

TINJAUAN YURIDIS PEMUTUSAN HUBUNGAN KERJA DENGAN ALASAN EFISIENSI TANPA PERUSAHAAN TUTUP PERMANEN DALAM PUTUSAN MAHKAMAH AGUNG NO. 830 K/PDT.SUS-PHI/2019

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INTISARI

Tujuan penelitian ini yaitu untuk mengetahui dan menganalisis (1) dasar hukum pertimbangan hakim dalam memutuskan putusan Mahkamah Agung No. 830 K/Pdt.Sus-PHI/2019 tentang perselisihan hubungan industrial ditinjau dari putusan Mahkamah Konstitusi No. 19/PUU-IX/2011 tentang uji materiil Pasal 164 ayat (3) Undang-Undang No. 13 Tahun 2003 tentang Ketenagakerjaan, (2) akibat hukum putusan Mahkamah Agung No. 830 K/Pdt.Sus-PHI/2019 yang tidak mengacu pada putusan Mahkamah Konstitusi No. 19/PUU-IX/2011 sebagai dasar hukum ditinjau dari asas kepastian hukum.

Penelitian ini merupakan penelitian normatif yang dilakukan dengan studi pustaka terhadap bahan hukum primer, bahan hukum sekunder dan bahan hukum tersier. Penelitian ini juga didukung dengan wawancara narasumber kepada akademisi di bidang hukum ketenagakerjaan dan hakim Pengadilan Hubungan Industrial. Teknik pengumpulan data dalam studi kepustakaan dengan cara menelusuri, meneliti dan mengkaji bahan-bahan hukum, sedangkan untuk pengumpulan data dengan wawancara digunakan pedoman wawancara yang terstruktur. Analisis data menggunakan analisis kualitatif.

Hasil penelitian menunjukkan bahwa putusan Mahkamah Agung No. 830 K/Pdt.Sus-PHI/2019 telah mengabaikan putusan Mahkamah Konstitusi No. 19/PUU-IX/2011 yang mana seharusnya Pasal 164 ayat (3) UU Ketenagakerjaan inkonstitusional bersyarat dan frasa perusahaan tutup harus diartikan perusahaan tutup permanen. Akibat hukum atas putusan Mahkamah Agung No. 830 K/Pdt.Sus-PHI/2019 adalah tetap dianggap benar sebagaimana asas *res judicata pro veritate habetur*, akan tetapi putusan tersebut tidak mengakomodir kepastian hukum karena telah mengabaikan putusan Mahkamah Konstitusi No. 19/PUU-IX/2011. Apapun alasan hakim mengadili berdasarkan asas kepastian hukum, asas keadilan dan asas kemanfaatan, akan tetapi jika putusan itu mengabaikan putusan Mahkamah Konstitusi yang bersifat *final* dan *binding*, maka putusan hakim tersebut tidak mengakomodir kepastian hukum.

Kata Kunci: Pemutusan Hubungan Kerja, Efisiensi, Perusahaan Tutup.

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***JURIDICAL REVIEW OF LAID OFF BECAUSE OF EFFICIENCY
REASONS WITHOUT THE COMPANY PERMANENTLY CLOSED IN THE
DECISION OF THE SUPREME COURT NO. 830 K/PDT.SUS-PHI/2019***

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ABSTRACT

This research aims to identify and analyze (1) the legal basis for judges' considerations in deciding the Supreme Court decision No. 830 K/Pdt.Sus-PHI/2019 regarding industrial relations disputes in terms of the decision of the Constitutional Court No. 19/PUU-IX/2011 concerning judicial review of Article 164 paragraph (3) of Law No. 13 of 2003 concerning Labor, (2) due to the law of the Supreme Court decision No. 830 K/Pdt.Sus-PHI/2019 which does not refer to the Constitutional Court decision No. 19/PUU-IX/2011 as a legal basis in terms of the principle of legal certainty.

This research is a normative study conducted with a literature study of primary legal materials, secondary legal materials, and tertiary legal materials. This research is also supported by interviewing sources with academician of labor law and judges at the Industrial Relations Court. The technique of collecting data in the literature study is by tracing, researching, and reviewing legal materials, while for data collection through interviews, structured interview guidelines are used. Data were analyzed using qualitative analysis.

*The results showed that the decision of the Supreme Court No. 830 K/Pdt.Sus-PHI/2019 has ignored the Constitutional Court decision No. 19/PUU-IX/2011 in which Article 164 paragraph (3) of the Labor Law is conditionally constitutional and the phrase "company is closed" must mean the company is permanently closed. Legal consequences for the decision of the Supreme Court No. 830 K/Pdt.Sus-PHI/2019 is still considered correct as the principle of *res judicata pro veritate habetur*, however this decision does not accommodate legal certainty because it has ignored the Constitutional Court decision No. 19/PUU-IX/2011. Whatever the reasons for judges to judge based on the principle of legal certainty, the principle of justice, and the principle of purposiveness, if the decision ignores the Constitutional Court decision which is final and binding, then the judge's decision does not accommodate legal certainty.*

Keywords: *Laid Off, Efficiency, Company Closed.*

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