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Analysis of the Decision of the Industrial Relations Court in the Dispute for Termination of Employment (Case Study No. 060 / Pdt.Sus-Phi/2023/Pn Mdn Juncto Verdict Number :1174k / Pdt.Sus-Phi/2023)

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ABSTRACT

This study is motivated by the frequent cases of agreement disputes between companies and workers, especially in the case of termination of employment relationships for both permanent and contractual workers or commonly known as a specific time work agreement, which often ends up at the green table due to differences in understanding between employers and workers as well as differences in understanding of applicable laws and regulations.In addition, there are times when it is also caused by the inability of one party to fulfill its obligations which may be caused by conditions in which the company experiences losses or due to bankruptcy conditions. This paper aims to analyze the legal process that occurs in the case of termination of employment lawsuit ranging from the mediation level , the Medan state court to the Supreme Court of the Republic of Indonesia and find out the basic consideration of judges used in making decisions in accordance with the principle of justice in the case of Decision No. 060 / Pdt.Sus-PHI/2023/PN MDN juncto decision No. 1174K / Pdt.Sus-PHI/2023. This research is Notmatif legal research with normative juridical approach . The data source of this study comes from secondary data.Data collection tool is done with the study of literature (library research). Based on the results of the research conducted , we conclude that the process of termination of employment with bankruptcy conditions, the employer must pay a certain amount of money in accordance with PP 35 2021 Article 40 paragraph 2 , Paragraph 3 , and Article 43 paragraph 1.Analysis of judges ' consideration at the Cassation level according to the principle of justice in the case of Decision No. 060 / Pdt.Sus-PHI/2023/PN MDN juncto decision No. 1174K / Pdt.Sus-PHI/2023 is acceptable.

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INTRODUCTION

Indonesia as one of the major archipelagic countries with a population of more than 278 million is a country that has human resources to work in various fields is very signicant to be used as development capital. As a country based on Pancasila, Indonesia guarantees justice for all people to achieve a prosperous life as the implementation of the 5th precept of Pancasila, namely " social justice for all Indonesian people". This means that the state provides justice to all levels of society without discriminating between ethnicity, religion, race or position.

Justice here also includes Justice in getting a decent life. This is reflected in the Constitution of 1945 article Article 28 d Paragraph (1) and (2) to get rewards and fair treatment. The state will be fair to all elements in the Republic of Indonesia , both among workers, among entrepreneurs, among professionals, and all circles.Workers as one element in running the country's economy is one element that has a vulnerable position , and the state has set up a variety of regulations and laws to protect workers.Legal protection of workers is a basic right for a citizen who has the status of a worker as stated in Article 27 paragraph 2 of the Constitution of 1945 which reads " Every citizen has the right to decent work for humanity".

As a fairly large and developing country, we have a very dynamic and complex labor problem. The biggest problem in terms of Labor one of them is about termination. According to Umar Kasim, that the end of the employment relationship for Labor can result in workers losing their livelihoods, which means also the beginning of a period of unemployment with the consequences of being a legal problem, so to ensure the certainty and tranquility of Labor life there should be no layoffs. The problem of this termination of employment is increasingly felt when Indonesia is experiencing the spread of covid 19 which has a considerable impact on economic continuity which almost covers all economic sectors in all regions in Indonesia including the city of Medan. This effect is felt not only for the company but also the impact on workers within the scope of the company. And the worst thing is that the pandemic time is quite long around almost 3 years .

During the pandemic, not a few companies experienced economic difficulties, some hired employees in shifts , some companies even laid off employees and not a few continued with the termination of employment. And as we all know, whatever happens with a company, who will experience the greatest impact is the employee/ worker, especially the worker . The Ministry of manpower (Kemenaker) recorded a total of 72,983 employees who had been victims of termination of employment (PHK) due to the Covid-19 pandemic. This figure is obtained from the results of a survey conducted by the Ministry of manpower in November 2021 . The Survey was conducted in 21 Labor Offices from 34 provinces in Indonesia with quantitative methods through questionnaires.

