

# Effectiveness of State Administrative Court Ruling in Staffing Disputes (Study on Civil Service Arbitration Tribunal in Makassar City)

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## ABSTRACT

The results showed that: (1) The development of staffing dispute cases related to the removal of positions in PTUN Makassar City in 2014 - 2018 experienced fluctuating changes. From 2014 to 2015 increased by 40.00 percent, where in 2014 there were 15 cases, in 2015 it increased to 21 cases. Then in 2016 it fell 57.14 percent, to 9 (nine) cases. Furthermore, in 2017 again increased dramatically to reach 233.33 percent or to 30 cases which the previous year only nine cases. In 2018 again dropped 53.33 percent or to 14 cases. The lowest number of cases in 2016 was 9 (nine) cases, and the highest cases in 2017 reached 30 cases out of a total of 89 cases of staffing disputes that were severed throughout 2014 - 2018. (2) The implementation (execution) of the verdict in the staffing dispute related to the removal of positions declared to have permanent legal force (inchract) in PTUN Makassar City in 2014-2018 can be categorized as less effective. Where of all cases decided to grant the plaintiff's lawsuit, only 3 (three) cases were carried out (execution) by the defendant. (3) Factors that affect the implementation of the decision in the staffing dispute that has permanent legal power related to the removal of positions in PTUN Makassar City in 2014 - 2018, namely the factor of not being moved by the PTUN decision, has been determined the definitive official in the position that was used as the object of the dispute, the plaintiff is not willing to accept a certain position because it is different from the original position, although the position of the position is at the level or level with the previous position being sued, and the absence of instruments capable of pressuring the defendant's officials to carry out the PTUN verdict.

**Keywords:** *Effectiveness, Judge's Ruling, Staffing Dispute*

## 1. INTRODUCTION

The court process is to obtain a judge's verdict. The judge's decision or commonly called the dream court ruling is always awaited by the litigating party to resolve the dispute as well as possible. The judge's ruling is expected to meet the certainty of law and justice in for those in the litigal. Cases related to staffing disputes also have the same opportunity as other cases through the courts.[1]

Cases that befell civil servants, both related to indiscipline and like or dislike treatment are often the subject of conversation in the community. News related to civil servants in print, electronic, and social media. Such cases exist that become disputed cases and resolved internally through mediation in accordance with internal rules, and there are also until disputed by submitting legal proceedings to the relevant judiciary, in

the case of staffing disputes, namely to the state administrative court.

Staffing disputes that occurred in the last five years, not infrequently rolled to the Constitutional Administrative Court (PTUN) which is indeed the realm of PTUN. Law No. 5 of 1986 on State Administrative Justice, namely "State Administrative Justice is one of the perpetrators of judicial power for the people seeking justice against State Administrative Disputes". State Administrative Disputes stipulated in Article 1 number 10 of Law No. 51 of 2009 on State Administrative Justice: "State Administrative Disputes are disputes arising in the field of state governance between persons or civil law entities with state administrative entities or officials, both in the center and in the region, as a result of state governance decisions, including staffing disputes based on applicable laws and regulations. [2]

Cases of staffing disputes, especially related to the removal of positions, as a result of political issues in the election of regional heads directly. Officials who feel his removal violates the provisions of applicable law, file a lawsuit with PTUN until PTUN strikes a ruling granting the former official's lawsuit. However, in its implementation it is often heard that the verdict cannot be executed.

Research aims: (1) Knowing the development of cases, the execution of verdicts, and identifying factors that affect the implementation of the verdict in staffing disputes that have permanent legal force related to the removal of positions in PTUN Makassar City in 2014 - 2018.

## 2. METHOD

This research is qualitative research using this type of case by trying to explain and argue against research variables. The focus of the research is the effectiveness of PTUN rulings in staffing disputes.

A research site is a place or region where a researcher moves to capture, understand the actual circumstances or phenomena. Thus the location in this study is in PTUN Makassar City and Regency / City which experienced cases of staffing disputes processed in PTUN Makassar City.

The types and sources of data in this study are primary data and secondary data. Primary data, which is data obtained directly from sources / respondents, namely Hakim / Panitra in PTUN Makassar City and the parties in staffing disputes related to removal whose cases are handled by PTUN Makassar City. Secondary data, data obtained from documents / publications / research reports and other data sources that support.

The data collection technique used is a technique that is an interview and documentation technique. Interview techniques are used to obtain an overview of the implementation of the PTUN verdict. The data analysis technique used is related to the formulation of research problems, data analysis using descriptive analysis techniques that describe research variables based on research data.

