

**PERLINDUNGAN HAK-HAK PEKERJA PADA PERUSAHAAN YANG
DINYATAKAN PAILIT DITINJAU DARI ASPEK KEADILAN DAN
KEPASTIAN HUKUM PASCA PUTUSAN MAHKAMAH
KONSTITUSI NO 67/PUU-XI/2013**

INTISARI

Oleh:

Agus Joko Purnomo¹, Murti Pramuwardani Dewi²

Penelitian ini bertujuan untuk mengetahui dan menganalisis mengenai perlindungan hak-hak pekerja PT STP yang dinyatakan pailit ditinjau dari aspek keadilan dan kepastian hukum pasca Putusan MK No 67/PUU-XI/2013 dan perlindungan posisi pekerja dalam kepailitan menurut peraturan perundang-undangan yang berlaku.

Penelitian hukum ini bersifat deskriptif dengan dua pendekatan normatif-empiris, dengan jenis penelitian kepustakaan menggunakan data sekunder berupa bahan hukum primer, sekunder, kemudian penelitian lapangan dengan melakukan pengamatan secara langsung untuk memperoleh data primer. Teknik pengambilan sampel dengan *nonprobability* dengan jenis *purposive sampling* dan cara pengambilan sampel kepustakaan dengan studi dokumen, sedangkan penelitian lapangan dengan wawancara dengan alat pedoman wawancara, kemudian analisa yang digunakan analisa kualitatif kemudian disimpulkan dengan metode induktif.

Bahwa berdasarkan hasil penelitian dapat disimpulkan bahwa Putusan MK Nomor 67/PUU-XI/2013 hanya melindungi upah, dan mantan pekerja PT STP juga sudah mendapatkan upah. Putusan MK Nomor 67/PUU-XI/2013 belum sepenuhnya memberikan perlindungan secara adil kepada pekerja dilihat pekerja masih menuntut selain upah kepada pihak perusahaan maupun pihak kurator. Dilihat dari aspek kepastian hukum juga belum tercapai, dan belum adanya konsistensi Putusan-Putusan hakim dan administrasi pemerintahan yang masih banyak dan menimbulkan permasalahan. Perlindungan posisi pekerja dalam kepailitan belum diatur secara jelas, namun posisi kreditor pada dasarnya sama dalam kepailitan termasuk posisi pekerja yang memiliki hak *previlage*, atau memiliki hak mendahului sesuai Pasal 1133 KUH Perdata dan memiliki hak istimewa yang oleh Undang-Undang diberikan kepada kreditor Pasal 1134 KUH Perdata, sehingga pekerja memiliki posisi yang perlindungannya harus diperhatikan sesuai perintah Peraturan Perundang-Undangan yang berlaku. Selain kurator yang melindungi posisi pekerja adalah anggota Direksi dalam Perseroan.

Kata kunci: Perlindungan Hak-hak Pekerja, Perusahaan Dinyatakan Pailit, Aspek Keadilan dan Kepastian Hukum, Putusan MK No 67/PUU-XI/2013.

¹ Mahasiswa Magister Hukum, Konsentrasi Hukum Bisnis, Fakultas Hukum, Universitas Gadjah Mada, Yogyakarta.

² Dosen Hukum Perdata, Fakultas Hukum, Universitas Gadjah Mada, Yogyakarta.

**PROTECTION OF WORKERS RIGHTS IN COMPAINES THAT ARE
DECLARED BANKRUPT JUDGING FROM ASPECTS OF JUSTICE AND
LEGAL CERTAINLY POST THE CONSTITUTIONAL CORT RULING
NUMBER 67 / PUU-XI / 2013**

ABSTRACT

By:

Agus Joko Purnomo³ Murti Pramuwardani Dewi⁴

This research aims to find out analyzing the protection of the rights of PT STP workers who were declared bankrupt in terms of justice and legal certainty after the Constitutional Court Decision Number 67 / PUU-XI / 2013 and the protection of the position of workers in bankruptcy according to the applicable legislation.

This legal research is descriptive with two normative-empirical approaches, with the type of library research using secondary data in the form of primary, secondary and tertiary legal materials, then field research by conducting direct observations to obtain primary data. Sampling techniques with nonprobability with the type of perposive sampling and the way of library sampling with document studies while field research with interviews with interview guidance tools, then the analysis used qualitative analysis is then concluded by inductive methods.

The results of this research of the study it can be concluded that the Constitutional Court Decision Number 67 / PUU-XI / 2013 only protects wages, and former PT STP workers have also received wages. MK Decision Number 67 / PUU-XI / 2013 has not fully provided fair protection to workers seen by workers still demanding other than wages to the company and the curator. Judging from the aspect of legal certainty, there has also been no consistency in the decisions of judges and government administration which are still numerous and cause problems. The protection of workers' positions in bankruptcy has not been clearly regulated, but the position of creditors is basically the same in bankruptcy including the position of workers who have the right of privilege, or have the right to overtake in accordance with Article 1133 of the Civil Code and have special rights which the Law gives to creditors Civil Code, so that workers have positions that protect them must be considered in accordance with the applicable legislation. In addition to the curator who protects the position of the worker is a member of the directors in the Company.

Keywords: Protection of Workers' Rights, Companies Declared Bankruptcy, Justice and Legal Certainty Aspects, Decision of the Constitutional Court Number 67 / PUU-XI / 2013.

³ Student of Post Graduate Program, Business Law Major, Faculty of Law, Gadjah Mada University, Yogyakarta.

⁴ Lecturer of Private Law, Faculty of Law, Gadjah Mada University, Yogyakarta