



THE EXPANSION OF ABSOLUTE COMPETENCE IN INDUSTRIAL RELATIONS COURT (PHI) BY RESOLVING DISPUTES OVER TERMINATION OF EMPLOYMENT (PHK) AGAINST DECEASED WORKERS BASED ON THE PRINCIPLE OF JUSTICE

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Abstract:

Termination of Employment (PHK) is a central issue in industrial relations that often causes disputes between workers and employers. Based on article 61 paragraph 1 of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation. One of the forms of layoffs regulated is layoffs due to the death of workers, which legally causes the end of employment relations automatically (layoff by law). The death of a worker is also regulated in Government Regulation Number 35 of 2021 in article 36 letter o and is regulated in detail in Article 57 regarding the calculation of the rights obtained. This research uses normative juridical research. Based on this research, it can be concluded that the expansion of the absolute competence of the Industrial Relations Court (PHI) in handling disputes over termination of employment (PHK) due to the death of workers is a legal urgency that cannot be ignored. Although the employment relationship ends automatically (by law), facts in the field show that heirs often face administrative and juridical obstacles that cause delays in the fulfillment of workers' normative rights. This research confirms that PHI has the philosophical, juridical, and theoretical basis to be given explicit authority to resolve such disputes in order to ensure substantive justice and legal certainty for the heirs

Keywords:

Absolute competence; Justice; Worker

1. Introduction

Termination of Employment (PHK) is a central issue in industrial relations that often causes disputes between workers and employers. Based on article 61 paragraph 1 of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation. One of the forms of layoffs regulated is layoffs due to the death of workers, which legally causes the end of employment relations automatically (layoff by law). The death of a worker is also regulated in Government Regulation Number 35 of 2021 in article 36 letter o and is regulated in detail in Article 57 regarding the calculation of the rights obtained.

Although there are legal provisions governing layoffs due to the death of workers, in practice there are often disputes regarding the rights that must be given to the heirs of workers.[1] This shows that there is uncertainty in the implementation of these legal provisions, especially related to the calculation and provision of compensation to heirs. For example, Article 57 of Government Regulation No. 35/2021 states that in the event that the employment

relationship ends because the worker dies, the heirs shall be given an amount of money equal to twice the severance pay in Article 40 paragraph (2) of Government Regulation No. 35/2021, one time the long service award in Article 40 paragraph (3) of Government Regulation No. 35/2021, and compensation for rights in Article 40 paragraph (4) of Government Regulation No. 35/2021.[1]

However, in practice, there are still differences in interpretation and implementation of these provisions, which often lead to disputes that must be resolved through the Industrial Relations Court (PHI). PHI as a special judicial institution that handles industrial relations disputes has an important role in resolving layoff disputes, including those caused by the death of workers. However, the authority of PHI in handling cases of termination due to the death of workers is still a matter of debate, especially in relation to its absolute competence in adjudicating such cases.[2]

Juridically, the basis of PHI's authority is regulated in Law No. 2/2004 on Industrial Relations Dispute Resolution, specifically Article 55 which confirms that PHI is authorized to examine and decide four types of disputes, including termination of employment disputes. Disputes due to the death of workers involving their heirs in claiming normative rights are very relevant to be categorized as termination of employment disputes in the context of special civil procedural law. Therefore, normatively, PHI has a strong legal basis to handle such cases based on the principle of legality outlined in Law No. 2 Year 2004.

Theoretically, the existence of PHI is based on the theory of legal protection for workers in asymmetrical employment relationships. In industrial relations, workers are in a weaker position than employers, so a legal mechanism is needed that can provide effective protection. According to Philipus M. Hadjon, Legal Protection is the protection of human dignity and recognition of human rights owned by legal subjects based on legal provisions from arbitrariness, which is based on Pancasila and the concept of the rule of law.[3]

On the other hand, the interpretation of the absolute competence of PHI in the case of deceased workers still requires juridical and practical confirmation. In many cases, disputes not only concern the provision of compensation, but also related to who is legally entitled as the heir, how the process and mechanism of filing a lawsuit, and whether PHI can hear the lawsuit even though the worker has died. The absence of explicit norms in Law Number 2 Year 2004 regarding the settlement of cases of deceased workers has led to differences in decisions between courts, which has implications for legal uncertainty.

