

## ABSTRAK

### ANALISIS PEMUTUSAN HUBUNGAN KERJA KARENA PEKERJA MENOLAK MUTASI (STUDI PUTUSAN NOMOR 294 K/PDT.SUS-PHI/2024)

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(xi + 90 halaman, 5 lampiran)

Tujuan penelitian ini adalah untuk mengetahui secara mendalam pertimbangan hakim Pengadilan Hubungan Industrial mengenai pemutusan hubungan kerja yang disebabkan oleh penolakan mutasi oleh pekerja dalam Putusan Nomor 294 K/Pdt.Sus-PHI/2024, dan perlindungan hukum kepada pekerja yang diputus hubungan kerjanya oleh pengusaha PT. Landmark Retail Trading karena menolak mutasi dari kota Pekanbaru ke kota Balikpapan, berdasarkan ketentuan hukum ketenagakerjaan di Indonesia. Metode penelitian adalah penelitian hukum normatif-empiris dengan pendekatan peraturan perundang-undangan dan pendekatan *judicial case study* yaitu putusan Pengadilan Hubungan Industrial. Data yang diutamakan adalah data sekunder diperoleh melalui studi kepustakaan, dan analisis data bersifat kualitatif. Hasil penelitian menunjukkan bahwa pertimbangan hakim Pengadilan Hubungan Industrial pada tingkat pertama menyatakan mutasi tidak sah karena tidak dilaksanakan secara adil dan objektif sebagaimana diatur ketentuan Pasal 32 UU No. 13 Tahun 2003 tentang Ketenagakerjaan. Pemutusan hubungan kerja akibat menolak mutasi dengan alasan mangkir yang dikualifikasikan mengundurkan diri tidak didasarkan pada keadilan dan kemanusiaan, karena tidak diikuti dengan kompensasi yang layak. Pertimbangan hakim ini lebih mengutamakan keadilan substantif. Hakim kasasi Mahkamah Agung menyatakan mutasi sah secara hukum positif, pendekatan ini mengesampingkan pertimbangan keadilan substantif. Tetapi hakim kasasi menyatakan pemutusan hubungan kerja tidak sah secara prosedural, dasar pertimbangannya tidak memenuhi ketentuan Peraturan Pemerintah Nomor 35 Tahun 2021 tentang Perjanjian Kerja Waktu Tertentu, Alih Daya, Waktu kerja dan Waktu Istirahat, dan Pemutusan Hubungan Kerja, khususnya mengenai tata cara pemutusan hubungan kerja yang sah dan memenuhi unsur legalitas administratif. Pemutusan Hubungan Kerja yang dilakukan tidak mempertimbangkan aspek keadilan substansial. Perlindungan hukum secara prosedural telah terwujud melalui mekanisme non litigasi dan litigasi yang diatur UU No. 2 Tahun 2004 tentang Penyelesaian Perselisihan Hubungan Industrial. Perlindungan secara substansial telah diberikan melalui Putusan yang menghukum pengusaha membayar hak-hak normatif pekerja berupa uang pesangon, uang penghargaan masa kerja dan upah proses serta pengembalian potongan upah pekerja akibat penolakan mutasi.

**Kata Kunci: Mutasi, Mangkir, Pemutusan Hubungan Kerja**

Referensi: 11 buku, 16 jurnal

## **ABSTRACT**

### **ANALYSIS TERMINATION OF AN EMPLOYEE BECAUSE REFUSED A JOB TRANSFER (STUDY DECISION NUMBER 294 K/PDT.SUS-PHI/2024)**

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(xi + 90 pages, 5 appendices)

*The purpose of this study was to determine the considerations of the Industrial Relations Court judge regarding termination of employment due to rejection of transfer by workers in Decision Number 294 K/Pdt.Sus-PHI/2024, and legal protection for workers whose employment was terminated by the employer PT. Landmark Retail Trading for refusing transfer from Pekanbaru to Balikpapan, based on the provisions of labor law in Indonesia. The research method is normative-empirical legal research with a statutory regulatory approach and a judicial case study approach, namely the decision of the Industrial Relations Court. The data that is prioritized is secondary data obtained through literature studies, and data analysis is qualitative. The results of the study indicate that the considerations of the Industrial Relations Court judge at the first level stated that the transfer was invalid because it was not carried out fairly and objectively as regulated in Article 32 of Law No. 13 of 2023 concerning Manpower. Termination of employment due to refusing transfer on the grounds of absenteeism which is qualified as resignation is not based on justice and humanity, because it is not followed by adequate compensation. The considerations of this judge prioritize substantive justice. The Supreme Court cassation judge stated that the transfer was legally valid, this approach ignored substantive justice considerations. However, the cassation judge stated that the termination of employment was procedurally invalid, the basis for the considerations did not meet the provisions of Government Regulation Number 35 of 2021 concerning Fixed-Term Employment Agreements, Outsourcing, Working Hours and Rest Hours, and Termination of Employment, particularly regarding the procedures for lawful termination of employment that fulfill the elements of administrative legality. The Termination of Employment carried out did not consider aspects of substantial justice. Procedural legal protection has been realized through non-litigation and litigation mechanisms regulated by Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes. Substantive protection has been provided through a Decision that sentences employers to pay workers' normative rights in the form of severance pay, service award money and process wages as well as the return of deductions from workers' wages due to refusing the transfer.*

**Keywords:** Job Transfer, Absent, Termination Of Employee

**References:** 11 books, 16 journals