration stated that the Plaintiff was proven to be a PKWTT worker from the Defendant with the position of General Manager of Marketing with a salary of Rp20,000,000.- (twenty million rupiah) per month. This is proven by the existence of the Decree of the Board of Directors Number: 07/STI/DRU/SDM/VIII/2018 concerning the appointment of the Plaintiff as a Permanent Employee in that position. Initially, the Plaintiff was a PKWT worker with a contract period starting from January 4, 2016 to December 31, 2017. Then experienced an extension of the work period starting from December 31, 2016 to December 27, 2016 which was then dated August 24, 2018 he was appointed as a permanent employee.

The researcher is of the opinion that the Defendant's response to posita points 1-4 in the lawsuit stating that the Plaintiff never filed a cancellation of the PKWT contract, so that the calculation of the Plaintiff's work period as a PKWTT worker starting from December 27, 2018 is wrong. Based on the Researcher's opinion above, it can be concluded that the Plaintiff's work period as a PKWTT worker at the Defendant's company started from December 31, 2016 to January 27, 2020 or with a calculation of 3 (three) years and 1 (one) month.

In this case, the Plaintiff does not need to file a cancellation of the applicable contract because the employment relationship between the Plaintiff and the Defendant continues and is not terminated. This also has an impact on the regulation of compensation money received when working as a PKWT worker. The Plaintiff who was appointed as a permanent employee during the PKWT worker contract period is not entitled to receive compensation money due to the end of the PKWT worker contract period. This is because the requirement to receive compensation money is the end of the work period, while in this case the employment relationship between the Plaintiff and the Defendant continues and is not terminated.

D. Plaintiffs Who suffered Layoffs as a result of Efficiency to Prevent Losses Are Entitled to Severance Pay, UPMK, and UPH

The Panel of Cassation Judges in Supreme Court Decision Number: 179 K/Pdt.SUS-PHI/2024 stated in its decision that the Plaintiff as a PKWT worker has the right to receive his rights in the form of severance pay and length of service award money as compensation after being laid off by the company on the grounds of efficiency to prevent losses based on the following considerations:

1. Between the Plaintiff and the Defendant, the Panel of Cassation Judges stated that the employment relationship between the parties had been terminated since this decision was read. This is based on evidence in the form of termination of employment from the Defendant since the issuance of Letter Number: SRT-04/STI/PLT-DRI/2020, Subject: Termination of Employment Relationship dated January 14, 2020 (evidence P-4) which will be effective on January 27, 2020. Based on the provisions of Article 37 paragraph (3) of PP 35/2021, the Researcher is of the opinion that the termination of employment carried out by the Defendant was in accordance with procedures. The termination of employment letter was submitted 9 working days before it was declared effective and during that period negotiations had been carried out discussing work compensation to create a Joint Agreement. Furthermore, the reason for the termination of employment can be categorized as an efficiency effort to prevent losses as evidenced by the existence of a summary of financial reports stating that the Defendant did

indeed experience losses (evidence T-1), so that according to the Researcher the termination of employment was carried out properly and had legal grounds to be defined as a form of efficiency in order to prevent losses.

2. Due to the termination of the employment relationship between the Plaintiff and the Defendant, based on the provisions of Article 156 paragraph (1) of the Job Creation Perpu, the Defendant has an obligation to fulfill the Plaintiff's rights as a PKWTT worker, namely in the form of severance pay, UPMK, and UPH. The researcher is of the opinion that the consideration of the Panel of Judges for the cassation based on the provisions of Article 156 paragraph (1) of the Job Creation Perpu as the legal basis for the obligation to provide severance pay, UPMK, and UPH is appropriate.