In court practice, there are often variations in jurisprudence regarding the filing of lawsuits by heirs on behalf of deceased workers. There are PHIs that reject the lawsuit because they consider the lawsuit void with the death of the worker subject, while other courts accept it by accommodating the lawsuit as a form of protection of inherited normative rights. This difference shows the weak harmonization of procedural law in the PHI environment, and emphasizes the urgency of juridical clarification in the context of absolute competence.[4]

Several cases of labor disputes caused by the death of workers and submitted by the heirs to PHI still continue to occur. However, not all cases are accepted by the court. One of them is the decision in the Industrial Relations Court in the city of Bandung in decision number: 171/PDT.SUS-PHI/2017/PN.BDG the case cannot be accepted on formal grounds because it is not in accordance with the provisions in the Manpower Law,[5] shows a weak understanding of the concept of standing to sue by the heirs. To limit the scope of the problem in this study, there are 1 (One) legal problem that will be answered in this study, namely: How is the concept of expanding the absolute competence of the Court in regulating the settlement of employment termination disputes for workers who die based on the principle of justice?

2. Methodology

This research uses normative juridical research.[6]

2.1. The Urgency of Expanding the Absolute Competence of the Industrial Relations Court

The urgency of expanding the competence of the Industrial Relations Court (PHI) in handling disputes over termination of employment (PHK) due to the death of workers is very important. Currently, the authority of the Industrial Relations Court is regulated in Law No. 2/2004 on Settlement of Industrial Relations Disputes, specifically Article 55 which confirms that the Industrial Relations Court is authorized to examine and decide four types of disputes, including employment termination disputes. However, in the case of deceased workers, problems often arise regarding the rights of heirs, such as severance pay, compensation, and employment social security benefits, which require legal certainty and justice for the parties concerned.

The expansion of PHI competence to handle layoff disputes due to the death of workers is in line with Article 28D paragraph (1) of the 1945 Constitution, which guarantees fair legal certainty for every citizen. In addition, Law Number 13 Year 2003 on Manpower, specifically Article 156, regulates workers' rights related to severance pay and other benefits in conditions of termination, including in the event of the death of a worker. However, in practice, there are differences in interpretation in the implementation of this regulation, so that the heirs of workers often experience difficulties in claiming their rights. Therefore, it is necessary to strengthen the role of PHI in providing legal certainty for the heirs of workers.

In some cases, heirs are faced with administrative and procedural obstacles in claiming their rights, especially when companies or employers are reluctant to fulfill their obligations. This situation is exacerbated by the absence of a specific mechanism that provides accessibility for heirs to file claims through competent judicial institutions. Currently, disputes related to the rights of deceased workers are more often resolved through general civil channels or through non-litigation mechanisms, such as mediation with the Manpower Office. However, these channels are often ineffective due to the lack of authority and strong execution mechanisms to ensure the rights of workers and their heirs are fulfilled.

In addition, strengthening the authority of PHI through labor law reform will have a positive impact on the business world. In the long run, the existence of a clearer and more effective dispute resolution mechanism will provide legal certainty for entrepreneurs, so that they can avoid prolonged conflicts that have the potential to disrupt business stability. Thus, the expansion of PHI's competence must be seen as a strategic investment in building a more just, sustainable, and legal certainty-oriented labor system.

2.2. Case Study Analysis of Court Decisions on the Authority of PHI on the Death of Workers

Legal protection of workers who die is a crucial issue in the national labor system, especially in the context of termination of employment (PHK) by law. This provision results in the end of the employment relationship without any active action from workers or employers, but in practice there are still many cases where the heirs have to fight for their rights through legal channels. This phenomenon reflects a regulative void that needs to be addressed through a systematic approach, especially through the expansion of the absolute competence of the Industrial Relations Court (PHI). The current legal system is still not responsive to the situation of deceased workers, who should be protected by the law without the need for a long trial process that makes it difficult for the family of the deceased.

The ambiguous legal norms in Articles 156 and 185 of the Job Creation Perppu have created uncertainty in practice. When legal norms do not provide clear guidance, then this loophole is often exploited by employers to delay or even avoid their legal obligations. This uncertainty contradicts the theory of legal certainty which states that the law should be predictable and consistently enforced. The reform of legal norms is a step that cannot be delayed if it is to provide certain and not merely procedural justice for the heirs of workers.