During the period of 3 years during the covid 19 pandemic, there were quite a lot of unilateral termination of employment which most companies use the excuse of poor company performance during the pandemic and consider it a force majeure so that the company does not carry out the obligations that should be given to employees and this seems to be justified by law No. 11 of 2020 on job creation (mentioned in this paper law no. 11 of 2020) Jo job creation Law No. 6 of 2023, Article 154 paragraph 1 letter that reads "termination of employment may occur for reasons: a. the company merges, merges, takes over, or separates the company and the worker / laborer is not willing to continue the employment relationship or the employer is not willing to accept the worker/laborer; b. the company performs efficiency followed by the closure of the company or not followed by the closure of the company due to the company suffered losses; c. company closed due to the company suffered losses continuously for 2 (two) years; d. the company closed due to force majeure. e. the company is in a state of postponement of debt repayment obligations; f. bankruptcy company;

The various reasons used for the termination are usually due to the amount of severance pay that must be paid, due to each one . Workers as one element in running the country's economy is one element that has a vulnerable position, and the state has prepared various regulations and laws to protect workers.

Legal protection of workers is a basic right for a citizen who has the status of a worker as stated in Article 27 paragraph 2 of the 1945 Constitution which reads " Every citizen has the right to decent work for humanity".Protection of workers by the Constitution aims to protect and ensure the rights of workers as well as opportunities and fair treatment for workers without discrimination and to realize the welfare of workers and families. As a subject of law, employers and workers is a symbiotic relationship of mutualism which requires each other, because employers without workers certainly can not run the company as well as if workers without employers

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certainly do not have a place to work and earn. Both are important elements in driving the country's economy . therefore, clear regulations are needed so that the relationship between the two benefits each other and is harmonious.

According Soepomo labor protection for the 3 (three) kinds : 1. Economic protection, which is the protection of labor in the form of sufficient income, including when Labor is unable to work against his will. 2. Social protection, namely labor protection in the form of Occupational Health Insurance, and freedom of association and protection of the right to organize. 3. Technical protection, namely labor protection in the form of security and safety With the existence of various protections for the workforce, of course, it will make iteaga work can work calmly and energetically, without worrying about things that can reduce the productivity of workers and make the climate in the company for the better.

According to law no. 40 of 2004 article 3 which regulates social security (in this writing called Law No. 40 of 2004) states "the National Social Security System aims to ensure the fulfillment of the basic needs of a decent life for each participant and/or members of his family" while Law No. 13 of 2003 on employment (mentioned in this paper Law no. 13 of 2003), termination of employment is the termination of the employment relationship due to the resulting termination of rights and obligations between employees/workers and employers. Many factors can cause job cuts, one of which is the efficiency and losses experienced by the company, especially supported by the length of the pandemic period that occurs does not rule out the possibility of the company even experiencing bankruptcy. Termination of employment is a problem that arises a lot in the world of employment, so it is often the instigator of industrial relations conflicts between workers and employers.

Termination of employment is regulated in law No. 13 of 2003 on Article 150 to Article 170. In Article 150, it is stated that "the provisions regarding termination of employment in this law include termination of employment that occurs in business entities that are legal entities or not, belonging to natural persons, federal property or legal entities, both private and state property, as well as social enterprises and other businesses that have managers and employ other people by paying wages or remuneration in other forms". While in Article 151 of Law No. 13 of 2003 mentioned : (1) employers, workers/laborers, unions/labor unions, and the government, by all means shall endeavor to prevent termination of employment. (2) in the event that every effort has been made, but the termination of the employment relationship cannot be avoided, the purpose of the termination of the employment relationship must be negotiated by the employer and the trade union/trade union or with the worker/worker if the worker/worker concerned is not a member of the trade union/trade union. (3) in the event that the negotiations as meant in Paragraph (2) actually do not produce agreement, the employer may only terminate the employment relationship with the worker/laborer after obtaining a determination from the industrial relations dispute settlement institution.

