

COMPANY RESPONSIBILITY TOWARDS PHONEED EMPLOYEES WITHOUT GETTING THE RIGHTS OF SEVERANCE PAY

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Backgrounds: How form protection law for worker company X affected Termination Connection Work (PHK) Type research used is normative study law or also called research doctrinal law .

aim: Knowing not quite enough answer company to carriawan phk without get severance pay

Methods: Study this use type customized approach with the problem raised in study this .

Findings : Obviously that priority in Constitution employment is justice and protection social for workers who are actor main in employment, but in reality still occur injustice social to worker, one for example is Termination Connection Work (PHK). In life daily disconnection connection work Among workers and entrepreneurs normal known with term layoff or Termination Connection Work, which can occur because has promised or promised before and can also happen because dispute Among worker with businessman, death worker or because reason another .

KEYWORDS

Company; Carriawan ; Severance pay

INTRODUCTION

Energy work is all something related with power work at the time before, during, and after work (Ramli, 2020) . Facts prove that factor power work as source power human, under development national moment this, is very important factor for implementation development national in our country, the Unitary State Republic of Indonesia. Even factor power work is very dominant means in life something nation, because power work is one factor determinant life and death something business / activity (Dungga & Tome, 2019) .

Employment word that alone have understanding, that is something incident or reality where ordinary person called workers, working for other people called entrepreneur, with accept wages, all at once rule out problem Among profession independent. Outside connection work) and work done on site work (Ashar, 2019) . Below leadership (work) for others, to the exclusion of problem Among work (arbeid) and workers (arbeider). or service good for Fulfill needs alone nor for Public (CHAPTER, nd) .

Problem work and energy work speak about problem production, distribution, and consumption, all of which concerning problem economy in life people, including capital and management (Rohendra Fathammubina, 2018) . Every man in skeleton Fulfill needs life his body will always work and free choose type profession in accordance with his profession with same goal that is destination economy, but in an increasingly industrial era, fast like now This, among others, types of a lot of work Becomes choice and open opportunity work is Becomes employee or worker at a company (Suyono, 2014) . together with that, behind amount impact positive that appears along with development knowledge knowledge and technology, problems also arise social marked economy with demonstration consequence

injustice in the field employment, no fulfillment rights workers / decent wages . , weak organization worker as distributor aspirations, and low awareness workers . enforce rules among businessman (Melinda, 2021) .

In history journey law in Indonesia is close relation with problem employment, thing this could we see from policy regulated government together with institution legislative in the form of laws and regulations government (policy legislative and bureaucratic) such as Law 23 of 1948 concerning Supervision Employment, Law Number 13 of 2003 concerning Employment, Law Number 3 of 1992 concerning Guarantee Labor Social, Law Number 21 of 2003 concerning endorsement ILO Convention No. 81 Concerning Supervision Manpower in Industry and Trade (ILO Convention No. 81 Supervision Manpower in Industry and Trade), Regulation President Number 21 of 2010 concerning Supervision Employment, and others. Rules this is effort real government as institution maker policy for give legitimacy for protection rights worker (Henny Nuraeny, 2022) .

Government role no stop got there because development employment always dynamic and complexity problem employment must permanent Becomes focus government so that implementation existing regulations must Keep going monitored (Nainggolan, 2018) . In supervision this, government center must Keep going synergize and build good coordination with government area for work supervision could walk optimally.

In Indonesia itself, the problem law about energy work still very common . Existence the rights that should be earned by workers, however no provided by company the place they work is persistent problem continue until moment this . one problem law in the field of employment is Termination Connection Work (PHK) (April, 2022) .

Example case related rights that don't obtained worker, is right workers at Company X after businessman To do disconnection connection unilateral layoffs. Company X is engaged in industry textiles . Unilateral layoffs often happening in the industry textiles, for example, which occurs in some Company X employees located in Tanjung Pinang area . A number of laid off workers by unilateral choose withdraw self and exist a number of demanding worker change make a loss from disconnection connection work . Unilateral layoffs the make dozens colleague laborer To do action strike as form solidarity to workers who have been laid off unilaterally because party company no Fulfill invitation Dinsosnakertrans that mediates case a number of time then. They demand change make a loss for the unilateral layoffs carried out businessman it. Based on background behind problem the so could identified problems that will researched namely: How form protection law for worker company X affected Termination Connection Work (PHK).

