

PERLINDUNGAN HUKUM TERHADAP PEGAWAI NON PEGAWAI NEGERI SIPIL PADA BADAN LAYANAN UMUM DAERAH (BLUD) RUMAH SAKIT JIWA GRHASIA

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INTISARI

Penelitian ini bertujuan untuk mengetahui dan menganalisis kedudukan pegawai non Pegawai Negeri Sipil pada Badan Layanan Umum Daerah berdasarkan Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan dan Undang-Undang Nomor 5 Tahun 2014 tentang Aparatur Sipil Negara serta perlindungan hukum preventif yang diberikan Rumah Sakit Jiwa Grhasia terhadap pegawai non Pegawai Negeri Sipil di lingkungannya.

Penelitian ini bersifat normatif empiris, yaitu selain melakukan penelitian kepustakaan untuk memperoleh data sekunder, juga melakukan penelitian lapangan untuk memperoleh data primer. Penelitian kepustakaan dilakukan melalui studi pustaka dengan menelaah buku-buku, laporan, penelitian, dan peraturan perundang-undangan. Penelitian lapangan dilakukan melalui wawancara dengan responden menggunakan pedoman wawancara. Selanjutnya, data yang diperoleh dianalisis secara kualitatif dan hasilnya disampaikan secara deskriptif.

Hasil penelitian menunjukkan bahwa: *Pertama*, berdasarkan penafsiran historis, penafsiran sistematis, dan teori tindakan hukum pemerintah, hubungan hukum antara pegawai non Pegawai Negeri Sipil dengan Badan Layanan Umum Daerah (BLUD) lebih tepat jika diatur menggunakan hukum privat atau hukum ketenagakerjaan. Selanjutnya, pegawai non Pegawai Negeri Sipil pada Badan Layanan Umum Daerah (BLUD) tidak dapat dipersamakan dengan Pegawai Pemerintah dengan Perjanjian Kerja (PPPK) karena tidak memenuhi syarat formal pengadaannya, sehingga tidak memiliki kedudukan yang jelas dalam UU ASN. *Kedua*, perlindungan hukum preventif terhadap pegawai non Pegawai Negeri Sipil telah dilaksanakan Rumah Sakit Jiwa Grhasia dengan baik, namun masih ditemukan kelemahan dalam hal penggunaan dua jenis hukum dalam mengatur hubungan kerja dan ketidakpastian masa depan status pegawai kontrak non PNS.

Kata kunci: perlindungan hukum, pegawai non PNS, badan layanan umum daerah, aparatur sipil negara

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***LEGAL PROTECTION TOWARDS NON CIVIL SERVANT EMPLOYEES IN
THE REGIONAL PUBLIC SERVICE AGENCY GRHASIA MENTAL
HOSPITAL***

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ABSTRACT

This study aims to determine and analyze the position of non civil servant employees at the Regional Public Service Agency based on Law Number 13 Year 2003 concerning Manpower and based on Law Number 5 Year 2014 concerning Civilian State Apparatus and preventive law protection provided by the Mental Hospital Grhasia against non civil servants employees in their neighbourhood.

This research is normative empirical, that is beside doing library research to obtain secondary data, also doing field research to obtain primary data. Library research is done through literature study by reviewing books, reports, research, and legislation. Field research conducted through interviews with respondents using interview guidelines. Furthermore, the data obtained were analyzed qualitatively and the results were presented descriptively.

The results show that: First, based on historical interpretation, systematic interpretation, and theory of government legal action, the legal relationship between non civil servant employees and the Regional Public Service Agency is more appropriate if it is governed by private law or labor law. Furthermore, non civil servant employees at the Regional Public Service Agency can not be equalized with Government Employees by Employment Contract because they do not meet the formal requirements of procurement, so do not have a clear position in the Civilian State Apparatus Act. Secondly, preventive legal protection against non civil servant employees has been implemented by Grhasia Mental Hospital quite well, but there are some weakness found in terms of the use of two types of law in regulating the employment relationship and future uncertainty of non civil servant contract employees status.

Keyword: legal protection, non civil servants employees, regional public service agency, civil state apparatus

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