



Juridical Review of Employment Agreements for Fixed and Indefinite Times from a UU Perspective No. 13 Year 2003 and UU Cipta Kerja (Case Study of the Verdict No.181/Pdt.Sus-Phi/2020/Pn.Mdn)

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Abstract: There are two types of employment agreement formation, namely PKWTT and PKWT. However, in its application, PKWT by companies has several things that are contrary to the regulations in the Employment Law and work agreements, therefore regulations related to employment are still hampered by various problems, obstacles and challenges that need to be faced and require a resolution process through the courts. In this case, normative juridical research methods are used in this research. Primary, secondary and tertiary legal materials are used as research legal materials. The employment relationship between employers and workers is based on a work agreement which is based on Law Number 13 of 2003 concerning Employment and the Job Creation Law.

Keywords: Employment Law, Job Creation Law, PKWT and PKWTT

1. Introduction

Talking about Industrial Relations, which at first glance seems simple, but in practice it often causes problems both between workers and employers and between workers and employers and the government (Fathurrahman, 2021), (Utama & SE, 2020). Often employers, for the benefit of the company, violate labor laws and regulations, including employers, transferring PKWTT to PKWT. Meanwhile, Article 58 clearly states that PKWTT cannot be transferred to PKWT in any way (Sari, 2018), (Muanam & Saija, 2019).

After the publication of regulations regarding Law no. 11 of 2020, the state, for the reason of opening up as many job opportunities as possible and attracting foreign investors to invest in Indonesia (Furqon, 2023), (Lukman & Malik, 2020), then issued the Job Creation Law so that PKWTT, which was previously not allowed to become PKWT, became permitted with the conditions as regulated in the law. work copyright law. Since 2004 through Law no. 2 of 2004, all disputes between workers and employers are resolved through the Industrial Relations court, if the resolution cannot be through Bipatriede negotiations between employers and workers and Tripatriede negotiations between employers and workers and the government (Yusuf & Myranika, 2021), .

The types of disputes consist of (Law No. 2 of 2004): Disputes that occur because one party does not carry out its obligations in the event of a violation of the rights regulated in employment law, in this case it is also called a rights dispute. Disputes that occur are caused by differences of opinion regarding changes that have previously been agreed upon, in this case they are also called disputes of interest (MUHAMMAD, 2022), (Sondakh, 2019). Disputes that occur due to differences of opinion regarding the termination of employment relations, in this case are also called employment termination disputes (PHK) (Tiara, 2024), (Dwihardiani, Rizal, & Natari, 2023). Disputes that occur are caused by the lack of a common opinion regarding membership, implementation of rights and obligations between trade unions, and other trade unions in a company (Zairudin, 2022), (Kurnia, 2022).

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Based on this background description, the author is interested in discussing it briefly and simply with the title "Juridical Review Of Employment Agreements For A Specified Time And Indefinite Time From The Perspective Of Law No. 13 Of 2003 And The Job Copyright Law". In the problem formulation, the author will explain the reasons why the problem raised in the research is considered interesting, important and needs to be researched. The issues that will be discussed in this paper are as follows (Pahleviannur et al., 2022), (Sugeng, 2022): What are the legal consequences that arise if PKWTT is transferred to PKWT when the employment relationship is terminated due to death according to Employment Law No. 13 of 2003? What are the requirements for PKWTT to become a PKWT according to the Job Creation Law no. 11 of 2020?. How do entrepreneurs apply the PKWTT law to become PKWT experts in the Case Study Decision No.181/Pdt.Sus-PHI/2020/PN.MDN?

The aim of this research is to find out what legal consequences arise if PKWTT is converted into PKWT according to Law no. 13 of 2003 (SIAHAAN, 2022), (DAME, 2022). To find out what conditions must be met if entrepreneurs want to convert PKWTT to PKWT according to Law no. 11 of 2020 concerning Job Creation. To find out how the PKWTT law was implemented which was transferred to PKWT in the Case Study of Decision No.181/Pdt.Sus-PHI/2020/PN.MDN (Febrianti, Sambah, & Seruni, 2023), (Rahim, n.d.).

2. Materials and Methods

This type of research uses normative juridical methods which refer to legal norms contained in statutory regulations (Pulungan & Ansorullah, 2022).

The nature of the research used is qualitative research, namely a research method that refers to legal norms contained in regulations, legislation, titles or topics as well as problems that arise from these topics through related case studies (Hasani, 2020).

By using a deductive thinking method (a way of thinking in drawing conclusions drawn from something of a general nature which has been proven to be correct and the conclusion is aimed at something of a specific nature).

The source of legal materials used is secondary data, namely obtaining data whose source has previously existed. Library research (library study) by collecting data contained in statutory regulations, books, and papers or articles related to the problem being researched using primary, secondary and tertiary legal materials.

Primary legal materials, according to Peter Mahmud Marzuki, are legal materials that are authoritative. Where in this case the primary legal materials consist of statutory regulations, official records, or minutes in the making of statutory regulations (Marzuki, n.d.).

Secondary legal materials, namely legal materials that support and strengthen primary legal materials, provide explanations of existing primary legal materials so that deeper analysis and understanding can be carried out. So in this research the secondary legal material consists of: (a) Explanation of statutory regulations used as primary legal material. (b) Reading literature books whose material substance supports this research. (c) Law Journal. (e) Court ruling

Tertiary legal materials, namely legal materials which are complementary in nature, provide instructions and explanations for primary and secondary legal materials.

Examples of tertiary legal materials include: Big Indonesian Dictionary (KBBI), encyclopedia, cumulative index and so on.

Secondary data collection techniques are obtained using library research (library study) and documents (decisions) by analyzing and studying library materials related to the problems in the research. In this research, researchers used data collection techniques through library research.

