

Labor Efficiency Due to the Covid-19 Pandemic Based on Law Number 13 of 2003 Concerning Employment

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ABSTRACT

Protection of workers in guaranteeing the basic rights of workers/laborers and ensuring to improve the quality of the workforce and their welfare while taking into account the progress of the business world must be provided, but the progress of the business world in the last 2 (two) years has been hampered due to the Covid-19 Pandemic. In fact, it is not uncommon for labour efficiency to be carried out by Termination of Employment by the Company. In this paper, the author will discuss the Covid-19 Pandemic as a reason for force majeure Termination of Employment and Legal Efforts that can be submitted by Workers in Termination of Employment due to Covid-19.

Keywords: *Employment, COvid-19, and Termination of Employment*

1. INTRODUCTION

The Covid-19 pandemic which prompted the implementation of the Large-Scale Social Restriction (PSBB) policy in Indonesia had an impact on the economy in all lines of society. Many companies are not able to continue their business productivity so they have to execute Termination of Employment.

A lot of companies make various policies to maintain their business. From not doing production, temporarily closing their business, and even terminating several employees due to cash flow difficulties. If every company has the ability to survive the current. However, the survival of the company also has its limits. Reckoning the current declining public consumption power. The main factor for the emergence of many layoffs could be from the current public consumption of goods produced by these companies that decreasing. Which then affects the company's income. The government's efforts to deal with the impact of the pandemic on these layoffs through the government's pre-employment card program can be right on target.

Decreased economic growth, the potential for layoffs increases. It is possible that layoffs have the potential to increase the crime rate due to economic pressure. The Indonesian Trade Union Association has asked the government to prevent Termination of Employment (PHK) in the midst of the Covid-19 pandemic. Mass layoffs are also not a humane decision for now.

Entrepreneurs lose because the company's profits that they have been able to participate in have disappeared due to Covid-19. In addition to mass layoffs, several companies offer their employees to take unpaid leave or be laid off. This is done to keep the company afloat. According to Law No. 13 of 2003, layoffs are the termination of the employment relationship

2. RESEARCH METHOD

This research uses normative legal research. The prescriptive character of legal science causes the legal research process to aim to find the rule of law, legal principles, and legal doctrines in order to answer the legal issues faced.[1]Therefore, this study seeks to explore primary, secondary, and tertiary legal materials in the hope of providing a comprehensive description and analysis. The primary legal materials used are: Law No. 13 of 2003. Secondary legal materials are closely related to primary legal materials and can help analyze and understand primary legal materials in the form of manuscripts, related research results, papers, books by legal experts, legal journals, newspapers and other written materials. Meanwhile, tertiary legal materials provide information/explanation instructions on primary and secondary legal materials, such as legal dictionaries, encyclopedias, indexes and others.

3. RESULT AND DISCUSSION

The government, in order to protect its people by preventing the spread of Covid-19, has implemented a Large-Scale Social Restriction (PSBB) policy and will continue in 2021 with the Restriction of Community Activities (PPKM). The enactment of this policy certainly affects trading business activities, the number of buying/selling activities decreases, so entrepreneurs must also make decisions in order to maintain their business.

Employment is a form of improving the quality of the workforce and their participation in development as well as increasing the protection of workers by taking into account the development of the progress of the business world. The development of the business world has been hampered due to the Covid-19 Pandemic, not only in Indonesia, but also throughout the world. Based on data from the Central Statistics Agency as of February 2021, there were 19.10 million people (9.30 percent of the working age population) affected by Covid-19, consisting of Unemployment due to Covid-19 (1.62 million people), Non-Working Forces (BAK) Due to Covid-19 (0.65 million people), temporarily not working due to Covid-19 (1.11 million people), and working residents who experienced a reduction in working hours due to Covid-19 (15.72 million people).

Layoffs are regulated in CHAPTER XII of the Manpower Law which also stipulates that entrepreneur as much as possible not to lay off, as for the reasons that layoffs can be done as follows:

1. Workers/laborers commit fraud, theft, or embezzlement of goods and/or money belonging to the company;
2. The worker/labourer provides false or falsified information to the detriment of the company;
3. The worker/labourer is drunk, drinking intoxicating liquor, using and/or distributing narcotics, psychotropic substances, and other addictive substances in the work environment;
4. Workers/laborers commit immoral acts or gambling in the work environment;
5. Workers/laborers attack, abuse, threaten, or intimidate co-workers or employers in the work environment;
6. The worker/labourer persuades his co-worker or entrepreneur to take action that is contrary to the laws and regulations;
7. The worker/labourer carelessly or intentionally damages or leaves the company's property in danger which causes a loss to the company;
8. The worker/labourer carelessly or intentionally leaves his co-worker or entrepreneur in danger at work;
9. Workers/laborers disclose or divulge company secrets that should be kept confidential except for the interests of the state;
10. The worker/labourer commits other acts within the company environment which are punishable by imprisonment of 5 (five) years or more;
11. The worker/labourer after 6 (six) months is unable to perform the job properly because it is in the process of a criminal case;
12. The worker/labourer violates the provisions stipulated in the work agreement, company regulations or collective work agreement;
13. The company undergoes a change of status, merger, consolidation, or change of company ownership;
14. The company closes due to continuous losses for 2 (two) years, or force majeure;
15. Companies close for efficiency;
16. Bankrupt Company.