Generally, legal problems and disputes between employees / workers and the company will arise in the event of termination of employment . Termination of employment is also discussed in law no. 11 of 2020 Article 154 A which reads : Article 154A (1) termination of employment may occur for reasons: a. the company merges, merges, takes over, or separates the company and the worker / laborer is not willing to continue the employment relationship or the employer is not willing to accept the worker/laborer; b. the company performs efficiency followed by the closure of the company or not followed by the closure of the company due to the company suffered losses; c. company closed due to the company suffered losses continuously for 2 (two) years; d. the company closed due to force majeure. e. the company is in a state of postponement of debt repayment obligations; f. bankruptcy company; g. the existence of an application for termination of employment filed by the worker / laborer on the grounds that the employer committed the following acts: 1. harass, harass or threaten workers; 2. persuading and / or instructing workers / laborers to commit acts contrary to the laws and regulations; 3. does not pay wages on time for 3 (three) consecutive months or more, even though the employer pays wages on time thereafter; 4. not performing the obligations that have been promised to workers/laborers; 5. instruct employees / laborers to carry out work outside of the agreement; or 6. provide work that endangers the life, safety, health, and morality of workers / laborers while the work is not listed in the employment agreement; h. the decision of the industrial relations dispute settlement institution stating that the employer has not done the Act referred to in letter g against the application submitted by the worker/laborer and the employer decides to terminate the employment relationship; i. the employee / worker resigns of their own free will

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and must meet the following conditions: 1. submit an application for resignation in writing no later than 30 (thirty) days before the start date of resignation; 2. not bound by a bond; and 3. continue to perform their obligations until the start date of resignation; j. worker / laborer absent for 5 (five) working days or more in a row without written information provided with valid evidence and has been called by the employer 2 (two) times in a proper and written; k. the worker / laborer commits a violation of the provisions stipulated in the labor agreement, Company regulations, or collective labor agreement and has previously been given the first, second, and third warning letters consecutively each valid for a maximum of 6 (six) months unless otherwise stipulated in the labor agreement, Company regulations, or collective labor agreement; l. workers / laborers can not do the job for 6 (six) months due to the authorities detained for allegedly committing a criminal offense; m. workers / laborers experiencing prolonged illness or disability due to work accidents and can not do their jobs after exceeding the limit of 12 (twelve) months; n. workers entering retirement age; or o. the worker / laborer died.

As previously stated, during the pandemic, many companies have taken termination actions for reasons of efficiency , forced circumstances (force maijure) , companies in conditions of postponement of Obligations or even because of the condition of the company experiencing bankruptcy. The Covid-19 pandemic has hit the world, including Indonesia, for a fairly long period of time, bringing many negative impacts in the business world so that many companies have to lay off to save the company's survival. This became interesting for me to make a reason in making a thesis scientific work in completing the Master's program in law. One of the companies that laid off employees / workers is PT Karya Utama Sehat Sejahtera (Martha Friska Hospital) which is one of the large hospitals in Medan. Termination of employment (layoffs) in this company to the Industrial Relations Court (PHI) Medan case No. 060 / Pdt.Sus-PHI / 2023 / PN-Mdn with the decision to accept and grant the plaintiff's lawsuit in full and punish defendant I (the Martha Friska hospital) to pay the plaintiff in the form of severance pay of 2 (two) times the provisions of Article 156 paragraph (2), Work Period award money of 1 (one) times the provisions of Article 156 paragraph (3) and replacement Rights money in accordance with the provisions of Article 156 paragraph (4), Law No. 13 of 2003 on employment. However, the defendant (Martha Friska hospital) appealed to the Supreme Court Cassation in October 2023 with the results of the Supreme Court Cassation decision Decision No:1174k/Pdt.Sus-Phi / 2023 cancels the decision of the Medan District Court , and grants the plaintiff's lawsuit in part by taking into account Law Number 13 of 2003 concerning manpower as amended by Law Number 11 of 2020 , Law Number 2 of 2004 concerning the settlement of industrial relations disputes (mentioned in this paper Law No. 2 of 2004).

Based on the above descriptions, the researcher analyzed and reviewed and discussed the problems of layoffs through the initiation of a thesis entitled "analysis of Industrial Relations Court decisions in disputes over termination of employment (case Study Decision No. 060 / Pdt.Sus-PHI/2023 / PN MDN Juncto decision number 1174k / Pdt.Sus-PHI/2023)"

METHOD

The research method used in this paper is a type of normative research by using the type of approach to legislation (the Statute Approach), where a problem that exists in this paper can be seen from the example of the case and can be associated with legislation so that we know the rules that govern it.