Nonet and Selznick's responsive law theory explains that the law must be able to adapt to the needs of society, especially marginalized groups such as the families of deceased workers. In this framework, a rigid and formalistic legal system will lose its meaning if it does not provide concrete benefits to society. Therefore, dispute resolution must pay attention to the substance of justice, not just procedural formalities. The law must move in harmony with social change and provide protection to those who cannot voice their own interests, including the heirs of workers.

The theory of authority is also important in this analysis, especially in assessing whether PHI has the authority to decide this kind of dispute. If the legal norms limit the authority only to active disputes, then there needs to be a reinterpretation of the scope of PHI's authority to be able to reach cases of workers dying. Legal attribution, delegation, and mandate must be directed to ensure substantive justice.

Decision 121 K/Pdt.Sus-PHI/2021 is a concrete example of the application of substantive justice in the case of workers who died and were not registered with BPJS. In this case, the panel of judges determined that the company was still obliged to pay the worker's rights even though there was no formal registration with the social security program. This approach reflects the application of the principle of corrective justice, which restores rights lost due to the negligence of the obliged party. Workers' rights are constitutional rights that should not be overlooked by administrative reasons; corrective justice should be a reference in similar jurisprudence. Decision 572 K/Pdt.Sus-PHI/2013 reinforces the concept that transformation of the employment relationship from PKWT to PKWTT occurs automatically due to contract continuity. This recognition is important in ensuring the protection of contract

workers who are vulnerable to structural exploitation. Based on principle of “substance over form”, a work relationship whose essence must still be considered as PKWTT even though it is formally called PKWT. This decision is an important foundation in emphasizing that the formality of the contract should not eliminate the essence of proper employment protection. In Decision 1270 K/Pdt.Sus-PHI/2022, the panel of judges imposed obligation to pay severance pay and salary shortages since 2014 to the worker's heirs. This shows that workers' normative rights are accumulative and are not waived just because they are not immediately demanded.[8] This concept is in line with the principle of “non-retroactive waiver of rights” in labor law, that workers' rights cannot be considered lost without a written statement or agreement. Workers' normative rights are part of basic economic rights, and should remain in force across time and circumstances if not fulfilled.

Decision 308 K/Pdt.Sus-PHI/2016 shows the role of mediation and the recommendation of the Disnakertrans in mediating layoff disputes due to the death of workers. The value of compensation provided based on the mediator's recommendation reflects the state's efforts through its administrative tools to bring justice. This concept is closely related to restorative justice, which is a conflict resolution approach that focuses on restoring the rights of the injured party. The strength of mediation recommendations should be legally strengthened so that they are not only recommendatory, but have the power of early execution.

Constitutional Court Decision No. 7/PUU-XII/2014 plays a strategic role in interpreting the constitutionality of the phrase “by law” in employment. The Court affirmed that the phrase is valid as long as there is an implementation mechanism that guarantees the protection of workers. This conditional constitutional interpretation brings national law closer to the principle of “due process of law”, where the exercise of rights must be accompanied by fair legal guarantees. The Constitutional Court must continue to play an active role in safeguarding the constitutionality of ambiguous work norms to ensure social justice.

2.3. Comparison of the Legal System of Industrial Relations Dispute Settlement Rules on the Death of Workers in the Netherlands

The Netherlands has a well-established labor law system that is oriented towards the protection of workers' rights. In the event of an industrial relations dispute due to the death of a worker, Dutch law regulates a balanced settlement mechanism between the interests of the worker's family, the company, and state institutions. This arrangement is contained in the provisions of Burgerlijk Wetboek (BW) or the Dutch Civil Code, especially Book 7 which regulates employment contracts. In this context, PHI settlements due to the death of workers are often related to the payment of unsettled rights and compensation for the death to the heirs.

One of the important provisions that form the basis of PHI settlement for deceased workers is Article 7:674 BW, which states that the employment contract will automatically terminate when the worker dies. However, the termination of the contract does not necessarily remove the employer's obligation to settle financial rights to the worker's family. In practice, the remaining salary, untaken holiday allowance, and death benefits must be paid.

Settlement of compensation disputes can be pursued through mediation or litigation. Mediation is generally conducted by labor agencies such as the Sociale Verzekeringsbank (SVB) and the UWV (Uitvoeringsinstituut Werknemersverzekeringen) who mediate between the worker's family and the employer. If mediation is unsuccessful, then the disputants can take the case to the Kantonrechter, the first instance labor court.