## 3. RESULTS AND DISCUSSION

### *3.1 Development of Staffing Dispute Cases related to Department Removal in PTUN Makassar City in 2014 – 2018*

One of the things that becomes essential in the Development of Staffing Dispute Case related to Department Removal in PTUN Makassar City in 2014 - 2018. The case of state administrative law during the staffing dispute during the period 2014 to 2018 shows a tendency to increase, especially every election to the

region (governor / regent / mayor). The dispute arises after the occurrence of mutation efforts both promotion and deactivation (deactivation) of certain officials by the governor / regent / mayor who has just been sworn in. The activation or removal of a particular official is what then raises the problem. The disabled party feels that it has no fault so it makes legal resistance through the lawsuit to PTUN. [3]

The development of staffing dispute cases related to the removal of positions in PTUN Makassar City in 2014 - 2018 has changed fluctuating. From 2014 to 2015 increased by 40.00 percent, where in 2014 there were 15 cases, in 2015 it increased to 21 cases. Then in 2016 it fell 57.14 percent, to 9 (nine) cases. Furthermore, in 2017 again increased dramatically to reach 233.33 percent or to 30 cases which the previous year only nine cases. In 2018 again dropped 53.33 percent or to 14 cases. The lowest number of cases in 2016 was 9 (nine) cases, and the highest cases in 2017 reached 30 cases out of a total of 89 cases of staffing disputes that were severed throughout 2014 - 2018.

In 2014, there were 17 registered cases. Of the 17 staffing dispute cases registered with PTUN Makassar City in 2014, there were two or 11.76 percent that were not accepted (the lawsuit file was not processed or returned to the plaintiff) because it was deemed ineligible for further processing because it was deemed ineligible legal requirements to become a lawsuit. No charges were dismissed and dismissed by the court. There were 15 or 88.24 percent of staffing dispute cases that were decided to be granted by the Makassar City PTUN judge.

There were 25 cases of staffing disputes registered with PTUN Makassar City in 2015. There are two or 8.00 percent that are not accepted (the lawsuit file is not processed or returned to the plaintiff) because it is considered ineligible for further processing because it is deemed ineligible legally to be a lawsuit. One or 1.12 percent of lawsuits were rejected and dropped by the courts. There were 21 or 84.00 percent of staffing dispute cases that were severed.

In 2016 there were 9 (nine) cases registered. Of the 9 (nine) staffing dispute cases registered with PTUN Makassar City in 2016, there were no cases that were not accepted (the lawsuit file was not processed or returned to the plaintiff) and no lawsuit was rejected and dropped by the court. There are 9 (nine) or 100.00 percent of staffing dispute cases that are decided to be granted by the judge of PTUN Makassar City.

Staffing dispute cases in PTUN Makassar City in 2017 show that there are 33 cases of staffing disputes registered. There are no cases of staffing disputes that are not accepted and dropped. All staffing dispute lawsuits are decided with the status granted by judges in PTUN Makassar City.

Staffing dispute cases in PTUN Makassar City in 2018 out of 19 registered staffing dispute cases, there

were two or 10.53% of cases of staffing dispute lawsuits that were not accepted, there were one or 5.26 percent of registered staffing dispute lawsuit cases then dropped, two or 10.63 percent of staffing dispute lawsuit cases were rejected, and 14 or 73.68 percent of staffing dispute lawsuit cases were granted by PTUN judges of Makassar City.

During 2014 - 2018 there were 103 cases of staffing disputes registered with PTUN Makassar City. The highest number of cases occurred in 2017, reaching 33 or 30.84 percent of cases, followed by 2015 where registered cases reached 25 or 24.27 percent of staffing dispute cases, then in 2018 the number of registered cases was 19 or 18.45 cases. The next lower number of staffing disputes occurred in 2014, which was 17 or 15.89 percent of cases, and the lowest case of staffing disputes in Makassar City PTUN occurred in 2016 only reached 9 (nine) or 8.74 percent of staffing dispute cases.

There were 89 cases of staffing disputes that were decided (verdict) filed by the plaintiff's lawsuit and declared permanent legal force (*incracht*) throughout 2014 - 2018. The highest number of cases occurred in 2017, reaching 33 or 30.84 percent of cases, followed by 2015 where registered cases reached 25 or 24.27 percent of staffing dispute cases, then in 2018 the number of registered cases was 19 or 18.45 cases. The next lower number of staffing disputes occurred in 2014, which was 17 or 15.89 percent of cases, and the lowest case of staffing disputes in Makassar City PTUN occurred in 2016 only reached 9 (nine) or 8.74 percent of staffing dispute cases.

