

**PERLINDUNGAN HAK-HAK TENAGA KERJA AKIBAT PEMUTUSAN  
HUBUNGAN KERJA KARENA MENOLAK MUTASI  
(STUDI PUTUSAN MAHKAMAH AGUNG NO.197K/PDT.SUS-PHI/2018)**

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**ABSTRAK**

Penelitian ini bertujuan untuk mengetahui PHK akibat pekerja menolak dimutasi dalam putusan Mahkamah Agung No.197K/Pdt/Sus-PHI/2018 sesuai dengan ketentuan hukum ketenagakerjaan dan perlindungan hak-hak pekerja pada kasus pemutusan hubungan kerja dalam putusan dimaksud.

Penelitian ini adalah penelitian normatif-empiris yakni penelitian terhadap norma peraturan perundangan di bidang ketenagakerjaan dan penerapannya dalam kasus PHK dalam Putusan MA No. 197K/Pdt.Sus-PHI/2018. Data yang digunakan adalah data sekunder berupa peraturan perundang-undangan dan Putusan PHI. Metode perolehan data melalui penelitian kepustakaan dan studi kasus. Adapun pendekatan penelitian adalah pendekatan perundang-undangan dan pendekatan kasus. Analisis data dilakukan secara kualitatif.

Hasil penelitian menunjukkan PHK dengan alasan menolak mutasi kerja Putusan MA No. 197K/Pdt.Sus-PHI/2018 adalah bertentangan dengan Pasal 151 ayat (1), ayat (3) dan Pasal 164 ayat (3) UU KT. Pelaksanaan mutasi dilakukan dengan tidak layak bagi kemanusiaan, dan tidak ada upaya perundingan antara perusahaan dengan pekerja. PHK dilakukan tanpa penetapan lembaga penyelesaian perselisihan hubungan industrial. Status Penggugat selaku pekerja harian bertentangan dengan Kepmenakertrans No. 100 Tahun 2004, sehingga statusnya demi hukum menjadi pekerja tetap. Status pekerja ini penting sebab akan mempengaruhi perolehan hak-hak pekerja dalam hubungan kerja dan setelah PHK. Perlindungan hak-hak pekerja pada kasus PHK *a quo* sudah terlindungi dan berkeadilan. Hak-hak yang diberikan adalah uang pesangon, uang penghargaan masa kerja, uang penggantian hak berupa pengganti cuti tahunan yang tidak pernah dibayarkan, THR tahun 2016 yang belum dibayar. Mengenai upah proses Majelis Hakim kasasi mengubah Putusan PHI tingkat pertama dengan menghapuskan pembayaran upah proses dan dengan mengabaikan Putusan MK No. 37/PUU-IX/2011, karena memutus berdasarkan keadilan. Analisis penulis Upah pekerja seharusnya dapat digunakan ketentuan Pasal 157 ayat (2) UU KT bukan didasarkan pada Upah Minimum Kabupaten.

**Kata kunci:** Perlindungan Hukum, Tenaga Kerja, Pemutusan Hubungan Kerja, Mutasi, Putusan Pengadilan Hubungan Industrial

**LEGAL PROTECTION TO EMPLOYEES TERMINATED UNILATERALLY  
BY COMPANY FOR REFUSING TO BE TRANSFERRED  
(CASE STUDY OF SUPREME COURT NUMBER 197K/PDT.SUS-PHI/2018)**

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**ABSTRACT**

*This study aims to determine the legal protection for workers who are dismissed unilaterally according to the Labor Law and the settlement of cases of unilateral dismissal in the Supreme Court Decision No. 197K/Pdt/Sus-PHI/2018 according to the Settlement of Industrial Relations Disputes Law.*

*This research is a normative-empirical research, the focus is to study written law (labor law) from the aspects of material and formal law in solving cases in the Supreme Court Decision No. 197K/Pdt.Sus-PHI/2018. The data used are secondary data, in the form of laws and regulations and Industrial Relations Disputes decisions. Data collection methods are through library research and case studies. The research approach used a statute approach and a judicial case study. The data obtained were analyzed qualitatively.*

*The results of the study showed that layoffs were made on the grounds of refusing job transfer. 197K/Pdt.Sus-PHI/2018 is contrary to Article 151 paragraph (1), paragraph (3) and Article 164 paragraph (3) of the KT Law. The transfer was carried out in an inappropriate manner from the perspective of humanity and there was no attempt to negotiate between the company and the workers. The Plaintiff's status as a daily worker contradicts Kepmenakertrans No. 100 of 2004, and therefore is considered as permanent employee by law. This is important because it will affect the acquisition of workers' rights in the employment relationship and after termination of employment. Protection of workers' rights in cases of layoffs a quo has been protected and fair. The rights granted are severance pay, service award money, compensation for replacement rights in the form of annual deductions that have never been canceled, including 2016 mandatory allowance that has not been paid. Regarding the process of the Panel of Judges, the cassation changed the decision of the first instance of the Court of Appeal by tracking the payments and by determining the Constitutional Court's Decision No. 37/PUU-IX/2011, because the decision is based on justice. According to writer's analysis, salary of workers should be in accordance to the provisions of Article 157 paragraph (2) of the KT Law instead of the Minimum Wage for Regency.*

*Keyword: Law Protection, Laborer, Unilateral Termination of Employment.*