The researcher is of the opinion that based on the consideration of the first instance Panel of Judges stating that the Plaintiff's lawsuit could not be accepted, it was wrong and resulted in the failure to fulfill the rights that the Plaintiff should have received due to the company's termination of employment. Meanwhile, the researcher is of the opinion that the consideration of the Panel of Judges of Cassation regarding compensation after termination of employment based on the provisions above is partially correct. The Panel of Judges in its consideration granted the Plaintiff's claim regarding the fulfillment of his rights in the form of severance pay and long service award money, but was not entitled to compensation for housing rights as well as medical and treatment based on the following reasons:

a. Severance pay

That the Plaintiff in his lawsuit stated his demands for the calculation of severance pay based on the calculations in the provisions of Article 164 paragraph (3) of the UUK had a value of IDR 160,000,000,- with the article stating that:

> "Employers can lay off workers/laborers because the company is closing not because it has suffered losses for 2 consecutive years or not because of force majeure but the company is carrying out efficiency, with the provision that workers/laborers are entitled to severance pay of 2 times the provisions of Article 156 paragraph (2), UPMK of 1 time the provisions of Article 156 paragraph (3), and UPH in accordance with the provisions of Article 156 paragraph (4)."

The Panel of Cassation Judges, based on their considerations, determined that the severance pay that the Plaintiff was entitled to was Rp. 80,000,000. The difference in the calculation of the compensation money submitted by the Plaintiff and that determined by the Panel of Judges was based on the difference in the legal basis used. Article 164 paragraph (3) of the UUK related to the calculation of compensation due to efficiency in the Job Creation Perpu has been removed, so that this provision is no longer applicable. Other matters concerning the calculation of severance compensation will be further regulated in Government Regulations. As a result, the legal basis used by the Plaintiff in calculating severance pay is declared no longer relevant to the provisions of the legislation.

The Panel of Judges in deciding the dispute regarding the calculation of severance pay is based on the reason for the layoff, namely due to efficiency in order to prevent losses based on the provisions of Article 43 paragraph (2) of PP 35/2021. Based on these provisions, the Plaintiff is entitled to severance pay of one time the period of the provisions of Article 40 paragraph (2) of PP 35/2021. When connected with the Plaintiff's work period which is determined as a PKWTT worker with a work period of 3 years and 1 month, then based on Article 40 paragraph (2) letter d, he is entitled to severance pay with the following calculation:

Table1Accumulation of Severance Pay by the Panel of Cassation Judges

Severance pay		
1 x 4 x Rp. 20,000,000,-		Rp. 80,000,000,-

Based on the above calculations and in accordance with statutory provisions, the calculation of the Panel of Judges regarding compensation money is correct with a value of IDR 80,000,000 (eighty million rupiah).

b. Long Service Award Money

That the Plaintiff in his lawsuit stated a demand for a work period bonus based on the calculation in the provisions of Article 164 paragraph (3) of the UUK with a value of IDR 40,000,000. That, the Panel of Cassation Judges based on its considerations determined that the UPMK that the Plaintiff was entitled to was IDR 40,000,000. This was based on calculations based on the reasons for the termination of employment, namely efficiency in preventing losses, so the Plaintiff was entitled to 1 time the period stipulated in Article 40 paragraph (3) of PP 35/2021. When connected with the Plaintiff's work period, which was 3 years and 1 month, the Researcher is of the opinion that it is true in the considerations of the Panel of Cassation Judges that the Plaintiff was entitled to receive UPMK of IDR 40,000,000 (forty million rupiah).

c. Reimbursement of Rights

That the Plaintiff in his lawsuit stated that the claim for UPH based on the calculation in the provisions of Article 164 paragraph (4) of the UUK was worth IDR 30,000,000. This value was based

on the claim in the form of UPH for housing as well as medical treatment and care as recorded in the Plaintiff's lawsuit.

That in the opinion of the Researcher, the consideration of the Panel of Cassation Judges which determined that the Plaintiff was not entitled to UPH housing as well as medical and treatment and care was correct. This is based on the provisions of Article 156 paragraph (4) of the UUK which states that:

"The replacement money for rights that should be received as referred to in paragraph (1) includes:

a) annual leave that has not been taken and has not yet expired;
b) costs or expenses for workers and their families to return to the place where they are accepted to work;
c) **replacement of housing as well as medical and treatment costs set at 15% of severance pay and/or service award money for those who meet the requirements;**
d) other matters stipulated in the employment agreement, company regulations or collective work agreement."