From the exposure of the data above shows that in most cases staffing dispute lawsuits are accepted and subsequently heard and resulted in a judge's ruling by granting the plaintiff's lawsuit. Only a small percentage of staffing dispute lawsuits are not accepted because they do not qualify / elements to be continued in the next legal process, such as the case of the plaintiff removed from office because it bears the status of a corruption suspect, there is also because the plaintiff was removed for previously committing disciplinary acts in his duties and responsibilities as a state apparatus. [4]

### ***3.2 Implementation (Execution) of The Verdict in a Staffing Dispute Related to The Removal of Positions Declared Permanent Legal Force (Incracht)***

Law enforcement efforts programmed by the government in addition to showing signs of success but also there are still obstacles that must be found a solution. In this case the law enforcement authorities themselves actually take advantage of those who commit crimes, and abuse of authority.

Internal constraints experienced in law enforcement, which is now carrying out law enforcement (Police, Prosecutors, Judges and Correctional Institutions) still do not synergize optimally in carrying out their basic duties, and functions.

The government's efforts to realize the rule of law, and justice, and foster democracy, it turns out that the citizens of the community judge that the government has not acted optimally. In the hands of Hakim, Indonesia became a stage that promised a play full of irony always released.

The method of implementing the court's ruling is closely related to the dynamics in the court. In terms of dynamics in the court, it is orderly, certain, fair, fast, smooth and positive, then the product of the judge's decision can be said to be positive as well. Conversely, in terms of dynamics in the court taking place in an atmosphere that cannot be clearly predicted, and the numbered issues of bribery, then the products associated by the judge's ruling, can certainly be questioned.

After the completion of the trial process, the judge takes the decision that is spoken in front of the open hearing to the public, then the judge's task is completed in the settlement of the case. The judge's ruling can only be implemented if the ruling already has permanent legal force (*in kracht van gewijsde*) can be submitted for judicial review and clemency.

Article 23 of Law No. 4 of 2004 concerning the Power of Justice. (1) Against the breakup of the court which has obtained permanent legal force, the parties concerned may file a re-trial with the Supreme Court, if certain things or circumstances are specified in the Law. (2) Against the decision the review cannot be reviewed.

In life in an open, democratic, and modern society between the interrelationship of court decisions and law enforcement in society, is a natural phenomenon, and always ongoing. The wider community, as the most important element in growing, and the healthy, positive culture of law will always compare court rulings in large cases with those seen, felt and even experienced daily in their living environment. [5]

The implementation of the court's decision, is one aspect of law enforcement. The verdict of justice is the embodiment of an independent judicial power (independent) fair, open, based on a professionalism, honesty and truth that can be accounted for to God Almighty and various manifestations of the rule of law.

Aspects of bureaucratic behavior, is a fundamental weakness that has not been changed in accordance with bureaucratic reform. With the completeness of political, economic, legal and security reforms, bureaucratic reform is only done in its skin, so that law enforcement officials as implementers of court decisions in addition to being slow, cooperating with those who violate the law, also often make mistakes.

The implementation (execution) of the verdict in the staffing dispute related to the removal of positions declared permanent legal force (inchract) in PTUN Makassar City in 2014 - 2018 can be categorized as less effective. Where of all cases decided to grant the plaintiff's lawsuit, only 3 (three) cases were carried out (execution) by the defendant.

### ***3.3 Factors Affecting the Implementation of The Ruling in a Permanent Staffing Dispute Related to The Removal of The Office***

Law enforcement in the midst of public life is not a light work, but very complex in achieving the realization of the rule of law and justice. The Law of 1945 of the Republic of Indonesia after undergoing the fourth amendment, that the Republic of Indonesia is a state of law, but in its implementation, it has not been able to be carried out properly. Mechanisms, procedures and law enforcement processes, which have actually been regulated in various laws and regulations, apparently face obstacles that are not light in the daily life of society in all dimensions of life in the field. So that the nature and meaning of law enforcement becomes faded. Citizens become apathetic about the implementation of law enforcement. The state of law, increasingly losing its authority.