METHOD

Type research used is normative study law or also called research law doctrinal . Study this use type customized approach with the problem raised in study this, that is approach legislation and approaches conceptual . Study this use sourced ingredients from library data or called ingredient law . Source ingredient law the is ingredient primary law, material law secondary and material law tertiary . Method research used in study this is method review approach that does comparative study, namely something the activity that performs the reset. With use method studies this will more effective if compared with approach studies case .

With focus study this is To do protection law to the problem of layoffs carried out by a company company by one-sided.

RESULTS AND DISCUSSION

Employment by general interpreted as something the events in there is two party that is workers and entrepreneurs . Worker is parties who work for entrepreneurs with destination accept wages,while what is meant with businessman is an individual or legal entity that runs company owned by alone and give profession to worker with pay wages to worker the (Purnomo, 2019) . Related with explanation that,there one aspect important in employment,namely job . Work positioned as needs urgent that must fulfilled by every individual because with work somebody could get income used for reach welfare . Related with existence arrangement life and order social,thing this means refers to well- being every workers in Indonesia (Ridwan & Sudrajat, 2020) .

Then more carry on explained again in Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia which affirms that : " Every " citizens have the right on decent work and living " . From quote The 1945 Constitution of the Republic of Indonesia is clear that well-being is right every citizen for could life worth,and for support creation well-being required decent job . Every citizen basically have desire for live and work with good To use get prosperous life,because prosperous life is right every citizens (Indonesia & the State, 2006) .

Connection Among power work and company is relationship that produces progressive profit for second split party .

The company benefits with existence workers and workers get opportunity for work and earn income with provide field job by giver work . Employer or giver work that gives profession to worker then often considered as determinant well-being individual . because of that,though by law position entrepreneurs and workers considered equivalent,however in reality or by social economy many entrepreneurs who feel position no could equated with worker because could determine when well-being somebody ends .

With appearance rights and obligations second split party so created something connection work . Connection this no possible occur without existence binding agreement between them . Obligation must fulfilled so that the rights could created . Every citizens have obligation for reach prosperous life or in other words a prosperous life achieved with Fulfill obligation as power work . By juridical connection Among workers and entrepreneurs is free or equivalent (Ridwan & Sudrajat, 2020) . Somebody no can enslaved,stretched or enslaved,because Thing this no in accordance with the contents of Pancasila and the 1945 Constitution of the Republic of Indonesia as follows : base Unitary State law Republic of Indonesia, but in fact by sociologist,worker or laborer no free,because only with power,sometimes a laborer forced work . accept connection work with employer although connection the burdensome worker that alone,moreover opportunity work moment this no worth it with amount workers in need (Ridwan & Sudrajat, 2020) .

Basically everyone works for get income To use Fulfill needs his life . Not possible a worker / laborer want to work if no there is appropriate wages with his needs . Minimum wage in provision employment is Provincial Minimum Wage (UMP) or Sectoral Minimum Wage Province (UMSP) determined by the Governor . Labor Law is set regulation in the

form of regulation written or no related writing with incident where somebody work for others with accept wages or whatever is in scope field employment and if violated could worn penalty civil or criminal . sanctions,including institution organizer private . relate with power work . According to Sendjun H. Manulang in the book mentioned that,goal application Constitution employment are :

1. Achieve/implement social justice in the field of manpower;
2. Protect workers from unlimited power from employers, for example by making or making coercive regulations so that employers do not act arbitrarily against workers as weak parties.

Form agreement work is free,that means agreement work could made by written nor verbal / no written . However agreement existing work moment this generally made in form written,especially Among company with workers / laborers because agreement work written more ensure certainty law . Basically connection work is relationship that arises after existence agreement organizing work about rights and obligations Among worker / laborer with entrepreneur . Balance Among rights and obligations of the parties is factor important in something connection work,because in essence rights worker / laborer is obligation that must fulfilled by entrepreneurs,and vice versa what be right entrepreneur . Entrepreneur is obligation that must filled by workers / laborers .

