

**PERLINDUNGAN HUKUM PEKERJA *OUTSOURCING*
PASCA UNDANG-UNDANG CIPTA KERJA
(STUDI PUTUSAN NO. 201/PDT.SUS-PHI/2021/PN SBY)**

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ABSTRAK

Penelitian ini bertujuan untuk menganalisis pertimbangan hakim dalam menyelesaikan perselisihan Pemutusan Hubungan Kerja terhadap pekerja *outsourcing* pada Putusan Nomor 201/Pdt.Sus-PHI/2021/PN.Sby dan bentuk perlindungan hukum terhadap pekerja *outsourcing* setelah UU Cipta Kerja.

Jenis penelitian yang digunakan adalah penelitian hukum normatif empiris dengan pendekatan perundang-undangan dan putusan pengadilan. Jenis data dalam penelitian ini adalah data sekunder berupa bahan hukum primer, bahan hukum sekunder, dan bahan hukum tersier. Cara perolehan data melalui studi kepustakaan dan studi putusan. Analisis yang digunakan adalah analisis kualitatif. Hasil penelitian menunjukkan bahwa putusan tersebut memberikan interpretasi yang progresif terhadap UU Cipta Kerja, memberikan perlindungan yang lebih kuat bagi pekerja *outsourcing*, namun juga menimbulkan sejumlah tantangan dan pertanyaan hukum yang perlu dikaji lebih lanjut. Pertimbangan hakim dalam menyelesaikan perselisihan Pemutusan Hubungan Kerja pada Putusan No.201/Pdt.Sus-PHI/2021/PN Sby, yakni menolak eksepsi Tergugat karena Gugatan para Penggugat telah memenuhi syarat formil. Dalam pokok perkara didasarkan pada UU Ketenagakerjaan setelah UU Cipta Kerja jo. PP No. 35 Tahun 2021 dan SEMA No. 5 Tahun 2021. Pada Putusan No.201/Pdt.Sus-PHI/2021/PN Sby, hakim tidak mempertimbangkan masa kerja Para Penggugat di perusahaan-perusahaan *outsourcing* sebelum para Penggugat bekerja dengan Tergugat yang didasarkan oleh Pasal 64 dan Pasal 65 yang mana telah dihapus oleh UU Cipta Kerja. Majelis Hakim menyatakan hubungan kerja antara Para Penggugat dengan Tergugat adalah PKWTT. Perlindungan hukum terhadap pekerja *outsourcing* setelah UU Cipta Kerja dalam Putusan tersebut, memperhitungkan masa kerja Para Penggugat di perusahaan Tergugat sejak Juli 2018. Perlindungan terhadap hak-hak normatif Para Penggugat, akibat PHK berupa uang pesangon dan uang penghargaan masa kerja, serta upah proses selama tiga (3) bulan dikabulkan oleh Majelis Hakim sesuai dengan UU Cipta Kerja.

Kata Kunci: *Outsourcing*, Pemutusan Hubungan Kerja, Hak-Hak Normatif.

**LEGAL PROTECTION OF OUTSOURCING WORKERS
AFTER THE JOB CREATION LAW
(STUDY OF DECISION NO. 201/PDT.SUS-PHI/2021/PN SBY)**

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ABSTRACT

This research aims to analyze the considerations of judges in resolving employment termination disputes involving outsourcing workers as per Decision Number 201/Pdt.Sus-PHI/2021/PN.Sby, and the form of legal protection for outsourcing workers following the Job Creation Law.

The type of research used is normative empirical legal research with a legislative and court decision approach. The data type in this study is secondary data, consisting of primary legal materials, secondary legal materials, and tertiary legal materials. Data collection was conducted through literature study and decision study. The analysis used is qualitative analysis.

The results show that the decision provides a progressive interpretation of the Job Creation Law, offering stronger protection for outsourcing workers, but it also raises several legal challenges and questions that need further examination. The findings indicate that the considerations of the judges in resolving the employment termination disputes in Decision No. 201/Pdt.Sus-PHI/2021/PN Sby rejected the Defendant's exception because the Plaintiffs' lawsuit met the formal requirements. The core of the matter was based on the Labor Law after the Job Creation Law, along with Government Regulation No. 35 of 2021 and Supreme Court Circular Letter No. 5 of 2021. In Decision No. 201/Pdt.Sus-PHI/2021/PN Sby, the judges did not consider the work period of the Plaintiffs in outsourcing companies before the Plaintiffs worked with the Defendant, which was based on Articles 64 and 65 that were repealed by the Job Creation Law. The panel of judges stated that the employment relationship between the Plaintiffs and the Defendant is an indefinite employment agreement (PKWTT). Legal protection for outsourcing workers after the Job Creation Law in this decision considers the work period of the Plaintiffs with the Defendant company from July 2018. Protection of the normative rights of the Plaintiffs, as a result of termination, including severance pay and appreciation for their length of service, as well as process wages for three (3) months, were granted by the panel of judges in accordance with the Job Creation Law.

Keywords: Outsourcing, Employment Termination, Normative Rights.