Some cases of execution: (1) The exception refuses because it is not in accordance with the amar. (2) The execution applicant refuses because it is not in accordance with: (a) The execution is postponed if the rejection is submitted before the execution is carried out, (b) The execution is carried out continuously if the rejection is submitted while the execution is being carried out, (c) Both parties refuse to be executed, (d) The execution is immediately dismissed, if the circumstances of the execution have not been carried out too far. (e) The execution continues to be completed if the rejection is submitted at the time the execution is nearing completion. (3) Amar's verdict is less clear: (a) Execution is associated with the consideration of the decision. (b) When the size and limits are unclear, perform a local check. (c) Win the opinion of the deciding assembly. (d) To state non-sexable for reasons of amar verdict is unclear.

Obstacles to law enforcement, various definitions emerged including Soeryono Soekanto [6] Affirming namely: (1) The laws and regulations that are the formulation of expected behavior made by the pattern setting group. (2) The attitude of law enforcement. (3) Facilities that are expected to support law enforcement. (4) Public expectations about law enforcement.

In law enforcement it takes seriousness, consistency, courage, and proportionality. There are three elements that must always be considered: (1)

Legal certainty (rechtssecherheit). (2) Expediency (zweckmassigkeit). (3) Justice (gerechtiget) [7]

The implementation of court rulings as part of law enforcement, is strongly influenced by various facts. Since the past as soeryono soekanto has said [6] The success of the law enforcement process, always depends on the harmonious relationship and at least four factors, namely: (1) The good of the law. (2) Good mentalization of law enforcement. (3) Sufficient facilities or less. (4) The level of awareness and compliance of the laws of the citizens of the community. (8) In the midst of modernization and globalization, and ashamed not to act as he pleases fades. Moreover, consumptive culture and demonstration effects that show off the glitter of wealth and economic value are very high and dominating.

Moving on from this phenomenon in the midst of the existence of democratic consolidation, then the rule expectation against law enforcement. Delivering and upholding justice. (2) Crack down and prosecute those who are guilty and breaking the law. (3) Find the truth. (4) Educate the public to obey the law. (5) Set an example in legal compliance. [8]

Since the law contains coercion, the law has since needed help to realize the order. The law becomes meaningless if the commandment is not (able) to be carried out. It takes human effort and action for the commands and coercions that are potentially in the regulation to manifest. By Donald Block the dimension of human involvement in the law is called legal mobilization. [9]. It is in this mobilization of the law that man intervenes so that the law does not only threaten and promise on paper.

Factors that affect the implementation of the ruling in staffing disputes that have permanent legal power related to the removal of positions in PTUN Makassar City in 2014 - 2018, namely the factor of not being subjected to the PTUN ruling, has been determined the definitive official in the position that is the object of the dispute, the plaintiff is not willing to accept a certain position because it is different from the original position, although the position of the position is at the level or level as the previous position being sued, and the absence of instruments capable of pressuring the defendant's officials to carry out the PTUN verdict.

Staffing dispute cases decided in PTUN Makassar city throughout 2014 - 2019 reached 89 verdicts, the verdicts granted reached 87.64% and only 3.85% were executed, but were not accepted by the plaintiffs because of different positions despite the level of. [10]

The development of staffing dispute cases related to the removal of positions in PTUN Makassar city experienced fluctuating changes during 2014 - 2018. From 2014 to 2015 increased by 40.00 percent, where in 2014 there were 15 cases, in 2015 it increased to 21 cases. Then in 2016 it fell 57.14 percent, to 9 (nine) cases. Furthermore, in 2017 again increased

dramatically to reach 233.33 percent or to 30 cases which the previous year only nine cases. In 2018 again dropped 53.33 percent or to 14 cases. The lowest number of cases in 2016 was 9 (nine) cases, and the highest cases in 2017 reached 30 cases out of a total of 89 cases of staffing disputes that were severed throughout 2014 - 2018.

Implementation (execution) of a Decree Declared Permanent Legal Force (inchract) in a Staffing Dispute related to the Removal of Positions in PTUN Makassar City in 2014-2018. The implementation (execution) of the verdict in the staffing dispute related to the removal of positions declared permanent legal force (inchract) in PTUN Makassar City in 2016-2018 can be categorized as less effective. Where of all cases decided to grant the plaintiff's lawsuit, only 3 (three) cases were carried out (execution) by the defendant.