RESULTS AND DISCUSSION

A. Completion of Industrial Relations Management (PHI) number 060 / Pdt.Sus-PHI / 2023 / PN MDN

That the plaintiff is a worker / laborer as an employee who works at Martha Friska hospital (ic. Defendant II) with a working period of 13 (thirteen) years and the last wage received by the plaintiff of Rp.3.222.557,-

That Defendant I is PT Karya Utama Sehat Sejahtera is a legal entity of Martha Friska Hospital, That Defendant II is Martha Friska Hospital which is a business unit owned by Defendant I.

That in the aquo case defendant I through Defendant II had terminated the employment relationship with the plaintiff by issuing a letter of termination dated July 23, 2020 which was given to the plaintiff with the principal content that on July 26, 2020 the period of being laid off was not extended so that the employee was not effectively working at the hospital. Marta Friska Pulo Brayan with the following reasons :

1. RS. Martha Friska Pulo Brayan Medan is no longer able to extend the period of employees / it laid off;

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2. During the Covid-19 pandemic patients were reduced so the income of RS. Martha Friska Pulo Brayan;
3. Operating costs RS. Martha Friska Pulo Brayan is no longer covered;

The defendant's answer is the plaintiff's lawsuit addressed to Defendant I(ic. PT. Karya Utama Sehat Sejahtera) is an error in persona that is withdrawn as the wrong defendant (gemis aan hoedanigheid) because related to the termination of the employment relationship the plaintiff who is authorized and fully responsible is the defendant-II (ic. Martha Friska Hospital).

Considering, that after examining the Cassation memory received on July 20, 2023 and the counter Cassation memory received respectively on August 22, 2023, it is connected with the Judex Facti consideration in this case the Industrial Relations Court at the Medan District Court has wrongly applied the law, with the following considerations: - That it is proven that the plaintiff has worked for Defendant II and defendant II has made a termination of employment (layoff) to the plaintiff starting from July 26, 2020 with a letter of termination dated July 23, 2020; - That Martha Friska hospital (i.c. Respondent of Cassation II / defendant II) is a business unit owned by respondent of Cassation I/defendant I, namely PT Karya Utama Sehat Sejahtera, then Defendant II can represent to conduct bipartisan negotiations and mediation with the plaintiff, therefore Judex Facti has been wrong in the application of its law which states that PT Karya Utama Sehat Sejahtera (i.c. The defendant must also participate in bipartite negotiations and mediation, therefore the exception of Defendant I regarding the error in persona lawsuit was rejected; - That based on the decision of the Commercial Court at the Medan District Court Number 1 / Pdt.Sus-annulment of peace/2023/PN Niaga Mdn juncto No. 4 / Pdt.Sus-PKPU/2022 / PN Niaga Mdn, between Barita R. Humala Sitanggang, and friends, as plaintiffs, opposed to PT Karya Utama Sehat Sejahtera (Martha Friska hospital) as defendants, the case of postponement of debt payment obligations (PKPU) number 4/Pdt.Sus-PKPU / 2022 / PN Niaga Mdn in the Commercial Court at the Medan District Court, where in the case PT Karya Utama Sehat Sejahtera (i.c. The respondent of Cassation I / defendant I) as a debtor states that he is responsible for paying unpaid wages to employees (including the Cassation applicant/plaintiff) who work at Martha Friska hospital (i.c. Respondent of Cassation II / defendant II); - That Defendant II has admitted to termination of employment (layoff) against the plaintiff and did not provide compensation for termination of employment (layoff) to the plaintiff; - That based on the evidence of P-3 of the defendant I and defendant II companies in postponing debt payment obligations (PKPU), the termination of the employment relationship (PHK) between the plaintiff and defendant II is due based on the provisions of Article 46 paragraph (1) of Government Regulation Number 35 of 2021 concerning certain time work agreements, outsourcing, work and rest periods, and termination; - That upon the termination of the employment relationship (layoff), the plaintiff is entitled to receive compensation in the form of severance pay 0.5 (zero point five) times the provisions of Article 40 paragraph (2), Work Period award 1 (one) times the provisions of Article 40 paragraph (3), and reimbursement of Rights in accordance with Article 40 paragraph (4), where the plaintiff works at Martha Friska hospital (i.c. Defendant II) with a working period of 13 (thirteen) years and the last wage received by the plaintiff in the amount of Rp3, 222, 557.00 (three million two hundred twenty two thousand five hundred fifty seven rupiah),