The provisions regarding the definitive UPH, have changed the content in the Job Creation Perpu where point c has been removed. This makes the contents of the Plaintiff's lawsuit regarding compensation for housing and medical treatment no longer relevant if based on the provisions of the new law. In this case, the researcher is of the opinion that the Plaintiff is entitled to another form of UPH, namely in the form of UPH for annual leave and costs or expenses for workers to return to their place of residence if based on the provisions of Article 156 paragraph (4) of the Job Creation Perpu which states that:

"The replacement money for rights that should be received as referred to in paragraph (1) includes:

a) annual leave that has not been taken and has not yet expired;
b) costs or expenses for workers/laborers and their families to return to the place where the worker/laborer was accepted to work;
c) other matters stipulated in the Employment Agreement, Company Regulations, or Collective Employment Agreement."

E. Religious THR, Bonus Money, and UPH for Annual Leave in 2019

The failure to accept the Plaintiff's lawsuit at the First Instance District Court not only resulted in the Plaintiff's rights not being fulfilled after the layoff occurred, but also had an impact on the Plaintiff's other claims.The Panel of Cassation Judges in its considerations stated that due to insufficient evidence and the absence of witnesses even though the judge had invited them, the Plaintiff's demands regarding the above matters could not be granted.

The researcher is of the opinion that the claim for the 2019 Religious THR has no legal basis and it is right for the Panel of Judges of the cassation not to grant the claim is correct and appropriate. This is due to the absence of evidence and procedurally the implementation of THR payments will be monitored and facilitated by the authorized employment agency. If the Defendant does not make THR payments, then the Defendant will definitely receive supervision from the employment agency.

Furthermore, another type of non-wage benefit is a bonus. A bonus can be given to the Plaintiff if there is a profit received by the Company. The determination and calculation of bonuses are further regulated in the PP, PKB, or PK. If the internal regulations do not agree on a bonus salary, payment time, and amount, then it is not a problem if the company does not provide it or the amount is less than 1 month of wages received by workers. The researcher is of the opinion that regarding the provision of bonuses, the regulations are returned to the Defendant and it is not the Defendant's obligation to provide the bonus to the Plaintiff, also considering the evidence in the trial in the form of financial reports that continue to be at a loss (evidence T-1).

Furthermore, the researcher is of the opinion that the Plaintiff is entitled to other UPH that should be received, namely related to UPH for annual leave that has not been taken. This is because the worker has worked continuously for more than 12 months since the work period as a PKWTT worker began and in the 13th month he should have been entitled to the annual leave.

Employment regulations do not regulate the procedure for taking annual leave for workers. Provisions regarding matters relating to annual leave can be regulated independently in the PP or PKB. The Plaintiff in his lawsuit against UPH for annual leave in 2019, the Researcher is of the opinion that if the Defendant has given the Plaintiff the opportunity to carry out annual leave of at least 12 (twelve) working days, but it is not used as the Plaintiff's rest time, then the leave will be forfeited and re-accumulated to zero in the following year. In this regard, the Defendant in his company regulations can regulate other policies in the concept of replacing annual leave as long as it does not conflict with statutory regulations.

Based on the above, the consideration of the Panel of Judges of the cassation which did not consider the Plaintiff's claim for UPH's annual leave according to the Researcher is partly correct. The Researcher is of the opinion that in the Plaintiff's efforts to sue UPH for the leave, the Plaintiff must be able to prove that it is true that the annual leave has not been taken, so that a replacement of rights can be made. Proof can be done by having a leave application form at the relevant company.

Appropriate Legal Settlement in Resolving Disputes in Supreme Court Decision Number: 179k/Pdt.Sus-PHI/2024

The dispute that occurred between Muhammad Nasir as the Plaintiff against PT Synerga Tata Internasional as the Defendant has gone through a series of PPHI mechanisms starting from bipartite negotiations, tripartite negotiations, the Industrial Relations Court until the issuance of decision Number: 48/Pdt.Sus-PHI/2023/Pn Jkt Pst and the Cassation Court until the issuance of decision Number: 179k/Pdt.Sus-PHI/2024.

The Panel of Judges at the first level of the Industrial Relations Court stated that they could not accept the Plaintiff's lawsuit due to formal and premature defects. The Panel of Judges in their considerations stated that the lawsuit was declared formally defective due to the submission of the lawsuit not being accompanied by a mediation or conciliation settlement report. In the opinion of the Researcher, the Panel of Judges in this case should have considered the existence of evidence that the Plaintiff had conducted mediation based on the existence of a mediation recommendation issued by the mediator of the South Jakarta City Manpower Office. This is because in the PPHI mechanism, before the lawsuit is registered at the HI Court, a non-litigation settlement must be carried out in the form of bipartite and tripartite negotiations.

