

**PERLINDUNGAN HUKUM TERHADAP TENAGA KERJA YANG
DIPUTUS HUBUNGAN KERJANYA OLEH PT. FREEPORT
INDONESIA
(STUDI PUTUSAN MA NOMOR : 779 K/PDT.SUS-PHI/2020)**

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ABSTRAK

Tujuan penelitian ini adalah untuk mengetahui dan menggambarkan perlindungan hukum terhadap tenaga kerja yang di-PHK oleh PT. Freeport Indonesia dan bagaimana perbedaan Putusan Majelis Hakim PHI tingkat pertama dengan Putusan tingkat kasasi dalam perkara *aquo*.

Jenis penelitian ini normatif-empiris yakni mengkaji pelaksanaan dan implementasi ketentuan hukum ketenagakerjaan secara faktual dalam Putusan MA No.779K/Pdt.Sus-PHI/2020. Data yang digunakan adalah data sekunder, bersumber dari peraturan perundang-undangan dan Putusan PHI serta teori atau pendapat para ahli. Metode pengumpulan data melalui studi kepustakaan dan studi kasus. Pendekatan penelitian undangan (*statute approach*) dan pendekatan *judicial case study*. Analisa data dilakukan secara kualitatif.

Hasil penelitian, perlindungan tenaga kerja dalam proses penyelesaian perselisihan PHK dengan PT. Freeport telah melalui semua tahapan yakni, bipartit, mediasi dan pengadilan sesuai UU PPHI. Kendalanya ada pada kewenangan relatif PHI yang meliputi daerah hukum provinsi Jayapura, sehingga faktor jarak dan ongkos menghambat tenaga kerja untuk hadir mempertahankan hak-haknya di PHI. Asas peradilan sederhana telah diterapkan di tingkat kasasi. Asas peradilan cepat belum terpenuhi di tingkat mediasi, di PHI tingkat pertama dan kasasi, sebab melebihi batas waktu yang ditentukan UU PPHI. Asas peradilan biaya ringan pada dasarnya telah terpenuhi, biaya perkara dibebankan kepada Negara sesuai Pasal 58 UU PPHI. Perlindungan tenaga kerja atas hak-hak normatifnya akibat PHK dalam kasus *aquo*, terdapat perbedaan antara Putusan PHI tingkat pertama dengan Putusan tingkat kasasi, meskipun sama-sama menyatakan PKB dan PHI PT FI 2015-2017 serta PKB dan PHI PT FI 2017-2019 adalah sah dan berlaku mengikat bagi para pihak. Majelis Hakim tingkat pertama lebih mengutamakan asas legalitas dengan menetapkan tenaga kerja di PHK karena dikualifikasikan mengundurkan diri telah memenuhi PKB jo. Pasal 168 ayat (1), (2) dan (3) UUK, dan berhak atas uang penggantian hak sesuai Pasal 156 ayat (4) dan uang pisah. Majelis Hakim kasasi berpendapat lain, PHK belum memenuhi ketentuan Pasal 168 ayat (2) UUK karena pengusaha belum melakukan pemanggilan secara patut dan sah terhadap tenaga kerja sebanyak 2 kali, sehingga tenaga kerja tidak dapat dikualifikasikan mengundurkan diri. Majelis Hakim kasasi mengutamakan asas keadilan dengan membatalkan Putusan PHI tingkat pertama dan memutus berdasarkan keadilan (*ex aequo et bono*), dengan menghukum pengusaha membayar hak-hak tenaga kerja berupa uang pesangon, uang penghargaan masa kerja, dan uang penggantian hak sesuai Pasal 156 ayat (2), (3) dan (4) UUK.

Kata Kunci : Tenaga kerja, Pemutusan Hubungan Kerja, Perlindungan Hukum, Putusan Hakim, Pengadilan Hubungan Industrial.

**LEGAL PROTECTION OF WORKER WHO HAS BEEN LAID OFF BY PT.
FREEPORT INDONESIA (SUPREME COURT DECISION STUDY
NUMBER : 779 K/PDT.SUS-PHI/2020)**

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ABSTRACT

The research aims to find out and describe the legal protection of worker who has been laid off by PT. Freeport Indonesia and how the differences between the decision of the panel of judges at the first level of PHI and the verdict at the cassation level in the aquo case.

This type of research is normative-empirical, which examines the implementation and implementation of labor law provisions in a factual manner in the Supreme Court Decision No.779 K/Pdt.Sus-PHI/2020. The data used are secondary data, sourced from statutory regulations and PHI decisions as well as theories or opinions of experts. Methods of data collection through literature study and case studies. The invitation research approach (statute approach) and the judicial case study approach. The data analysis was done qualitatively.

The result of this research shows that worker protection in the process of resolving layoff disputes with PT. Freeport has gone through all stages, namely, bipartite, mediation and trial according to the PPHI Law. The obstacle lies in the relative authority of the PHI which covers the jurisdiction of the province of Jayapura, so that the distance and cost factors prevent worker from attending to defend their rights at the PHI. Simple judicial principles have been applied at the cassation level. The principle of rapid trial has not been fulfilled at the mediation level, at the first level of PHI and the cassation, because it has exceeded the time limit stipulated by the PPHI Law. The principle of low cost justice has basically been fulfilled, the cost of the case is borne by the State in accordance with Article 58 of the PPHI Law. Protection of worker for their normative rights due to layoffs in the aquo case, there is a difference between the first level PHI decision and the cassation level decision, although both state that the PKB and PHI of PT FI 2015-2017 and PKB and PHI of PT FI 2017-2019 are valid and be binding on the parties. The first level panel of judges prioritize the legality principle by assigning worker to be laid off because he is qualified to resign and have met the PKB jo. article 168 paragraphs (1), (2), and (3) UUK, and is entitled to compensation according to article 156 paragraph (4) and separation money, the panel of cassation judges has another opinion, dismissal has not fulfilled the provisions of article 168 paragraph (2) of the UUK because the employer has not properly and legally summoned the worker two times, so the worker cannot be qualified to resign. The cassation panel of judges prioritizes the principle of fairness by canceling the first-level PHI decision and making decisions based on justice (ex aequo et bono), by punishing employers to pay workers' rights in the form of severance pay, period of service pay, and compensation according to article 156 paragraph (2),(3),and (4) UUK.

Keywords : Worker, Termination of Employment, Legal Protection, Verdict of Judge, Industrial Relations Court.