The calculation of the plaintiff's right to termination of employment (layoff) is as follows: 1. Severance pay: 0.5 x 9 x Rp3, 222, 557.00 = Rp14, 501, 506.00 2. Working period award: 1 x 5 x Rp3, 222, 557.00 = Rp16, 112, 785.00 3. Right Replacement Fee: = Rp0. 00 2. Total right to termination of employment (PHK) = Rp30, 614, 291.00 (thirty million six hundred fourteen thousand two hundred ninety one rupiah); considering that based on the above considerations, the Supreme Court considers that there are sufficient grounds to grant the Cassation application from the Cassation applicant: SONDANG AGUSTINA PANGARIBUAN and cancel the decision of the Industrial Relations Court at the Medan District Court Number 60/Pdt.Sus-PHI/2023 / PN Mdn, dated June 22, 2023, then the Supreme Court judges itself with amar as mentioned below

Considering that, because the value of the lawsuit in this case is below Rp150, 000, 000.00 (one hundred and fifty million rupiah), then as specified in Article 58 of Law Number 2 of 2004 concerning the settlement of industrial relations disputes, the cost of the case at the Cassation level is charged to the state; 4. Taking into account Law No. 13 of 2003 as amended by Law No. 11 of 2020 , Law No. 2 of 2004 on the settlement of industrial relations disputes, Law No. 48 of 2009 on Judicial Power, Law No. 14 of 1985 on the Supreme Court

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as amended by Law No. 5 of 2004 and the Second Amendment to Law No. 3 of 2009 and other laws;

B. Analysis of the consideration of the judge's decision based on The Theory of Justice and The Theory of legal protection

Through the case "decision NO. 060 / Pdt.SUS-PHI/2023 / PN MDN Juncto decision number 1174k / Pdt.Sus-PHI/2023 " it can be seen that the three decisions given by the judges also gave varied answers starting from the decision of the Commercial Court at the District Court level. The judge stated that the money for the award of the period of Service and the money for the replacement of rights were actions that were not in accordance with or contrary to the provisions of Article 156 paragraph (1) of law no.13 of 2003 and also affirmed in law No.11 of 2020 and in Perpu Cipta Kerja No. 2 of 2022. , which basically states: in the event of termination of the employment relationship, the employer is obliged to pay severance pay and or remuneration for the length of Service and reimbursement of the rights that should have been received.

The Industrial Relations Court sentenced defendant I to pay to the plaintiff in the form of severance pay in the amount of 2 (two) times the provisions of Article 156 paragraph (2), work period award money in the amount of 1 (one) times the provisions of Article 156 paragraph (3) and rights replacement money in accordance with the provisions of Article 156 paragraph (4) so that he must pay Rp. 85.236.632, - (Eight Recovered Five Million Two Hundred Thirty Six Thousand Six Hundred Thirty Two Dollars). In the exception, the decision in the PKPU is to declare valid and legally binding the Peace Agreement dated October 10, 2022 which has been signed by the PKPU respondent (in permanent PKPU) and the creditors, so the parties are legally subject to the legal mechanism or procedure as in the Commercial Court decision; That the plaintiff is including the creditors as well as including the party who filed a cancellation of peace in the Commercial Court at the Medan District Court then by law the plaintiff must submit to the mechanism or procedure of Commercial Law in bankruptcy.