Based on destination that,obviously that is prioritized in Constitution employment is justice and protection social for workers who are actor main in employment,but in reality still occur injustice social to worker,one for example is Termination Connection Work (PHK). . . In life daily disconnection connection work Among workers and entrepreneurs normal known with term layoff or Termination Connection Work,which can occur because has promised or promised before and it can happen because dispute Among worker with businessman,death worker or because reason another .

Termination Connection Work is something state where worker stop work from companies that cause disconnection rights and obligations Among workers and entrepreneurs. This thing could occur because resignation self,disconnection connection work by company or ending contract work . In something connection work,no seldom occur Termination Connection Work (PHK). Problem will appear if the layoffs are long this made by entrepreneurs is a unilateral layoff to his workers . This thing naturally contrary with provision regulation legislation except company in condition lack of finance good so that need conducted subtraction amount employee with To do rationalization .

Termination connection work done by entrepreneurs must could accountable and have proof as set in the Manpower Act . If workers object with dismissal because considered one-sided and not in accordance with law,worker could submit lawsuit to the Settlement Agency Dispute Industrial Relations (LPPHI) and termination connection work can also null and void for the sake of law and workers could canceled . employed back . Termination connection work is disconnection connection work because something Thing certain which results in break up rights and obligations Among workers and entrepreneurs . After connection work over,worker no again have obligation for work for the giver work,and entrepreneur no obliged for pay wages to workers .

In a number of Labor Law literature no found formula or definition disconnection connection work,however from description above could interpreted that disconnection connection work is step disconnection connection work Among worker / employee with giver work / employer . because state certain . Termination connection work that can canceled by law based on provisions Article 153 of the Manpower Law where company prohibited dismiss worker with reason as following :

1. Workers cannot come to work because of illness according to a doctor's certificate. statement letter for a period of not more than 12 consecutive months;
2. Workers cannot carry out their work because they fulfill their obligations to the state in accordance with the provisions of the applicable laws and regulations;
3. Workers perform worship that is ordered by their religion;
4. Married workers;
5. A female worker is pregnant, giving birth, having an abortion, or breastfeeding her baby;
6. Workers have blood ties and or marital ties with other workers in the same company, unless it has been stipulated in a work agreement, company regulations, or collective work agreement; Workers establish, become members and/or administrators of trade unions, workers carry out trade union activities outside hours. work, or during working hours upon the agreement of the company, or based on the provisions stipulated in the employment agreement, company regulations, or collective labor agreement;
7. Workers who complain about the company to the authorities regarding the company's actions that commit criminal acts;
8. Due to differences in understanding, religion, political sect, ethnicity, skin color, class, gender, physical condition, or marital status;
9. Permanently disabled workers, sick due to work accidents, or sick due to work relations according to a doctor's certificate whose recovery period has not been determined.

If the entrepreneur continues to terminate his employment due to the reasons mentioned above, then according to Article 153 paragraph (2) the termination of employment is null and void and the entrepreneur is obliged to re-employ the worker concerned. There are several things that cause layoffs, for example workers resign, die, enter retirement, or because there are problems (violations). In addition, layoffs can also occur due to the transfer and merger of companies, there is a change of owner, or the company is closed due to bankruptcy. Provision about layoffs usually set by special in regulation company .

In essence Constitution employment and all regulation related legislation aim for realize justice social with give protection to worker or laborer from power entrepreneur . Each rule legislation the character force and give penalty assertive to entrepreneurs who violate them . Reality discovered by workers no in accordance with provision in regulation legislation specifically in Constitution Employment . Solid Company Creation To do disconnection connection work by unilateral to the workers,however right that should be obtained no given by the giver work to workers .

Provision about gift change make a loss right in the form of replacement the place stay as well as treatment and care in implementation often cause multiple interpretations . With use logic that workers / laborers who resign self no entitled on severance pay or service award money,then worker / laborer no accept replacement house as well as treatment and

care because base calculation replacement and treatment as well as care house use severance pay or award money service . who don't given to resigned worker / labourer.19

one for example is what happened to the workers of Company X who were in tanjungpinang who did disconnection connection work (PHK) one-sided . There are 6 workers affected Termination Connection Work (PHK), but 4 of them choose withdraw self,even company no give severance pay to laid off workers .

