

Implementation Execution Decision Court Industrial Relations Bandung Dispute over Termination of Employment Through Bankruptcy

¹ Richart Sahatatus, ²Teuku Syahrul Ansari, ³I Ketut Astawa, ⁴Ade Maman Suherman, ⁵Dessy Asihany Pakpahan, ⁶Revelation of Donri Tinambunan, ⁷Imam Budi Santoso, ⁸Aslan Noor, ⁹Edison Jaya Pakpahan, ¹⁰Eka Florida Elyzabeth, ¹¹Try Setiady

¹ Postgraduate Student Master of Legal Science, Singaperbangsa University Karawang

^{2,3,4,5,6,7,8,9,10,11} Postgraduate Master of Legal Science, Singaperbangsa University, Karawang

Email: ¹ manurungrichart@gmail.com, ² Teuku.syahrul@fh.unsika.ac.id, ³ ketut.astawa@fh.unsika.ac.id, ⁴ Ade.maman@fh.unsika.ac.id, ⁵ dessyasihany@gmail.com, ⁶ revelation.donri@fh.unsika.ac.id, ⁷ imam.budi@fh.unsika.ac.id, ⁸ Aslan.noor@fh.unsika.ac.id, ⁹ edisonpakpahan50@gmail.com, ¹⁰ eka.manurung22041977@gmail.com, ¹¹ tri.setiady@fh.unsika.ac.id

ABSTRACT

Study This discusses the implementation execution decision of the Court Industrial Relations (PHI) Bandung-related dispute Termination Connection Work (PHK) through mechanism bankruptcy. PHI decisions often face constraints in implementation, especially in unsolved layoff disputes that can quickly be executed. Bankruptcy is one of the instruments used to ensure workers' rights are fulfilled when the Company has financial trouble. Research This is to study how the bankruptcy process can be used as a road alternative for finishing layoff disputes and challenging the law's implementation. The research uses a legal normative approach supported by case PHI Bandung decision studies. Research results show that although Bankruptcy can become a practical solution, it requires synergy between the court and curator so execution can run optimally.

Keywords:

Execution court ruling Industrial relations, layoffs, Bankruptcy, disputes power Work.

INTRODUCTION

Employment relationships refer to the legal connection between an employer and a worker, established through a work agreement incorporating labor, wages, and orders. According to Article 1, Section 4 of Law No. 13 of 2003 concerning Employment, the critical elements of a work agreement are 1) the existence of work; 2) work performed under the command (gezag) of the employer, reflecting the subordination of the employee; 3) a specified wage or remuneration; and 4) a defined period, which can be either limited or indefinite (Asri, 2010).

Industrial relations, also referred to as labor relations, are defined in Article 1, Section 16 of Law No. 13 of 2003 concerning Employment as: "A system of relationships formed between parties in the production process of goods and services, consisting of employers, workers, and the Government, and based on the values of Pancasila and the 1945 Constitution of the Republic of Indonesia" (UU, 2003).

Historically, disputes between workers and employers—commonly referred to as labor or industrial relations disputes—have been inevitable throughout the history of labor relations in Indonesia. In light of this, Law No. 22 of 1957 on the Settlement of Labor Disputes and Law No. 12 of 1964 on Termination of Employment in Private Companies were deemed outdated in the context of societal developments. Following the reforms, these laws were replaced by Law No. 2 of 2004 concerning the Settlement of Industrial Relations Disputes (in the future referred to as Law PPHI) (Khakim, 2015).

With the enactment of Law No. 2 of 2004 concerning the Settlement of Industrial Relations Disputes, workers in Indonesia hoped that dispute resolution processes

would become faster, more efficient, and legally sure. The law emphasizes the principles of speed, accuracy, fairness, and low cost. However, in practice, resolving industrial relations disputes through the Industrial Relations Court (PHI) has encountered many obstacles, particularly after a verdict has been rendered. A court decision holds little value if it is not enforced. Therefore, a court decision carries the force of law when it can be executed with the support of state authorities, as evidenced by the phrase "For the Sake of Justice Based on the Almighty God" in the head of the verdict.

