

Judges' considerations concerning unilateral layoffs against workers in Indonesia: Comparative study of Decision Number 509 K/Pdt.Sus-Phi/2021 and Decision Number 54 K/Pdt.Sus-Phi/2021

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Abstract

Unilateral layoff is one of the forms of industrial relations disputes that often gives rise to differing legal interpretations in judicial practice. One of the examples of this phenomenon can be found within Decisions No. 509 K/Pdt.Sus-PHI/2021 (Decision 509) and No. 54 K/Pdt.Sus-PHI/2021 (Decision 54), both of which relate to unilateral termination of employment but yield different legal considerations. Based on the legal phenomenon, this study aims to analyze the basis for the judges' considerations in these two decisions and assess whether the judges' considerations reflect the values of justice. The judges' considerations, being the example here for research, are the judges' Decision Number 509 K/Pdt.Sus-PHI/2021 and Decision Number 54 K/Pdt.Sus-PHI/2021. This study also aims to assess whether these considerations reflect the values of justice. The study employs a normative juridical method with a statutory, case-based, and conceptual approach. The results show that the two decisions have different orientations. Decision Number 509 K/Pdt.Sus-PHI/2021 emphasizes legal certainty through proving the element of default, while Decision Number 54 K/Pdt.Sus-PHI/2021 emphasizes worker protection and substantive justice. This difference indicates a disparity in interpreting the unilateral layoff for workers.

Keywords: Judges' decision, Indonesia, unilateral layoffs

Introduction

Industrial relations in Indonesia are built on the principle of balance between the interests of workers, employers, and the government as mandated by the basic values of Pancasila and the 1945 Constitution of the Republic of Indonesia. Within this framework, workers are placed as a structurally weaker party due to their dependence on sources of income, thus requiring effective legal protection ^[1]. Article 27, paragraph (2) of the 1945 Constitution emphasizes that every citizen has the right to work and a decent living, which means that the state is obliged to ensure that there are no arbitrary actions in terminating employment ^[2].

Employment layoff in a unilateral way is one of the most dominant issues in industrial relations. Although Law Number 13 of 2003^[8], concerning Manpower and its amendment through Law Number 6 of 2023^[10], concerning Job Creation have emphasized that layoffs should be a last resort, the practice still shows that unilateral layoffs still occur frequently. The imbalance in bargaining power leaves many workers unable to defend themselves when companies decide to cut off their employees from working without legitimate reasons or procedures ^[3]. This situation demonstrates a gap between applicable legal norms and their implementation in the workplace.

The role of the courts becomes crucial when there are differing opinions between workers and employers regarding the legality of layoffs. Court decisions not only resolve disputes but also serve as a benchmark for the application of the principles of legal certainty and justice in the employment sector. However, in practice, disparities or inconsistencies in decisions often arise in cases of unilateral layoffs that apply the same legal norms. These disparities generally stem from differences in judges' interpretations of norms and the influence of subjectivity in interpreting facts, thus requiring technical guidelines to ensure consistent

decisions ^[4]. This situation creates uncertainty for both workers and employers in understanding applicable legal standards.

Empirically speaking, there are differences in judges' considerations in the case of deciding unilateral layoff cases, which can be found in several decisions. This difference is evident in Decisions No. 509 K/Pdt.Sus-PHI/2021 and No. 54 K/Pdt.Sus-PHI/2021. Both decisions relate to layoffs, but contain different legal considerations. This phenomenon is interesting to study because it relates to the consistency of law enforcement, legal certainty, and worker protection in Indonesia. It is important to conduct research on this topic because it provides an overview of how judges interpret labor law norms in concrete cases and the extent to which the resulting decisions are able to reflect the values of justice.

These differences of legal interpretations among judges raise questions about the consistency of the application of labor law and the extent to which judges' decisions reflect the values of justice and legal certainty. Therefore, this research aims to analyze the basis for the judge's considerations in Decision Number 509 K/Pdt.Sus-PHI/2021 and Number 54 K/Pdt.Sus-PHI/2021, which are cases related to unilateral layoffs in Indonesia. In addition, this article also analyzes the judge's considerations in these two decisions based on the theoretical value of justice.

Research Method

This article employs a normative juridical legal research method. The approaches used within the research include the statute approach, the case approach, and the conceptual approach. This article also used several primary legal materials, which consist of legislation and court decisions, while secondary legal materials consist of books, journals, and previous relevant research. The analysis was conducted qualitatively using the deductive method. In addition to

analyzing a legal issue, several legal materials are used as analysis materials for the article. The primary legal materials are used in the form of prevailing regulations and court decisions, and secondary legal materials in the form of books and related articles. All legal materials were collected through literature studies and analyzed qualitatively using deductive reasoning methods to draw conclusions regarding the research problem ^[5].