Based on the description or juridical arguments above in accordance with applicable law, it is appropriate according to the law of the plaintiff's lawsuit is not acceptable niet ontvankelijke verklaard (N.O) by observing the rules of jurisprudence of the Supreme Court decision.RI No. 101K / Sip / 1974: "the plaintiff's claim must be declared inadmissible because it is not yet time." Recommended by the Medan City Manpower office as an attachment to the plaintiff's lawsuit, then those sentenced to pay severance pay etc.are defendants-II (ic. Martha Friska hospital) non-defendant-I (ic. PT. Karya Utama Sehat Sejahtera) as the arguments of the plaintiff's lawsuit petitum, so that the withdrawal of the plaintiff-I (ic. PT. Karya Utama Sehat Sejahtera) as a party to the aquoa case is irrelevant and wrong,because Defendant I is not as an employer who does not have an employment relationship and legal relationship (rechtsverhouding) with the plaintiff, especially related to workers/laborers (ic. Plaintiff) who works on Defendant-II, therefore legally there is no obligation whatsoever for Defendant-I related to the termination of the employment relationship between the plaintiff and defendant-II.

Rule of Law Supreme Court Decision No. 294 K/Sip/1971, dated July 7, 1971 which states : "a civil challenge must be filed by a person/subject who has a legal relationship with the disputed issue, and not by another person. (Asas legitima persona standi in judicio). The claim wrongly filed by the other person, must be declared inadmissible lawsuit ". The exception is above and it turns out the defendant exception I (I.c PT. Karya Utama Sehat Sejahtera) reasoned and legally based to be granted, then mutatis mutandis in the subject matter of the plaintiff's lawsuit must be declared unacceptable (Niet Ontvankelijk verklaard).

The Supreme Court then considered that the Martha Friska hospital (i.c. Respondent of Cassation II / defendant II) is a business unit owned by the respondent of Cassation I/defendant I, namely PT Karya Utama Sehat Sejahtera, the defendant II can represent to conduct bipartisan negotiations and mediation with the plaintiff, therefore Judex Facti has been wrong in the application of its law which states that PT Karya Utama Sehat Sejahtera (i.c. Defendant I) must also participate in bipartisan negotiations and mediation, therefore defendant I's perception of the error in persona lawsuit was rejected;

Based on the provisions of Article 46 paragraph (1) of Government Regulation Number 35 of 2021 concerning certain time work agreements, outsourcing, work and rest periods, and termination of employment; termination of employment (PHK), the plaintiff is entitled to compensation in the form of severance pay 0.5 (zero point five) times the provisions of Article 40 paragraph (2), Work Period award money 1 (one) times the provisions of Article

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40 paragraph (3), and reimbursement of Rights in accordance with Article 40 paragraph (4), where the plaintiff works at Martha Friska hospital (i.c. Defendant II) with a working period of 13 (thirteen) years, and the last wage received by the plaintiff amounted to Rp3, 222, 557.00 (three million two hundred twenty two thousand five hundred fifty seven rupiah). The Total right to termination of employment (PHK) amounted to Rp30, 614, 291.00 (thirty million six hundred fourteen thousand two hundred ninety one rupiah).

Workers who are laid off for a long period of time lead to layoffs. Before making layoffs, companies should pay attention to what underlies the legal relationship between employers and workers as stipulated in Article 1 Number 15 of the labor law related to Labor Relations which means the relationship between employers and workers/workers based on labor agreements, which have elements of work, wages, and orders. For workers whose employment relationship is based on an indefinite work agreement, normatively, severance pay must be given as a right that workers must receive, but with the economic conditions that have deteriorated as a result of the Covid-19 pandemic, institutions are needed that can bridge between the interests of the company and workers so as not to cause disputes due to the dismissal of workers which can lead to layoffs. In articles 38 and 39 PP No. 35 of 2021, workers can accept or reject layoffs, provided: 1. If a worker / laborer who has received a notification letter, receives a layoff, the employer must report the layoff to the Ministry that organizes government affairs in the field of employment and/or the office that organizes government affairs in the field of provincial and district/city employment. 2. If the worker / laborer refuses, he / she must make a rejection letter with a reason no later than 7 working days after receiving the notice of dismissal.