According to Muhammad (2008), "Only court decisions with permanent legal force can be executed. A decision is considered final when establishing a clear and binding legal relationship between the parties involved, which the losing party must obey." In practice, enforcing court decisions—particularly those concerning paying workers' rights such as severance pay—is rare. As a result, the enforcement of Industrial Relations Court decisions often requires coercive measures through execution.

Execution in civil cases is a lengthy and complex process that demands considerable time, energy, financial resources, and effort from the parties involved. A court decision remains meaningless if it is only recorded on paper. Despite being close to victory, a party may still face an extended process to realize the court's decision concretely. This often occurs because the losing party struggles to accept defeat and resists the court's decision in various ways. In such cases, the court chairman may need to intervene to facilitate the execution.

According to Suyuthi (2004), enforcing Industrial Relations Court decisions is one of the most challenging aspects of resolving industrial disputes, as it requires significant time and financial resources. Law No. 2 of 2004 does not explicitly address post-decision execution, leading to many difficulties. For instance, when workers request the seizure of company assets, they often lack access to information about the Company's assets, which can delay or even halt the execution process.

The Supreme Court of Indonesia, through Circular No. 2 of 2019 on Civil Chamber Legal Formulation, addresses disputes in Industrial Relations and Bankruptcy by stating that: "A bankruptcy petition may only be submitted if the worker's rights have been established in a court decision with permanent legal force and if the execution process has at least reached the second warning (amazing) by the district court chairman, with the unpaid worker's rights considered a debt" (MA Circular Letter, 2019).

This circular provides an avenue for workers seeking to enforce their rights after termination of employment (PHK) when the Company refuses to comply with court rulings. Workers can apply for Bankruptcy or a Suspension of Debt Payment Obligations (PKPU) against companies that refuse to execute court decisions. A notable example is the unilateral termination of employment by PT. DMMID against PSK and others in 2019, citing efficiency without providing compensation in accordance with Law No. 13 of 2003 on Employment.

After the dispute was heard in the Industrial Relations Court and a final decision was rendered, PT. DMMID refused to comply with the court's ruling, leading PSK and others to file for execution at the Industrial Relations Court in the Bandung District Court (Execution Case No. 21/Ex-PHI/2021/Put/PN.Bdg Jo. No. 290/Rev.Sus-PHI/2019/PN.Bdg). However, despite the second warning issued by the court, the

Company did not comply. Since PSK and others lacked information on the Company's assets, they could not pursue asset seizure, stalling the execution process.

Under Circular No. 2 of 2019, PSK and others applied for a Suspension of Debt Payment Obligations (PKPU) at the Jakarta Commercial Court, which eventually led to PT. DMMID being declared bankrupt, with all legal consequences.

The challenges faced in the execution process in the case between PSK and PT. DMMID reflect broader issues in enforcing Industrial Relations Court decisions. This paper seeks to examine the execution of Industrial Relations Court decisions in Bandung, focusing on employment termination disputes through bankruptcy procedures.

METHOD

This study employs a legal empirical method, where the researchers use an experiential approach based on their involvement in the execution of Industrial Relations Court (PHI) decisions that have gained permanent legal force. This empirical juridical method allows the researchers to understand how the law is applied in real-world situations, particularly in the context of executing PHI decisions related to disputes over employment termination (PHK) involving bankruptcy proceedings. Through this approach, the authors investigate the interaction between legal theory and legal practice in the field.

In this research, a case study approach is used to seek fair solutions for the parties involved. This case approach does not solely focus on statutory regulations but also considers relevant principles of justice in the ongoing legal situation. The authors also connect the applicable regulations with legal theories related to their implementation (Huda, 2021), both in the context of enforcing court decisions and bankruptcy proceedings themselves.