Results and Discussion

1. Qualifications for Absence and Procedural Status in Article 168 of the Manpower Law

The importance of judges' considerations is to crystallize legal reasoning that involves assessing facts, applying norms, and balancing the values of justice, legal certainty, and legal expediency. In the case of unilateral layoff disputes, the judge serves not only as an interpreter for the law but also as an interpreter of protective values for workers in economically disadvantaged positions ^[6]. This position affords the judge considerable discretion in assessing the legality of a layoff.

Article 168 of Law Number 13 of 2003^[8], concerning Manpower essentially stipulates that workers who are absent for five or more consecutive working days without valid written notice and have been properly summoned twice can be qualified as having resigned. This provision indicates that the status of being absent does not arise automatically, but must be preceded by the fulfillment of proper summons procedures. Thus, the summons element is an integral part of the mechanism of absence that cannot be separated normatively, and it also functions as an instrument of protection for workers ^[7]. In practice, this provision often gives rise to different interpretations regarding the extent to which procedures must be fulfilled before a worker is considered to have resigned, and these differences are clearly evident in the two decisions that become the object of this study.

2. Comparative Analysis of Judges' Decisions

In this article, we compare two judges' decisions on the same issue but with different interpretations. The first one is Decision Number 509 K/Pdt.Sus-PHI/2021 (Decision 509), in which the point of the dispute revolves around the actions of the employer (Sinar Inti Berkah Sejahtera Corporation), who laid off the worker (Muhammad Fahri) based on the principle of absenteeism, as stipulated in Article 168 of the Manpower Law. In this decision, the Supreme Court focused on the fact that the worker was proven to have been absent from work and was known to be working for another company. Judges based their reasoning on the legal fact that the worker frequently missed work for more than five consecutive days because he already had a second job. The existence of a new job was seen as clear evidence that the employment relationship had substantially ended, making it impossible for the worker to properly fulfill his responsibilities at the previous company. The judge considered this situation to indicate the worker's intention to terminate the employment relationship. From this consideration, it can be seen that judges prioritized a juridical approach, emphasizing the fulfillment of the legal elements related to absent of workers as stipulated in labor regulations. Although deficiencies were identified in the company's summons procedure, judges argued that the substantive facts outweighed these procedural deficiencies.

This approach demonstrates the dominance of the principle of legal certainty, as the judge sought to ensure that legal norms were applied based on the facts proven in court.

The most crucial aspect of this decision is that judges actually admitted that the employer failed to properly issue a summons as required by law. However, the judge nevertheless upheld the decision of layoff to the worker based on the material facts that the employee had already been employed elsewhere. This approach demonstrates a tendency toward substantive legal positivism, where the judge positioned Article 168 not as an absolute (imperative) administrative procedure, but rather as a means of proving the employee's intention to discontinue the employment relationship ^[8]. Thus, the procedural flaw in the summons was disregarded because the material facts were deemed to have provided clarity regarding the layoff of the employment relationship.

These considerations reflect an orientation toward legal certainty that favors effective dispute resolution and protects the interests of the company from workers deemed disloyal ^[9]. From an industrial relations efficiency perspective, this approach benefits employers because disputes can be resolved without having to prove all procedural stages. However, an approach that places procedures as an optional aspect has the potential to weaken the legal protection function inherent in Article 168. However, when procedures can be set aside solely on the grounds of material evidence, it opens up room for abuse of authority by parties in stronger economic positions. The concrete consequence for workers is the loss of rights to severance pay and long-service bonuses because they are considered to have resigned, even though they have served for several years.

However, there is a significant difference regarding the same case, but it resulted in a different decision. This case can be seen in the Decision Number 54 K/Pdt.Sus-PHI/2021 (Decision 54), which presents a more comprehensive and progressive approach in the context of the COVID-19 pandemic. In this decision, judges still concluded that the worker had committed an act that fulfilled the elements of absenteeism by refusing a negotiation summons and failing to return to work after rejecting the layoff policy. However, judges did not immediately absolve the employer from the resulting legal consequences. Judges investigated the underlying cause of the worker's absence, namely the unclear employment status created by the employer through the layoff policy without certainty. This approach reflects an effort to understand the dispute in a more holistic sense.

One of the most fundamental considerations in this decision is the judge's audacity in annulling the Joint Agreement dated January 9, 2016, which stipulated that the work period was calculated from 2013, even though the worker had been working since 2008, with a specific time that was continuously extended. By referring to Article 52 of the Manpower Law, judges considered that the type of work that the worker had done as a flight attendant was permanent, so the status of a 'specific-time worker' from the beginning was a violation of the law. Therefore, the agreement that 'whitened' the five-year work period was declared null and void because it contradicted higher regulations. Here, judges applied the theory of corrective justice by intervening in industrial relations to correct the inequality that arose from the employer's abuse of bargaining power.