Then it must go through a mechanism for resolving industrial relations disputes, in this case layoff disputes, in accordance with the provisions of laws and regulations the company can only lay off based on legal reasons the provisions of Article 36 PP No. 35 of 2021 above, so laying off workers who end up with layoffs must be based on the reasons stated in the provisions of Article 36. When there are layoffs, the labor law has regulated legal provisions regarding the rights of workers/workers who experience layoffs, including Article 81 number 44 of the job creation law which states that in the event of termination of employment (layoffs), employers are required to pay severance pay (UP) and or work period award money (UPMK) and replacement Rights money (UPH) that should be received. Severance pay is a payment in the form of money from employers to workers/workers as a result of layoffs, the amount of which is adjusted to the period of work of the workers/workers concerned. The action of the worker's dismissal has the potential to cause disagreements, even disputes between the two parties. Normatively, the laws and regulations governing disputes between employers and workers are regulated in law No. 2 Of 2004 On The Settlement Of Industrial Relations Disputes. Of the many events or events of conflict or dispute the most important is how the solution for its resolution to be truly objective and fair, as the principle of Justice proposed by John Rawls, which defines justice as fairness, which is characterized by the principles of rationality, freedom and equality, which requires the principle of justice that prioritizes rights over interests.

Rawls added that freedom must be distinguished from the worth of liberty. It is then affirmed that in the default position, we must give up all knowledge about social position and all the attributes that we have in real life. In this phase, everyone in the default position does not know the attributes that can make them make compromising considerations to maximize their personal or group interests. In other words, in the default position, everyone is in the veil of ignorance. They do not find out whether the deal they make will benefit them personally or not. According to Rawls, in the curtain of ignorance they do not know their social position, gender, religion or beliefs professed, among others. In Rawls ' judgment, due to ignorance of their attributes post default position, they would agree on the decision he considered the fairest for all parties. For example, the agreement that all citizens have equal liberty whatever their social, religious and cultural background, is an agreement that rationally and sanely must have been taken by individuals in the default position phase. This is the deal that is considered the most fair. This kind of agreement can be reached if we can release knowledge about our attributes in the real world. The knowledge of our status in the real world will make us tempted to seek an agreement that will benefit our position.

The theory of Justice initiated by Rawls is the basis in this research to be the basis of thinking where large companies that cut employment relationships have higher strata both in social and economic. Parties who experience termination of employment who have lower strata also need to

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have their rights protected in order to create Justice The resolution of disputes can basically be resolved by the parties themselves, and when the parties cannot resolve them themselves, it is only resolved in the presence of a third party, either provided by the state or chosen by the parties. The protection of labor law is regulated in Law No. 13 of 2003 concerning manpower in consideration of the section considering letter d in Law No. 13 of 2003 contains that: "Protection of Labor is intended to ensure the basic rights of workers/laborers and ensure equal opportunities and treatment without discrimination on any basis to realize the welfare of workers/laborers and their families while paying attention to the development of the progress of the business world. The concept of balanced interest Protection stipulated in Pancasila indicates the recognition of human rights as stipulated in the provisions of Article 1 Paragraph 1 of Law Number 39 of 1999 on human rights. Based on the provisions of this article indicates that both debtors and creditors have human rights where this right is inherent in the nature and existence of man as a gift of God Almighty must be protected by the state, government, and law. On this basis,the bankruptcy law must provide balanced protection for debtors and creditors as a manifestation of the fulfillment of human rights protection.

In relation to these rights, Imam Soepomo divides the protection of workers into 3 (three) kinds, namely: a. Economic protection, which is a type of protection related to the effort to provide the worker with an income sufficient to meet the daily needs of him and his family, including in the event that the worker is unable to work because of something beyond his will. This protection is called Social Security; b. Social protection, which is a protection related to community efforts, the purpose of which is to enable the worker to enjoy and develop his life as a human being in general, and as a member of society and family members; or what is commonly called occupational health; c. Technical protection, which is a type of protection related to the effort to protect workers and the danger of accidents that can be caused by aircraft or other work tools or by materials processed or worked by the company. In the next discussion, this protection is called occupational safety.