The data sources used in this study are qualitative in nature (Alwasilah, 2022), consisting of secondary data obtained from various legal literature, such as statutes, court decisions, journals, and other legal materials. This data is collected through document analysis and interviews with parties involved in the execution and bankruptcy process. Data analysis is conducted using an inductive-qualitative approach to address the research problem by delving deeper into cases related to the implementation of PHI decisions in the industrial area of Cikarang, Bekasi Regency, which serves as the location of this study.

RESULTS AND DISCUSSION

1. Company Does Not Comply with Bandung PHI Decision

The Company must Submit and Obey Amar's Verdict. The Bandung PHI Panel of Judges submitted execution to Court Industrial Relations at the Bandung District Court Class 1A Special with case register Execution Number: 21/ Ex -PHI/2021/Put/PN. Bdg Jo. Number: 290/ Rev.Sus -PHI/2019/PN. Bdg July 27 , 2021 by How to do Payment Severance pay PSK employees , et al., carry out Payment Severance pay is right workers provided by the Company as compensation when happen termination connection work (PHK), If a company No pay severance pay to his employees Because losses incurred by employees the to Company, then severance pay that is not paid the considered as obligations (Mawwaddah , L., 2020) , Based on regulation government (PP 36 of 2021 Article 40 Paragraph 1) is defined and interpreted that the Rights of Consequence Termination Connection Article 40 (1) In the case of happen

Termination Connection Work , Entrepreneur must pay severance pay and/ or long service bonus money , and replacement money the rights that should be accepted .

Giving severance pay regulated by law employment is for protecting right workers, with objective give support financial during the transition period after worker lost employment. Severance pay is one of form protection social in connection work in Indonesia. Opinion Sunaryati Hartono emphasized that law required For protect and help race weak and feeble in a way social, economic, and political use reach justice (Chamdani et al., 2022). Severance pay is part of protection social services provided by the state for ensure rights base worker when there are layoffs, so that there is Balance or balance in connection between entrepreneur (Giver) Work) and workers (Recipients Work).

Mechanism Completion Dispute Industrial Relations

There are 3 steps in settlement dispute industrial relations, namely through effort bipartite, tripartite and lawsuit to Court Industrial Relations.

a. Negotiation Bipartite

My Explanation, Negotiations bipartite is negotiation between entrepreneur / association employers and workers / unions worker or between union workers in One Company in dispute. In principle of course when dispute happens (Dispute) divided into 4, namely: Not fulfilled respective rights, differences interest, termination connection work , dispute between union workers) , mandatory efforts attempted moreover formerly through negotiation bipartite in a way deliberation For reach consensus . Negotiation bipartite must be completed in time maximum 30 days. However, If in term time that is one of the party reject negotiate or No reach an agreement, then the negotiation bipartite considered fail.

If negotiation bipartite it turns out achieved agreement, then made agreement jointly signed by the parties (entrepreneurs / joints) employers and workers / unions worker or between union worker in One company in dispute). Agreement together This nature bind and become law so that must be implemented by the parties.

After that, the agreement must registered to Court Industrial Relations at the District Court in the parties' area stage agreement together . If agreement No carried out and carried out by one party, then injured party can submit application execution to Court Industrial Relations in the jurisdiction where the Joint Agreement is made.

b. 'Negotiations Tripartite

I'll try to explain, if negotiation bipartite failed, then dispute industrial relations can done with negotiation tripartite. What That negotiation tripartite? Negotiations tripartite is negotiation between workers and entrepreneurs with the involving party third as facilitator in finish dispute industrial relations. Negotiations tripartite Can through mediation, conciliation and arbitration.

a) Mediation

I try Explain, Mediation done For case dispute rights, disputes interests , layoffs, or dispute between union worker in One Company, with method deliberation mediated by a neutral mediator . which comes from from office responsible agency answer in the field employment district / city. If in mediation achieved agreement so made agreement together signed by the parties and witnessed by the mediator, then registered in court Industrial Relations at the District Court in the jurisdiction of the party's stage agreement together For get deed proof registration.

