

JURIDICAL ANALYSIS OF THE SETTLEMENT OF DISPUTES ARISING FROM LAYOFFS

**(A Case Study of the Court Verdict Number: 15/PDT.SUS-PHI/2014/PN.GS
of the Industrial Relations Court at the District Court of Gresik)**

ABSTRACT

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The discussion about layoff settlement from the perspective of the Law Number 13 of 2003 concerning Manpower (a case study of the court verdict number: 15/PDT.SUS-PHI/2014/PN.GS of the Industrial Relations Court at the District Court of Gresik) aims to determine and analyze layoff settlement and considerations used by judges to arrive at a verdict against disputes arising from layoffs.

This is empirical and normative research. The normative research was conducted through library research to gather secondary data on various legal materials by means of document studies. The empirical legal research was conducted through field research to obtain primary data through interviews with research subjects, namely respondents and resource persons, based on semi-structured interview guidelines. The data obtained from the library research and field research were analyzed qualitatively. Results of the analysis were presented descriptively so as to illustrate solutions to the problems under study.

Findings of the research suggest that the ways the Defendant settled the layoffs from the perspective of the Law concerning Manpower do not comply with Article 151 paragraphs (1), (2), and (3) thereof as they were not preceded by negotiation between the parties, in addition to the absence of a verdict from the Agency for Industrial Relations Dispute Settlement. As for the process of layoff settlement, it was done in compliance with the provisions set forth in the Law Number 2 of 2004 concerning Industrial Relations Dispute Settlement, from bipartite negotiation, mediation, to submission of a lawsuit to the Industrial Relations Court. The Panel of Judges of the Industrial Relations Court of the District Court of Gresik in connection with their legal consideration viewed that the fixed-term employment contract was already valid based on the Law concerning Manpower in conjunction with Article 1320 of the Civil Code. In connection with the rights of the Plaintiff because of such layoffs as a result of expiration of the fixed-term employment contract, the Plaintiff shall be entitled to compensation equal to the sum of salaries the Plaintiff earns since the date of dismissal, i.e. October 9, 2013 to the date of expiration of the fixed-term employment contract, i.e. March 31, 2015 or equal to 18 (eighteen) months' salary.

Keywords: Industrial Relations Dispute, Layoff, Industrial Relations Court

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**ANALISIS YURIDIS MENGENAI PENYELESAIAN PERSELISIHAN
PEMUTUSAN HUBUNGAN KERJA
(Studi Kasus Pada Putusan Perkara Nomor: 15/PDT.SUS-PHI/2014/PN.GS
di Pengadilan Hubungan Industrial Pengadilan Negeri Gresik)**

INTISARI

Oleh

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Pembahasan mengenai penyelesaian PHK ditinjau dari Perspektif Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan (Studi Putusan Pada Putusan Perkara Nomor: 15/PDT.SUS-PHI/2014/PN.GS di Pengadilan Hubungan Industrial Pengadilan Negeri Gresik) adalah untuk mengetahui dan mengkaji penyelesaian PHK dan pertimbangan Hakim dalam membuat putusan mengenai sengketa PHK.

Penelitian ini bersifat normatif empiris. Penelitian normatif dilakukan melalui penelitian kepustakaan untuk mendapatkan data sekunder atas berbagai bahan hukum dengan cara studi dokumen. Penelitian hukum empiris dilakukan dengan penelitian lapangan untuk mendapatkan data primer melalui wawancara dengan subyek penelitian, baik responden maupun narasumber dengan menggunakan pedoman wawancara yang disusun secara semi terstruktur. Data dari hasil penelitian kepustakaan dan lapangan dianalisis secara kualitatif. Hasil analisis disajikan secara deskriptif sehingga menggambarkan jawaban permasalahan atas permasalahan yang dibahas.

Hasil dari penelitian menunjukkan bahwa penyelesaian PHK ditinjau dari Perspektif Undang-Undang Ketenagakerjaan PHK yang dilakukan oleh Tergugat adalah tidak sesuai dengan Pasal 151 ayat (1) ayat (2) dan ayat (3) Undang-Undang Ketenagakerjaan, karena tidak dilakukan perundingan terlebih dahulu oleh para pihak serta tidak adanya Penetapan dari Lembaga PPHI, untuk proses penyelesaian PHK telah sesuai dengan ketentuan yang diatur dalam Undang-Undang Nomor 2 Tahun 2004 tentang PPHI, yaitu mulai dari perundingan bipartit, mediasi hingga akhirnya diajukannya gugatan ke Pengadilan Hubungan Industrial. Majelis Hakim Pengadilan Hubungan Industrial Pengadilan Negeri Gresik dalam pertimbangan hukumnya melihat bahwa PKWT tersebut sudah sah berdasarkan Undang-Undang Ketenagakerjaan jo. Pasal 1320 KUHPerduta. Hak-hak Penggugat akibat PHK karena berakhirnya PKWT, Penggugat berhak mendapatkan ganti rugi sebesar upah pekerja mulai sejak diputus hubungan kerja pada tanggal 09 Oktober 2013 sampai dengan tanggal berakhirnya Perjanjian Kerja Waktu Tertentu, yaitu tanggal 31 Maret 2015 atau sebanyak 18 (delapan belas) bulan upah

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