Some of them do layoffs, employers are required to provide severance pay for the layoffs.

The Covid-19 pandemic is an unexpected event, some companies have laid off for the reason that force majeure. According to Subekti, force majeure is divided into two types, namely absolute force majeure and relative force majeure.[3] Absolute force majeure is a state of coercion if it has fulfilled the elements of achievement that it is impossible to do (impossibility). Relative force majeure is a state of fulfilment of some achievements that are still possible to implement, but with large sacrifices or costs on the part of the debtor.[4] Force Majeur can also be reviewed from the period of occurrence, namely, permanent force majeure and temporary force majeure. Permanent force majeure is a coercive condition that occurs so that it is completely impossible to perform at any time, while temporary force majeure is a state of coercion in which performance is temporarily impossible.

Losses caused by the Covid-19 pandemic forced companies to be more efficient. According to Budi Santoso, what is meant by efficiency is a method that is carried out for reasons of the company's economy, the act of reducing the number of workers is also included in efficiency.[7] Based on Article 164 paragraph (3) of the Manpower Law, it is stated that employers can terminate employment for reasons of efficiency, this termination of employment is carried out provided that the worker/labourer is entitled to severance pay of 2 (two) times the provisions of Article 156 paragraph (2). service period

award of 1 (one) time as stipulated in Article 156 paragraph (3) and compensation for entitlements in accordance with the provisions of Article 156 paragraph (4).

According to the Circular Letter of the Minister of Manpower and Transmigration Number SE-907/MEN/PHIPPHI/X/2004 concerning the Prevention of Mass Layoffs, the reasons for efficiency can be used by the company if the company has taken the following efforts:

1. Reduction of wages and facilities for top-level workers;
2. Shift reduction;
3. Limitation/elimination of overtime work;
4. Reduction of working hours;
5. Reduction of working days;
6. Applying holidays or being laid off in rotation for a certain period of time;
7. Termination of contract extension for workers whose contract period has expired;
8. Provision of pensions for workers who have met the requirements.

Restrictions on the use of efficiency reasons are carried out to prevent arbitrary actions by the company against workers/laborers. The use of efficiency reasons can also be used on the basis of reasons such as work tools that are not in accordance with the number of workers, technological factors that are not effectively efficient due to the number of employees being excessive.[8]

Lifestyle to the world's macro-economy. Employers who are affected with a heavy heart have to make layoffs due to the unexpected occurrence of the Covid-19 Pandemic. Employers can perform layoffs on the grounds of force majeure based on article 164 paragraph (1) of the Manpower Law, provided that workers/labourers are entitled to 1 (one) time severance pay as stipulated in Article 156 paragraph (2) of 1 (one) time service award. provisions of Article 156 paragraph (3) and compensation for rights in accordance with the provisions of Article 156 paragraph (4).

In the event that the entrepreneur has made every effort, but still cannot find a common ground for the sustainability of the company, then layoffs are a way out. Based on Article 151 paragraph (2), termination of employment must be negotiated by the entrepreneur and the trade union/labour union or with the worker/labourer. If the entrepreneur and the worker do not find an agreement, the entrepreneur can apply for a termination of employment through an industrial relations dispute settlement institution. Vice versa, workers/labourers who are laid off, but do not agree, can submit disputes to the

industrial relations dispute settlement agency. A dismissal without an agreement and without a decision from an industrial relations dispute settlement institution is considered null and void.

The stipulation of a dismissal dispute does not apply if the worker/labourer is still on probation if it is required to be written in the contract, the worker/labourer resigns in writing without any coercion, the worker/labourer reaches retirement age, or the worker/labourer dies.

4. CONCLUSION

The Covid-19 pandemic, which is one of the factors the company has hampered its business, has resulted in a decline in profits. The Covid-19 pandemic, which was never expected to happen, is the will of God (Act of God) and the Government is currently working on its prevention and handling, not only in Indonesia, but also throughout the world. Force majeure caused by Covid-19 will recover with prevention, so this is a temporary force majeure.

Workers/labourers who are laid off have the right to receive severance pay, years of service awards, and compensation for entitlements. If the worker/labourer does not agree that a layoff will be carried out or a unilateral layoff may take legal action through an industrial dispute settlement institution.

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