Two workers who don't accept with action company it also does action protest with support 25 comrades PT . X. Second not even fifty five workers believe and accept disconnection connection work unilateral layoffs (PHK) carried out company against 6 comrades them . Demonstration carried out by workers who sit and are interspersed speech in front factory .

According to a workers who are victims of layoffs connection work one-sided,company dismiss himself and five workers other without there is summoning or notification more first . attach letter sick from doctor company . Of the six people,four other withdraw self and not ask for employed back. Mediation results with the Department of Manpower and Transmigration (Dinsosnakertrans), that company must hiring return power work . However,the laid -off workers will receive layoffs with notes that all things to be right worker fulfilled . One of them,payment wages as big as wages worker because no enter work because sick plus compensation in the form of severance pay and years of service . Mandatory company pay worker in accordance with quantity wages during the layoff process.

Until moment this,company rated no mean good for complete problem this because company no once want to attend invitation from the Department of Manpower and Transmigration (Dinsosnakertrans). Demonstration will Keep going in progress until company Fulfill rights laborer . If things this no fulfilled,case this will brought to Court Industrial Relations . Then add that company state if there is the party who doesn't accept decision company,welcome for submit lawsuit . Termination Connection Work (layoffs) have an impact bad especially for worker or workers and their families . This thing supported by the statement of Iman Soepomo who said : that :

“ Termination connection work for worker is beginning from all end,beginning from end have work,start from ending ability pay needs . life daily for himself and his family,early from ending ability send to school child .- child and so on ”. Related with statement that,then actions taken by the Company against worker or laborer clear has cause big loss for workers that and have rob rights worker as man for get decent living and work To use create welfare. This thing no can conducted with easy by company without consideration before .

Every country has obligation for guarantee and respect right basic people,protect and enforce it in their respective countries . Country has obligation for protect rights workers who have been laid off unilaterally . Form protection by the state is with enactment conditions that can protect rights worker as rightful human get fair and equal treatment without looking at degree,rank or his position . In addition to Pancasila and the 1945 Constitution of the Republic of Indonesia which clear ensure protection every Indonesian citizen in Thing this,in particular power work,law Number 13 of 2003 concerning Employment by special made as guidelines provision for Fulfill rights and obligations workers and entrepreneurs as perpetrator effort . Protection power work could conducted good with give construction,as

well as with increase confession right basic human, protection physical and technical as well as social and economic through the norms that apply in the environment work .

Every man have their respective rights as a workers . This thing close relation with the state 's obligation to Fulfill rights worker as citizen, that is for have decent life . because of Therefore, the Manpower Law was formed which is a set rule written and not related writing with incident where somebody work for others with accept wages . Rule written made for ensure rights worker the is Constitution Number 13 of 2003 concerning Employment . Basically, the company is not very recommend for dismiss its employees . About ban Termination Connection Work (PHK) things this actually has set with clear in the Labor Law that is in Article 151 paragraph (1) which reads : " Entrepreneurs, workers / laborers, unions " workers / union workers and government with all effort must ensure that no there are layoffs." Based on rule this is also a worker entitled get protection from action entrepreneurs who do disconnection connection unilateral layoffs . Article 151 paragraph (1) is form protection law given by the state as effort prevention disconnection connection work (layoff) workers . Every worker must get equal and proper treatment without discriminated against position with entrepreneur, because that Article 151 paragraph (1) guarantees that worker protected from action arbitrarily by the entrepreneur with consideration that he as businessman have high position . degree above a workers . so that they feel entitled for To do Termination Connection One - sided layoffs without thinking the consequences that will arise for worker on his deeds .