Factors that affect the Implementation of Rulings with Permanent Legal Force in Staffing Disputes related to The Removal of Positions in PTUN Makassar City in 2014 - 2018. Factors that affect the implementation of the ruling in the staffing dispute that has permanent legal force related to the removal of positions in PTUN Makassar City in 2016 - 2018, namely the factor of not being subjected to the PTUN decision, has been determined the definitive official in the position that is the object of the dispute, the plaintiff is not willing to accept a certain position because it is different from the original position, even though the position of the position is at the level or level as the previous position being sued, and the absence of instruments capable of pressuring the defendant's office to carry out the verdict. [11, 12]

The need to strengthen every inchract PTUN ruling in the implementation (execution) so that the seekers of justice really get their rights according to the court's decision. Legal instruments are needed that can ensure the legal process and court rulings are fully enforceable, the plaintiff regains his or her rights and the defendant restore the plaintiff's rights in accordance with the court's ruling. The process and procedure for implementing the decision of the State Administrative Court which seems convoluted as the rules of article 116 of the Law on Administrative Railroads should be revised to include simpler rules by adopting procedures for implementing the decision by placing the application of sanctions against the person of the Administrative Body/Official The state itself is not the institution so that the implementation of the execution is easier, faster and less costly and is considered to be more effective in creating a deterrent effect for officials to comply with and implement the contents of the decision so that the goal of law enforcement to achieve justice and legal certainty will be achieved within a period of time. too long. [13]

The defendant complies with any court decision that has the legal force to remain in accordance with the provisions of the laws and regulations. The process and

procedures for implementing the decision of the State Administrative Court that seem convoluted as the rules of article 116 of the Law on The Regulation of Business Should be revised by containing simpler rules by adopting the procedures for the implementation of the verdict by placing the application of sanctions against the personal Entity / State Administrative Officer itself not to the institution so that the implementation of its execution is easier, faster and light costs and is considered to be more effective to make the deterrent effect of officials to comply and implement the contents of the verdict so that the purpose of law enforcement to achieve justice and legal certainty will be achieved in the not too distant future. [14, 15]

The plaintiffs study the case to be sued in depth before making a lawsuit so that the material of the lawsuit demanded can produce a court ruling that can actually be executed by the defendant. The application of forced efforts in the form of loading of obligations to pay forced money (dwangsom) and administrative sanctions in the form of removal and / or decriminalization of positions for State Administrative Entities / Officials who do not carry out the decision of the State Administrative Court is recommended that criminalization efforts in the form of accusations of contempt of court with the application of contempt of court institutions can also be carried out so that the application of criminal witnesses is expected to be useful to create a deterrent effect for State Administrative Entities / Officials who do not carry out court rulings. [16, 17]

#### **4. CONCLUSION**

The development of staffing dispute cases related to the removal of positions in PTUN Makassar city experienced fluctuating changes during 2014 - 2018. From 2014 to 2015 increased by 40.00 percent, where in 2014 there were 15 cases, in 2015 it increased to 21 cases. Then in 2016 it fell 57.14 percent, to 9 (nine) cases. Furthermore, in 2017 again increased dramatically to reach 233.33 percent or to 30 cases which the previous year only nine cases. In 2018 again dropped 53.33 percent or to 14 cases. The lowest number of cases in 2016 was 9 (nine) cases, and the highest cases in 2017 reached 30 cases out of a total of 89 cases of staffing disputes that were severed throughout 2014 - 2018.

Implementation (execution) of a Decree Declared Permanent Legal Force (inchract) in a Staffing Dispute related to the Removal of Positions in PTUN Makassar City in 2014-2018.

The implementation (execution) of decisions in employment disputes related to the removal of positions which are declared to have permanent legal force (inchract) in the Makassar City Administrative Court in 2016-2018 can be categorized as less effective. Where out of all cases that were decided to grant the plaintiff's

claim, only 3 (three) cases were carried out (execution) by the defendant.

The factors that influence the implementation of decisions in employment disputes that have permanent legal force related to the removal of positions in the Makassar City Administrative Court in 2016 - 2018 are the factor that the PTUN decision is not heeded, a definitive official has been assigned to the position that is the object of the dispute, the plaintiff is not willing to accept certain positions because it is different from the original position, even though the position of the position is at the same level as the previous position being sued, and there is no instrument that is able to pressure the defendant's official to implement the decision.

#### **AUTHORS' CONTRIBUTIONS**

1. Andi Kasmawati as the head of research implementer is responsible for coordination and research ideas
2. Mustari as member I, acts as an initial problem analysis at the research site and assists in data analysis.
3. Bakhtiar as member II acts as a data collector in the field, analyzes data, and completes article manuscripts

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