Data analysis is a process of organizing and using data in patterns, categories and basic units of description so that themes can be found and a problem formulation can be

formulated as suggested by the data. The purpose of data analysis is to describe data to draw conclusions.

In normative legal research, the purpose essentially means activities to systematize written legal materials, systematization which means making a classification of written legal materials to facilitate analysis and construction work. After that, all the data will be analyzed and systematized qualitatively, which means explaining in one's own words all the facts revealed from the data so as to produce a classification that is in line with the problems discussed in this research. The analysis technique of legal materials carried out by the author in this research is useful for obtaining answers to the main problem posed, namely "Judicial Review of Fixed-Term Employment Agreements and Indefinite-Term Employment Agreements from the Perspective of Law no. 13 of 2003 and the Job Creation Law" that emerged.

3. Results and Discussion

3.1 *Legal consequences that arise if PKWTT is transferred to PKWT when the employment relationship is terminated due to death according to Law No. 13 of 2003*

According to Article 58 of Law No. 13 of 2003, a work agreement for an indefinite period of time is an agreement between an entrepreneur and a worker where the nature of the work is unlimited, permanent and has no validity period. So the PKWTT remains in effect until the worker reaches the retirement age specified in the agreement, the employment relationship is terminated because the worker commits violations, the worker dies, the worker resigns and through a court decision stating the termination of the employment relationship.

3.2 *Legal Changes for Legalized PKWTT to PKWT According to Law no. 11 of 2020*

The Job Creation Law does not state a definition of PKWT and PKWTT, but the definition of PKWT is explained in Law no. 13 of 2003. According to Law No. 13 of 2003, PKWT can only be carried out for certain work whose type, nature and nature of activities will be completed within a certain time and is temporary and the nature of the work is limited to 3 years. The work is seasonal or the work is related to new products, new activities or additional products that are still being tested or explored.

Then by Law number 11 of 2020 PKWTT is legalized or PKWT can be created with the following conditions: (a) Maximum Contract Period: In PKWT the maximum contract period is 5 years and can be extended once with a maximum time limit of 2 years. (b) Determining Clear Reasons: Employers are required to provide clear reasons regarding the use of PKWTT to become PKWT, such as seasonal work or work that requires special skills. (c) Age Requirement: The Job Creation Law states that employers may not use PKWTT for workers who have not reached the age of 18 years.

3.3 *Application of Law in Case Study Decision No.181/Pdt.Sus-PHI/2020/ PN.MDN*

That on February 24 2020 the victim, named the late. Erwinsyah Putra suffered a serious work accident. Where the victim while working fell from a height of approximately 1.5-2m which resulted in the victim having a seizure and being unconscious for approximately 3 hours so he was rushed to Imelda Hospital. After arriving at the hospital, the victim was taken to the ICU with decreased consciousness, restlessness and vomiting. While the victim is being treated at the RSU. Indonesian worker Imelda, the

victim's condition has not changed at all. Where the condition experienced by the victim is getting worse. Until February 27 2020, the victim could no longer be saved and was declared dead. So from the incident above, Sri Utami Tanjung (Plaintiff) as the heir of the late Erwinsyah Putra filed a lawsuit against the CV Sake Engineering company (Defendant) at the Medan District Court for basis of employment relations disputes in industrial relations disputes carried out by the Defendant. From the lawsuit filed by Sri Utami Tanjung (Plaintiff) as the heir of the late Erwinsyah Putra demanding his rights.

In the case study Decision No.181/Pdt.Sus-PHI/2020/PN.MDN the court stated that, despite the previous work agreement, the employer had entered into a PKWT work agreement that the Plaintiff was an Indefinite Time Worker (PKWTT). That in the case above, the CV.Sake Engineering company did not apply the principles or procedures in accordance with applicable labor law provisions.

In his legal considerations, the judge stated that the PKWT made by the entrepreneur had violated Article 58 of Law No. 13 of 2003 so that the panel of judges made the following decision: (a) States that the employment relationship between the Plaintiff and the Defendant is not a Definite Time Work Agreement (PKWT) but an Indefinite Time Work Agreement (PKWTT). (b) Declaring the termination of employment relations since the death of the late Erwinsyah Putra on February 27 2020. (c) Sentencing the Defendant to pay cash to the heirs Severance Pay,

Service Period Award Money, and Change of Rights Money 2 (two) Ministerial Decree. The details are as follows:

Severance pay

$2 \times 9 \times \text{Rp.}3,222,556.00 = \text{Rp.} 58,006,008.00$

Long Service Award

$3 \times \text{Rp.} 3,222,556.00 = \text{Rp.} 9,667,668.00$

Replacement of Rights

$15\% \times \text{Rp.} 67,673,676.00 = \text{Rp.}10,151,051.00+$

TOTAL Rp. 77,824,727.00

(seventy seven million eight hundred twenty four thousand seven hundred twenty seven rupiah).

4. Conclusion

Even though employers make work agreements for a certain period of time with workers by transferring them from PKWTT to PKWT, as long as they do not fulfill the requirements, they are considered null and void and from the beginning they are considered PKWTT. In Law No. 11 of 2020, although the nature of the work is for an indefinite period of time, it can be transferred to be for a specified period of time with the following conditions: Maximum Contract Period of 5 years and can be extended once with a maximum period of 2 years. Entrepreneurs are required to provide clear reasons regarding the use of PKWTT to become PKWT. Requirements: The age of workers/laborers must reach the age of 18 years. The judge granted the plaintiff's lawsuit (the heirs of the late Erwinsyah) with the consideration that the PKWT made by the entrepreneur and the workers/laborers violated the applicable provisions, namely article 58 of Law No. 13 of 2013. So the judge granted the lawsuit and defeated CV. SAKE and fulfill their rights.

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