Vice versa with worker to entrepreneur, that worker no can ignore his obligations to businessman with method decide connection work by one-sided . Though, the company could To do disconnection connection work (PHK) if agreement work has ends, and if employee violate agreement work, rules company or agreement work together (PKB), however before disconnection connection work (PHK), company must give letter warning 3 times in a row, but in reality actions taken by entrepreneurs to worker the outside provision that is with no give letter warning or calling same once and without consider reasons and defenses given by the parties company . workers . Protection law is right basic man as subject law, ok when he is at in position as individual / private, as well as when he is at in something community, group or state another . Unilateral layoffs that have been work not enough more than 11 (eleven) years must willing swallow bitter dismissed by the company that became the only one source livelihood them . However in accordance with provision in Article 151 paragraph (1), and workers other naturally no stay still and try get protection real from government, in Thing This is the Labor Department Social (Dinsosnakertrans) as a mediator. Sadly result dead ends, the company remains on its feet for lay off and workers other with one reason experience sick prolonged During

2 (two) weeks . For affected workers Termination Connection Work (PHK), reasons disconnection connection work is very important in determine worthy whether or not worker the on severance pay, gratuities and compensation . Provision regarding severance pay, service pay, and replacement money set in Article 156, Article 160 to with Article 169 of the Manpower Law ([Sustainable, 2019](#)) .

There are several things that can cause happening disconnection connection work, that is according to Article 61 of the Manpower Law, a agreement work could end when :

1. The worker dies;

2. The term of work contact has expired;
3. There is a court decision or determination of the Industrial Relations Dispute Settlement Institution which has permanent legal force;
4. There are certain circumstances or events listed in the employment agreement, company regulations, or collective labor agreement that may result in the termination of the employment relationship. Considering that there is no good intention on the part of the entrepreneur to re-employ him, then for the good of both parties, in accordance with the provisions of Article 151 paragraph (3) that the entrepreneur can only terminate the employment relationship after obtaining a determination from the Industrial Relations Court, the provisions of Article 151 also apply. 155 paragraph (2), namely: In fact, what happened was not in accordance with the applicable regulations. Starting in 2017, it turns out that employers have prohibited workers from coming to work on the grounds that workers have been dismissed, so that workers cannot carry out their obligations to work as regulated in Article 155 paragraph (2). Judging from what has been experienced by workers who have been laid off, it is clear that the actions of employers who prohibit the workers from working on the grounds of being laid off deviate from the provisions of the applicable law, namely the Manpower Act. In addition, from the explanation described above, it is increasingly clear that in the case of Termination of Employment (PHK) carried out by Company X, it is an unfair unilateral Termination of Employment (PHK).

This injustice can be seen clearly if one examines the cases that befell these workers, one example of which is what happened to workers who were laid off due to illness. In the event that one of the workers affected by this termination of employment, none of the criteria for the layoff who cannot work because of illness is dismissed on the grounds of being sick for too long, which is for 2 (two) weeks, even though in the provisions of Article 153 paragraph (1) letter a It is clear that illness should not be used as a reason for termination of employment (PHK) by the employer. The provisions of Article 153 paragraph (1) letter a are: "Entrepreneurs are prohibited from terminating employment on the grounds: Workers/laborers are unable to come to work due to illness according to a doctor's statement for a period of not more than 12 years. (two twelve) months Keep going continuously".

If Termination Connection Permanent work (PHK) done, then apply provision Article 153 paragraph (2), namely : the person concerned ". Settlement Agency Dispute Industrial Relations (LPPHI) in Thing this Court Industrial Relations, then company Required hiring return his workers . namely : " Termination " connection work without determination as meant in Article 151 paragraph (3) is null and void by law ". As has described above, what happened to one of the laid - off workers no in accordance with Constitution Employment, namely Article 153 paragraph (1) With disconnection connection work unilaterally (PHK) by employers to himself, then in accordance with Article 153 paragraph (2) he could employed return because decision the considered null and void . nd cancelled or considered no once there is .

CONCLUSION

Legal protection for employees of Company X who are affected by termination of employment (PHK) unilaterally is that the layoff of the worker concerned is declared null and void because based on Article 151 paragraph (3) of the Manpower Law, if the entrepreneur wants to lay off his workers, he must first previously obtained a determination from the Industrial Relations Dispute Settlement Institution.

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