In the event that the worker dies as a result of a work accident, the PHI settlement becomes more complex as it will involve a safety investigation by the Inspectie SZW (Sociale Zaken en Werkgelegenheid), the Dutch labor inspection agency. If it is proven that the employer was negligent in providing a safe working environment, the company can be subject to criminal and civil sanctions. The rights of the heirs can also be expanded to include the right to compensation for loss of livelihood and psychological suffering.

According to Dutch law, the worker's heirs have legal standing to file a lawsuit against the company on the basis of default or tort (onrechtmatige daad). Dutch law also provides for social protection for the families of deceased workers through a compulsory insurance system, the ANW (Algemene nabestaandenwet) scheme administered by the government. This program provides benefits to the widow/widower and children left behind by the deceased worker. In the event of a dispute over entitlement to ANW, the family can file an administrative appeal to the SVB or appeal to an administrative court.

In practice, most industrial relations disputes over deceased workers in the Netherlands are settled out of court. The Dutch legal culture that emphasizes consensus and negotiation is an important factor in avoiding the escalation of

disputes into litigation. Therefore, companies will usually settle voluntarily by providing appropriate compensation to avoid bad reputation and long-term legal risks.

2.4. Mechanism for Expanding the Absolute Competence of the Industrial Relations Court

In the principle of criminal law, the ultimum remedium principle is known, which means that criminal law should be the last resort in resolving a legal problem after other legal efforts have not produced results. In the context of labor dispute resolution, civil and administrative law approaches are prioritized before taking the criminal route. This principle is relevant in resolving disputes relating to the rights of deceased workers, where non-litigation mechanisms such as mediation and industrial relations courts (Industrial Relations Court or PHI) should be prioritized before considering criminal sanctions against parties who fail to fulfill their obligations.

However, if all civil and administrative law mechanisms have been taken but the employer continues to ignore the fulfillment of the rights of deceased workers, then the last resort that can be taken is to take criminal action. Under certain conditions, employers who deliberately do not fulfill their obligations to the heirs of deceased workers can be charged with criminal provisions in Article 185 of Law Number 13 Year 2003 concerning Manpower.

In addition to the interpretative approach, regulatory changes through amendments or revisions to the PPHI Law can also be a solution to overcome the existing legal uncertainty. This regulatory update must be carried out through a mechanism in accordance with Law Number 12 of 2011 concerning the Formation of Legislation (UU P3), as amended by Law Number 13 of 2022. With this revision, PHI's authority in handling layoff disputes due to the death of workers can be more explicitly defined.

3. Conclusion

Based on this research, it can be concluded that the expansion of the absolute competence of the Industrial Relations Court (PHI) in handling disputes over termination of employment (PHK) due to the death of workers is a legal urgency that cannot be ignored. Although the employment relationship ends automatically (by law), facts in the field show that heirs often face administrative and juridical obstacles that cause delays in the fulfillment of workers' normative rights. This research confirms that PHI has the philosophical, juridical, and theoretical basis to be given explicit authority to resolve such disputes in order to ensure substantive justice and legal certainty for the heirs.

As a practical implication, this study recommends the reformulation of regulations, both through the revision of the PPHI Law and the issuance of SEMA or PERMA by Supreme Court, in order to strengthen legal legitimacy of PHI in this case of workers' death. In addition, a quick administrative mechanism is needed, such as a determination based on results of labor inspector's examination, so that the settlement process does not need to go through a long lawsuit. The implementation of this system is expected to create a labor system that is responsive, humanist, and in line with the values of Pancasila and the principles of social justice in the 1945 Constitution.

As a recommendation, the author proposes the establishment of a non-contestative legal determination mechanism by PHI for layoffs due to death of workers, so as not to burden the heirs with formal lawsuits. The flow system of procedures for resolving industrial relations disputes against deceased workers in order to realize the principle of fast, precise, fair and cheap, namely complaints and requests for calculation and determination of workers' rights by heirs to the Labor Inspectorate; calculation and determination from the labor inspectorate regarding severance pay, long service pay, and other rights; application for determination to the Industrial Relations Court; determination of the rights of deceased workers by the Industrial Relations Court Judge; and implementation of the determination by the employer.

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