The absence of a mediation report in the Plaintiff's lawsuit does not mean that the mediation recommendation is not considered as evidence of a tripartite settlement through mediation. This is because the mediation recommendation is a product issued by the Mediator as the authorized party. This means that proof that mediation has been carried out should not be interpreted in the form of a report alone. Even though there is no mediation report, the existence of a mediation recommendation issued by the mediator has become concrete evidence of the completion of the tripartite negotiations, so that there is no legal basis for the Panel of Judges to reject the Plaintiff's lawsuit and declare the Plaintiff's lawsuit to be formally flawed.

The Panel of Judges of the cassation in its consideration stating that the application of the legal considerations of the Panel of Judges of the first instance to reject the Plaintiff's lawsuit due to the absence of a mediation report as a requirement for filing a PHI lawsuit was incorrect and legally justified, so it was appropriate to grant it. Furthermore, the consideration of the Panel of Judges of the cassation regarding the claim for rights during the Plaintiff's employment period which was never mentioned in the mediator's recommendation that a merger of claims is possible (vide Article 86 of the PPHI Law) and does not automatically make the lawsuit prematurely defective is appropriate and legally justified.

That the consideration of the Panel of Judges of the cassation regarding severance pay and UPMK is correct. The deletion of point c in Article 156 paragraph (4) related to the component of compensation for rights in the form of housing and care in the Job Creation Perpu, so that the Panel of Judges of the cassation did not grant the Plaintiff's lawsuit is correct. Based on Article 43 paragraph (2), it is clear that the Plaintiff is entitled to another form of UPH. The provisions regarding UPH are regulated again in Article 40 paragraph (4) of PP 35/2021 points a and b, where the Plaintiff is entitled to receive UPH annual leave money that has not been taken and has not lapsed in 2020 as well as the costs or expenses of workers and their families received to the place where the worker is accepted to work.

The researcher is of the opinion that when there is no evidence regarding the company's policy, the provisions will be referred back to the applicable PP. As a result of the evidence in the trial not showing what type of regulations the company is implementing (PP, PKB, PK), the accumulation of UPH for annual leave is based on prorated leave, so it was concluded that the Plaintiff is entitled to 11 days of annual leave in 2020. The following is the calculation of the remaining accumulation of 11 days of leave in 2020 that have not been taken and can be used as the basis for calculating the Plaintiff's 2020 UPH leave:

Table 2 Accumulated UPH Calculation for Annual Leave 2020

$$\left(\frac{satu\ hari\ masa\ kerja}{total\ hari\ kerja\ dalam\ satu\ bulan} \times \text{monthly salary}\right) \times \text{remaining leave}$$
$$= \left(\frac{1}{22\ hari} \times Rp\ 20.000.000,- \right) \times (11\ hari)$$
= (1 × Rp. 910,000,-) × (11 days)
= Rp. 10,000,000,-

Furthermore, in addition to the plaintiff being entitled to annual leave UPH, the researcher is of the opinion that the plaintiff is also entitled to receive UPH in another form in the form of costs or transportation costs for workers and their families to return to the place where the worker/laborer was accepted to work.

CLOSING

Conclusion

1. Based on the description of the research discussion above, it can be concluded that:consideration of the Panel of Judges at the Cassation Level in deciding the dispute in the Supreme Court Decision Number: 179K/Pdt.Sus-PHI/2024 with the decision to grant the cassation request from the Cassation Applicant was appropriate and legally justified in part. The granting of the Plaintiff's lawsuit gave rise to the Defendant's obligation to fulfill the

Plaintiff's rights after the termination of employment due to efficiency to prevent losses based on Article 43 paragraph (2) of PP 35/2021 in the form of severance pay, UPMK, and UPH. The existence of a recommendation for mediation without a mediation report does not make the lawsuit formally defective and efforts to merge the lawsuit in PHI are possible, so it cannot be said to be a premature lawsuit (vide Article 86 of the PPHI Law).