If agreement together No done by one of party, then injured party can submit application execution to Court Industrial Relations at the District Court in the

agreement area together registered For get determination execution. However, if through mediation No achieved agreement, then the mediator will emit recommendation written and the parties must also give answer written to the mediator to agree or reject recommendation written those . If not give response, then considered reject recommendation written . If the parties agree recommendation written from the mediator, then in maximum time 3 days work , the mediator helps the parties make agreement together and registered to Court Industrial Relations . Meanwhile, if the parties or one of them party reject recommendation written so can submit lawsuit to Court Industrial Relations According to the jurisdiction of the parties.

b) Conciliation

I Try to Explain , Conciliation done For settlement dispute interests , layoffs and disputes between union work carried out by a neutral conciliator registered with the office responsible agency answer in the field employment district / city . The conciliator who handles be in the work area covering place worker work . The parties need submit request settlement in a way written to conciliator appointed and agreed upon . If through conciliation achieved agreement so made agreement together and registered in Court Industrial Relations at the District Court in the jurisdiction of the parties stage agreement together For get deed proof registration . However , if No achieved agreement so conciliator will emit recommendation written and answered by the parties whether agree or no . If the parties agree so will made agreement together and registered in Court Industrial Relations . In the case of one of the party No carry out agreement together , then injured party can submit application execution . While if the parties or one of them party reject recommendation written so can submit lawsuit to Court Industrial Relations .

c) Arbitration

Completion dispute through arbitration covering dispute interests and disputes between union worker in One Company. Arbitration is settlement dispute outside Court Industrial Relations through agreement written by the disputing parties For deliver settlement dispute to the arbitrator whose decision binding on the parties and is final. Furthermore , the parties make agreement arbitration and selecting a good arbitrator single and also the assembly that was held through appointment written . Dispute industrial relations through arbitration must completed in term 30 days time since appointment of an arbitrator, which may extended no later than 1 x 14 days Work on agreement of the parties . Settlement process dispute through arbitration started with reconcile the parties . If this happens agreement , then will made deed peace . If not so forwarded inspection until issued verdict .

Decision arbitration have strength law that binds the parties as well as nature final and permanent . Decision arbitration the Then registered in court Industrial Relations at the District Court in the arbitrator's area determines verdict . If the verdict arbitration No implemented , then can filed for fiat execution in Court Industrial Relations at the District Court in the area where position the party that must operate verdict . Need known that decision arbitration can submitted application cancellation to Supreme Court ("MA") no later than 30 days Work since decided with reason as listed in Article 52 paragraph (1) of the PPHI Law. However Thus , if dispute has completed through arbitration so No can submitted Again to Court Industrial Relations

c. Lawsuit to Court Industrial Relations

Based on explanation above , then lawsuit to Court Industrial Relations can submitted if effort tripartite which includes mediation and conciliation failed . However

No thus If dispute has completed through arbitration , because No can submitted Again to Court Industrial Relations . Things that can be done settled in court Industrial Relations are : at the level First For dispute rights and disputes PHK;in level first and last For dispute interests and disputes between union worker in One Company. This means that in dispute rights and disputes over termination of employment are still can submitted effort law more carry on that is through cassation to the Supreme Court. While For case dispute interests and disputes union worker in One Company No can submitted cassation to MA.

As for the applicable procedural law in Court Industrial Relations is civil procedure law on the environment justice general , except as regulated in a way special in the PPHI Law. For submit lawsuit dispute, filed to Court Industrial Relations at the District Court the law covering place worker work . Things that need to be done be noticed when submit lawsuit is as following : Must be attached treatise settlement through mediation or conciliation ; Full name and address or place position of the parties ; The main points the problem that becomes dispute or object lawsuit ; Documents , letters and other things that are considered necessary by the plaintiff . After lawsuit submitted , next will implemented inspection in accordance civil procedure law by the judge and will disconnected case the dispute with notice arguments of the parties , evidence and witnesses as material consideration the panel of judges decided case dispute .