Furthermore, regarding the company's excuse for laying off workers without severance pay due to the pandemic efficiency, judges referred to Article 155 paragraph (2) of the Manpower Law (which was later amended to Article 157A of the Job Creation Law), which emphasizes that during the dispute process, both parties are obliged to fulfill their obligations. Since workers are not given access to work by the employer, the principle of 'no work no pay' cannot be applied. On this basis, the judge still requires the employer to fulfill the workers' rights in the form of compensation for rights, severance pay, and processing wages. This consideration emphasizes that the status of being absent does not always eliminate all workers' rights, especially if the employer contributed to the emergence of the dispute.

3. Theoretical Analysis of Judges' Reasoning

Within the scope of manpower law, the principle of legal certainty is realized through regulations regarding the conditions, reasons, procedures, and legal consequences of layoffs as regulated in Law Number 13 of 2003^[8], concerning Manpower, as amended by Law Number 6 of 2023^[10], concerning the Job Creation. This legislation specifically amended the Government Regulation in Lieu of Law. These provisions stipulate that layoffs may not be carried out arbitrarily, but must comply with established procedures, including notification and efforts to avoid layoffs^[10].

Theoretically, both decisions confirm the tension between two poles. The pole of positivism-certainty is reflected in Decision 509, which prioritizes certainty for the business world so that it is not burdened by undisciplined workers, at the risk of sacrificing procedural protection. Meanwhile, the pole of substantive justice-protection is reflected in Decision 54, where judges act as protectors of human rights to decent work and wages in accordance with Article 27 paragraph (2) of the 1945 Constitution by correcting exploitative work agreements^[11]. Similar disparities are also found in industrial relations judicial practices in other courts, where a formalistic approach, which focuses on the principle of legal certainty, tends to strengthen the position of employers, while a substantive approach, focusing on the justice principle, is more in favor of worker protection.

In issuing a decision, judges in Indonesia may use reasoning to decide a case, aside from written legal instruments. Reasoning is the most crucial part of a court decision because it forms the basis of the legal argumentation used by the judge in issuing a decision. According to Sudikno Mertokusumo, a prominent Indonesian scholar, judges' reasoning is a legal reasoning process carried out by connecting the facts proven in court with applicable legal norms, resulting in a decision that is legally and morally accountable. Therefore, the quality of a decision is largely determined by the quality of the legal reasoning developed by judges^[12].

There are several considerations that must be carefully considered by judges before making a decision. The first consideration is juridical. Juridical considerations are based on statutory provisions, legal principles, doctrine, and jurisprudence related to the case under review. In cases of layoff, the legal aspects include an assessment of the legal basis for layoff, the procedures taken by the employer, and the fulfillment of the worker's normative rights in accordance with labor law. Through this jurical

considerations, the judges may determine whether the decision of layoff for employments have met the requirements as stipulated in the prevailing regulations,^[13] such as Law Number 13 of 2003^[8], concerning Manpower, as amended by Law Number 6 of 2023^[10], concerning Job Creation and Government Regulation Number 35 of 2021 concerning Specific Time Employment Agreement.

The second consideration is sociological. Sociological consideration is one of the important considerations for judges before issuing a decision since it relates to the social conditions of the parties and the impact of the decision itself on social life^[14]. In industrial relations cases, judges must consider that workers depend on the employment relationship for their livelihood, so layoffs can have significant economic and social consequences. Through sociological considerations, judges are expected to produce decisions that are not only legally accountable but also beneficial to society and maintain a balanced industrial relationship between workers and employers.

The third consideration is philosophical. Philosophical considerations relate to the objectives of law, namely to achieve justice, legal certainty, and expediency. Judges must ensure that their decisions not only comply with the law but also reflect the prevailing sense of justice in society^[15]. In cases of unilateral layoffs, philosophical considerations are crucial because judges must balance the employer's interests in operating their business with the employee's right to legal protection. Thus, the resulting decision is expected to strike a balance between legal certainty and substantive justice.

Conclusion

Based on a comparative analysis of the two decisions, it can be concluded that the judges' reasoning in unilateral layoff cases demonstrates a judicial disparity stemming from differing interpretations of Article 168 of the Manpower Law. In Decision Number 509, the judge placed the substantive fact of absenteeism and employment with another company as the dominant factor, thereby overriding the procedural flaws in the summons for the sake of legal certainty for the employer. On the other hand, in Decision Number 54, the judge placed the procedure and status of the employment relationship as imperative requirements, revoking detrimental agreements and upholding the worker's normative rights as a manifestation of corrective justice. This disparity demonstrates that the same norm can give rise to different legal consequences depending on the judge's assessment of the parties' good faith and the paradigm of legal certainty and justice. Therefore, technical guidelines from the Supreme Court are needed, as well as strengthening the capacity of judges to ensure consistent application of labor laws and more effective protection for workers as a structurally weaker party.

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