

TINJAUAN YURIDIS TERHADAP UPAH PROSES DALAM PUTUSAN PERKARA HUBUNGAN INDUSTRIAL NOMOR 18/Pdt.Sus-PHI/2020/PN.Yyk

INTISARI

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Penelitian ini bertujuan untuk mengetahui dan menganalisis pengaturan upah proses dalam Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan dan SEMA No. 3 Tahun 2015 tentang Pemberlakuan Rumusan Hasil Rapat Pleno Kamar Mahkamah Agung Tahun 2015 Sebagai Pedoman Pelaksanaan Tugas Bagi Pengadilan. Di dalam perjalanannya pada saat tesis ini dibuat hadir Undang-Undang Nomor 6 Tahun 2023 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 tentang Cipta Kerja menjadi Undang-Undang. Tujuan lain dari penelitian ini adalah untuk mengetahui dan menganalisis pertimbangan majelis hakim dalam putusan perkara Nomor 18/Pdt.Sus-PHI/2020/PN.Yyk yang tidak mengabulkan permohonan mengenai upah proses.

Penelitian ini merupakan penelitian hukum normatif empiris yang bersifat deskriptif. Penelitian dilakukan melalui penelitian kepustakaan untuk mendapatkan data sekunder atas berbagai bahan hukum baik primer, sekunder dengan alat berupa studi dokumen. Penelitian empiris dilakukan melalui penelitian lapangan dengan cara wawancara dengan subjek penelitian dengan alat berupa pedoman wawancara. Data hasil penelitian di analisis secara kualitatif dan disajikan secara deskriptif.

Hasil penelitian menunjukan pertama, pengaturan upah proses di dalam Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan mewajibkan pembayaran upah proses selama perselisihan hubungan industrial maksimal selama 6 (enam) bulan. Sedangkan di dalam Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja mengenai pembayaran upah proses dilakanakan hingga penyelesaian perselisihan hubungan industrial selesai sesuai tingkatannya. Kedua, pertimbangan majelis hakim dalam putusan Nomor 18/Pdt.Sus-PHI/2020/PN.Yyk tidak mengabulkan permohonan upah proses yang diajukan pekerja. Di dalam hasil penelitian ini, majelis hakim seharusnya berpedoman UU No. 13 Tahun 2003 dengan menghukum pengusaha untuk membayar upah proses selama 6 (enam) bulan, terlepas dari apakah pekerja/buruh tersebut melaksanakan pekerjaan atau sedang dalam skorsing yang dilakukan oleh pengusaha.

Kata Kunci : Upah Proses, Pengusaha, Pekerja/Buruh, Pemutusan Hubungan Kerja, Hubungan Industrial.

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***JURIDICAL REVIEW OF “UPAH PROSES”
IN THE VERDICT OF INDUSTRIAL RELATIONS CASES
NUMBER 18/Pdt.Sus-PHI/2020/PN.Yyk***

ABSTRACT

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This study aims to identify and analyze the payment of wage during termination process “upah proses” regulation in Law Number 13 of 2003 on Manpower and Supreme Court Circular Letter (SEMA) Number 3 of 2015 on Enforcement of the Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber of 2015 as a Guideline for the Implementation of Duties for the Court. When this thesis was written, the government issued Law Number 6 of 2023 on Stipulation of Government Regulation in lieu of Law Number 2 of 2022 concerning Job Creation to become a law. Another objective of this research is to find out and analyze the considerations of the panel of judges in their decision not to grant the “upah proses” applications in case Number 18/Pdt.Sus-PHI/2020/PN.Yyk.

This research is an empirical normative legal research that has a descriptive characteristic. The research was conducted through library research to obtain secondary data on various legal materials, both primary and secondary, using a tool in the form of document study. Empirical research was carried out through field research by means of interviews with research subjects using tools in the form of interview guides. The research data were analyzed qualitatively and presented descriptively.

The results of the study show that first, the “upah proses” arrangement in Law Number 13 of 2003 and Supreme Court Circular Letter Number 3 of 2015 requires payment of “upah proses” during industrial relations disputes for a maximum of 6 (six) months. Whereas in Law Number 6 of 2023 on Stipulation of Government Regulation in lieu of Law Number 2 of 2022 concerning Job Creation to become a law, regarding “upah proses” the process is continued until the settlement of industrial relations disputes is completed according to its level. Second, the panel of judges in verdict Number 18/Pdt.Sus-PHI/2020/PN.Yyk did not grant the “upah proses” applications submitted by workers/laborer. In the results of this study, the panel of judges should have been guided by Law Number 13 of 2003 and Supreme Court Circular Letter Number 3 of 2015 by punishing employers to pay “upah proses” for 6 (six) months, regardless of whether the worker/laborer is carrying out work or is under suspension by the employer.

Keywords: “Upah Proses”, Employer, Worker/Laborer, Termination of Employment, Industrial Relation.

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