d. Application lawsuit bankrupt employee to Company

Application lawsuit bankruptcy by employee is effort law carried out by workers or laborer For request that a company stated bankrupt Because No capable fulfil obligation financial , Bankruptcy is condition Where debtor No capable pay off his debt and not able to pay the creditor's debt Condition This often arise consequence difficulties in conditions business financial distress debtors who are in debt experience difficulty or Bankruptcy Nyaman , RS, & Dewi, CIDL (2023). The purpose of the crimping is effort distribution between creditors on riches debtor by the curator This process set up in Constitution Number 37 of 2004 concerning Bankruptcy and Suspension Obligation Debt Payment (Bankruptcy Law). Employees entitled submit application bankrupt If Company No capable pay rights they , including salary , severance pay , and benefits .

According to Hanif, (2020) argues that in context of law bankruptcy, court Commerce is courts that concentrate on commercial problems, especially trial bankruptcy. Explanation completes regarding procedures submission application lawsuit bankruptcy by employees. Conditions Submission Application Bankruptcy by Employees In accordance with Article 2 paragraph (1) of Law no. 37 of 2004, there is a few conditions that must be met fulfilled so that a company can stated bankrupt, including If lawsuit submitted by employee: Debts that can be The Company has debts that are due and payable. billed to employees, such as wages or severance pay that is not paid. More from One the Company's creditors have more from One creditors (for example, employees and suppliers) or party others. Not able to pay the Company's debts not capable of paying debt to employee. Employee in matter This considered as creditors concurrent (creditor) without guarantee), which means they own right For collect debt on rights those who have not paid. Authorized Party Submit Application .

e. Procedure Submission Lawsuit Bankruptcy

Submit Application to Court Trade that has jurisdiction in the area where Company the domiciled. The employees represented power the law submit application

in a way written with valid evidence that Company have debts that are due and not can paid, for example in the form of letter agreement Work or proof that Company No pay wages. In the application bankruptcy, employees must prepare and deliver a number of important pieces of information, namely:

- a) Basis for the lawsuit is explanation that Company have a debt to employees who are due and can billed However No paid.
- b) Identity employees or group employees who apply lawsuits.
- c) Identity the Company that will be stated bankrupt.
- d) Supporting evidence like proof agreement work, pay slip, or letter bill payment rights employees who do not pay. Proof in Court
- e) 20 days after the application is registered, implemented hearing inspection decision bankruptcy is declared no later than 60 days after date application bankruptcy.
- f) 30 days after decision stated bankrupt carried out meeting creditors and 14 he said bankrupt then the supervising judge must set: deadline submission bill, limit end verification tax, time and place Matching debt, curator reject / approve debt and Prepare a list of receivables temporary acknowledged and agreed copy 7 days before meeting Matching receivables

In the trial process, employees must prove that the Company have debts that are due and can be billed. Proof done through documents and witnesses . If the judge accepts proof and sure on the evidence presented in trial Court Commerce . So, the Company can state bankruptcy. After Company stated bankrupt, employee entitled get payment on rights they (like salary and severance pay) from results liquidation asset company. However, the position of employee as creditors concurrently means employees must wait for payment after creditors who have collateral (creditor separatists) accept payment.

CONCLUSION

Panel of Judges of the Court Industrial Relations at the Bandung District Court Class 1A Special with case register Execution Number: 21/ Ex -PHI/2021/Put/ PN.Bdg Jo. Number: 290/ Rev.Sus -PHI/2019/PN. Bdg July 27, 2021. Already take decision namely PT. DMMID is required to pay severance pay to PSK, etc. Payment Severance pay is right workers provided by the Company as compensation when termination work happens (PHK). Severance pay is forming protection social in connection work in Indonesia. Companies that refuse decision court Industrial Relations can submitted Bankruptcy by represented Employees power law for submit lawsuit to Court Commerce based on each jurisdiction so that there are True justice for the parties

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