2. Based on the considerations of the Panel of Cassation Judges who granted the Plaintiff's lawsuit, then due to the termination of the employment relationship between the Plaintiff and the Defendant which resulted in the obligation to fulfill the Plaintiff's rights, the Researcher is of the opinion that in this case, apart from the decision regarding severance pay and UPMK, the Plaintiff is also entitled to receive UPH for annual leave that has not been taken and the costs or expenses of workers to return to the place where the worker was accepted to work based on Article 43 paragraph (2) of PP 35/2021 and Article 40 paragraph (4) of PP 35/2021.

Suggestion

Based on the research results that have been presented above, the following are the suggestions that are needed, namely:

1. To the Panel of Judges of the first instance in deciding the dispute with Decision Number: 48/Pdt.Sus-PHI/2023/PN Jkt Pst should not ignore the existence of evidence in the form of a recommendation letter made by the mediator as evidence of a tripartite settlement, so that the absence of a mediation report as a formal requirement for filing a lawsuit does not cause the lawsuit to be declared formally flawed which results in the lawsuit being inadmissible.
2. To the Panel of Judges at the cassation level in deciding the dispute with Decision Number: 179K/Pdt.Sus-PHI/2024 due to layoffs on the grounds of efficiency in order to prevent losses to consider the acquisition of the Plaintiff's rights other than severance pay and UPMK, namely the existence of UPH in accordance with the provisions of Article 43 paragraph (2) of the PPHI Law as the right of PKWTT workers after layoffs in order to fulfill rights as they should be.
3. Employers are required to comply with employment regulations regarding the arrangement or distribution of compensation to workers after Termination of Employment, so that the accumulation of compensation is carried out in accordance with applicable procedures, so as to minimize disputes or differences of opinion between workers and employers.

BIBLIOGRAPHY

Dewata, Mukti Fajar Nur, and Yulianto Achmad. 2022. Dualism of Normative and Empirical Legal Research. 6th ed. edited by Dimaswids. Yogyakarta: Pustaka Pelajar.

Indonesia, Government of the Republic. 2003. “Law Number 13 of 2003 Concerning Manpower.”

Muhaimin. 2020. Legal Research Methods. Pe. Printing. Mataram: Mataram University Press.

Pasaribu, Raras Regina Balqis Br. 2020. "Review of the Right to Obtain Decent Employment for Persons with Disabilities in Pekanbaru City."

Prabowo, Dwi Bagus Wisnu. 2021. "Legal Analysis of Fulfillment of Employee Rights in Termination of Employment (Study of Decision No. 266/Pdt.Sus-PHI/2021/PN.Mdn)." Medan Area University.

Shalihah, Fithriatus, and Muhammad Nur. 2019. Employment Law: A Study of the Philosophy and Theory of Employment Relations on Fixed-Term Employment Agreements in Indonesia. Vol. 27. Edition edited by Joedin. Yogyakarta: Kreasi Total Media.

Solikin, Nur. 2019. Introduction to Legal Research Methodology. Edition. edited by Qiara Media Team. Pasuruan: CV. Qiara Media Publisher.

Yusticia, Aprilina Rahmah. 2023. "The Law on Written Recommendations for Mediators in Settling Industrial Relations Disputes (Post Constitutional Court Decision No. 68/PUU-XIII/2015)." Legal Standing 07(01):23–31.

Indonesia, Government. 2022. Government Regulation in Lieu of Law Number 2 of 2022 Concerning Job Creation. Indonesia: JDIH BPK Republic of Indonesia.

President of the Republic of Indonesia. 2004. Law of the Republic of Indonesia Number 2 of 2004 Concerning Settlement of Industrial Relations Disputes. Indonesia.

Republic of Indonesia, President. 2021. Government Regulation Number 35 of 2021 Concerning Work Agreements for Certain Time, Outsourcing, Working Hours and Rest Hours, and Termination of Employment [Government Regulation Number 35 of 2021 Concerning Work Agreements for Certain Time, Outsourcing, W. Indonesia: BPK RI.

Government of the Republic of Indonesia. 2023. Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation. Indonesia: JDIH BPK of the Republic of Indonesia.