

ANALISIS YURIDIS HAK PEKERJA YANG DI PHK KARENA PENOLAKAN MUTASI DITINJAU DARI UNDANG-UNDANG NO 13 TAHUN 2003 TENTANG KETENAGAKERJAAN

ABSTRAK

Ketua : Stanley A. Efendi (203309010249)
Anggota : Kelly (203309010244)

Penolakan mutasi adalah hak pekerja yang diatur dalam Pasal 32 ayat (1) huruf b Undang-Undang No. 13 Tahun 2003 tentang Tenaga Kerja. Pasal tersebut menyatakan bahwa pekerja memiliki hak untuk menolak perubahan syarat kerja, termasuk perpindahan tempat kerja, jika perubahan tersebut bertentangan dengan perjanjian kerja, peraturan perusahaan, atau Undang-Undang. Penelitian ini merupakan penelitian normatif. Sumber data dalam penelitian ini adalah data sekunder. Alat pengumpul data yang digunakan dalam penelitian ini adalah berupa studi dokumen dan penelusuran kepustakaan. Data yang diperoleh dari bahan pustaka selanjutnya di analisis dengan studi dokumen dan menggunakan analisis kualitatif. Berdasarkan hasil penelitian Pekerja atau buruh dapat menggunakan Pasal 31 dan Pasal 32 Undang-Undang Ketenagakerjaan apabila dimutasi oleh pengusaha atau pemberi kerja apakah mutasi tersebut bertentangan atau tidak. Di dalam pengertian pemutusan hubungan kerja menurut Pasal 1 Butir 25 Undang-Undang Ketenagakerjaan adalah: “Pengakhiran hubungan kerja karena suatu hal tertentu yang mengakibatkan berakhirnya hak dan kewajiban antara pekerja atau buruh dengan pengusaha”. Pemutusan hubungan kerja ini berdasarkan ketentuan Pasal 150 Undang-Undang Ketenagakerjaan No. 13 Tahun 2003 meliputi PHK yang terjadi di badan usaha yang berbadan hukum atau tidak, milik orang perorangan, milik persekutuan atau badan hukum baik milik swasta maupun milik Negara, maupun usaha-usaha sosial dan usaha-usaha lainnya yang mempunyai pengurus dan mempekerjakan orang lain dengan membayar upah atau imbalan dalam bentuk lain. Dari terjadinya penolakan mutasi karena telah menolak perintah kerja dari perusahaan maka dapat berakibat pemutusan hubungan kerja (PHK). Dalam Pasal 161 UU No.13 Tahun 2003 Tentang Ketenagakerjaan, sebelum melaksanakan pemutusan hubungan kerja perusahaan akan mengirimkan terlebih dahulu berupa surat peringatan ke satu, ke dua, dan ke tiga kepada pekerja/buruh dalam suatu perusahaan. Perselisihan hubungan industrial dapat diselesaikan melalui Pengadilan Hubungan Industrial dan di luar pengadilan.

Kata Kunci : Pekerja, PHK, Mutasi

**THE RIGHTS OF WORKERS WHO ARE SET OFF DUE TO REFUSAL OF
MUTATION ARE REVIEWED FROM LAW NO 13 OF 2003
CONCERNING EMPLOYMENT**

ABSTRACT

Head : Stanley A. Efendi (203309010249)
Member : Kelly (203309010244)

Refusal to transfer is a worker's right as regulated in Article 32 paragraph (1) letter b of Law no. 13 of 2003 concerning Manpower. This article states that workers have the right to refuse changes to work conditions, including a change of place of work, if the changes conflict with the work agreement, company regulations, or law. This research is normative research. The data source in this research is secondary data. The data collection tools used in this research are document study and literature search. Data obtained from library materials was then analyzed by document study and using qualitative analysis. Based on the research results, workers or laborers can use Article 31 and Article 32 of the Manpower Law if they are transferred by employers or employers, whether the transfer is in conflict or not. The meaning of termination of an employment relationship according to Article 1 Point 25 of the Employment Law is: "Termination of an employment relationship due to a certain matter which results in the end of the rights and obligations between the worker or laborer and the entrepreneur." This termination of employment is based on the provisions of Article 150 of the Employment Law no. 13 of 2003 includes layoffs that occur in business entities that are legal entities or not, owned by individuals, owned by associations or legal entities, both private and state-owned, as well as social enterprises and other businesses that have management and employ other people with pay wages or other forms of compensation. If a transfer is rejected due to refusing a work order from the company, it can result in termination of employment (PHK). In Article 161 of Law No. 13 of 2003 concerning Employment, before implementing employment termination, the company will first send a first, second and third warning letter to workers/laborers in a company. Industrial relations disputes can be resolved through the Industrial Relations Court and outside the court, such as: Settlement of relations outside the court consisting of Bipatrit, Tripatrit, Mediation, Conciliation, Arbitration. If efforts have been made to resolve the dispute outside of court and an agreement or peace has not yet been reached, then you can resolve it through the Industrial Relations Court at the local district court as a final resort. The stages of resolving disputes in the industrial sector in the district court are filing a lawsuit and the examination process.

Keywords: Workers, layoffs, transfers