According to Fitzgerald explains Salmond's theory of legal protection that law aims to integrate and coordinate various interests in society because in a traffic of interests of society at large, legal protection created for certain interests can only be done by limiting the various interests of other parties. Legal interest is to take care of human rights and interests as a subject of law that is protected by human rights so that the law has an obligation as the executor of the highest authority to determine human interests that need to be regulated and protected. Fitzgerald explained that the law protects the interests of a person by allocating power to him in a measured way to act in the framework of his interests called rights. The purpose of law is to take care of human rights and interests as a subject of law to protect its interests so that the law is obliged to exercise its position as the highest authority to determine human interests that need to be protected and regulated contained in the form of regulations .

CONCLUSION

The decision of PHI regarding the exception of ERROR in PERSONA lawsuit is very detrimental to the employees, because of course the employees only know that Martha Friska Hospital is where they work and is a business unit of PT Karya Utama Sehat Sejahtera. As for the decision of the Cassation of the Supreme Court of the Republic of Indonesia, the author concludes that the decision is quite fair because it has considered the interests of both parties and in accordance with applicable rules and laws.Which means that the company still has a responsibility to employees and the government also has a responsibility to things that can affect the survival of the company.

REFERENCES

Abdul Khakim, "Pengantar Hukum Ketenagakerjaan", PT Citra Aditya Bakti, Bandung, 2012,

Abdulkadir Muhammad, *Hukum Perdata Indonesia*, Bandung: Citra Aditya Bakti, 2000

Abdullah Sulaiman, *Upah Buruh di Indonesia*, Jakarta: Universitas Trisakti, 2008

Agus Riyanto, Pengantar Hukum Bisnis Indonesia, (Batam: Batam Publisher, 2018)

Agus Santoso, *Hukum, Moral, & Keadilan Sebuah Kajian Filsafat Hukum*, Jakarta: Kencana Prenada Media Group, 2014

Agusmidah, *Dinamika Hukum Ketenagakerjaan Indonesia*, Medan: Usu Press, 2010.

P-ISSN 2829-1654
E-ISSN 2829-517X

Ahmad Miru, *Hukum Kontrak Dan Perancanaan Kontrak*, Jakarta: PT. Raja Grafindo Persada, 2011

Anita Kamilah, Bangun Guna *Serah (Build Operate and Transfer/BOT) Membangun Tanpa Harus Memiliki Tanah: Perspektif Hukum Agraria, Hukum Perjanjian, dan Hukum Publik*, Bandung: Keni Media, 2013

Ariman Sitompul. (2022). Metode Penelitian Hukum Normatif (Strategi Praktis Penulisan Skripsi,Tesis, Disertasi) (1st ed.). Malang : Mazda Media.

Ariman Sitompul. (2024). Gratification development in corruption in Indonesia. *International Asia Of Law and Money Laundering (IAML)*, *3*(1), 17–22. https://doi.org/10.59712/iaml.v3i1.77

Asri Wijayanti, *Hukum Ketenagakerjaan Pasca Reformasi*, Jakarta: Sinar Grafika, 2009.

Budiono Kusumohamidjojo, *Filsafat Hukum: Peoblematik Ketertiban yang Adil*, Bandung ; CV Mandar Maju, 2011

C.S.T. Kansil, Pengantar Ilmu Hukum dan Tata Hukum Indonesia, Balai Pustaka, Jakarta, 1989.

Dr.Agusmidah,SH,M.Hum , *Dilematika Hukum Ketenagakerjaan / Tinjauan Politik Hukum*, PT Sofmedia.

F. Wibowo, and R. Herawati, "Perlindungan Bagi Pekerja Atas Tindakan Pemutusan Hubungan Kerja (PHK) Secara Sepihak," *Jurnal Pembangunan Hukum Indonesia*, vol. 3, no. 1, pp. 109-120, Jan. 2021. https://doi.org/10.14710/jphi.v3i1.109-120

Robingu, Y. HAK NORMATIF PEKERJA AKIBAT PEMUTUSAN HUBUNGAN KERJA. *Legality : Jurnal Ilmiah Hukum*. Retrieved from https://ejournal.umm.ac.id/index.php/legality/article/view/291