



Creating Professional Officials Through the Application of The Merit System in Filling Primary High Positions in West Sumatra

Sri Arnetti¹, Khairani Lubis,² Gusminarti³, Saufa Atika Ulya⁴

¹Universitas Andalas, Padang, Indonesia
khairani@law.unand.ac.id

Abstract. This study aims to obtain certainty for filling primary high positions which is carried out through open selection to obtain officials who have competence in the positions occupied. According to the ASN Law and PP on ASN Management, to get professional and competent civil servants so that they can run a good and clean government is carried out with a merit system. One way to fill primary high positions in local government organizations is through an open selection of positions carried out by provincial and district/city governments. To obtain the purpose of this research, this research method uses empirical juridical research, namely research conducted by reviewing the provisions of laws and regulations related to filling positions and then seeing how the implementation of these regulations. Furthermore, find solutions and formulate policies so that the selection results carried out by the Committee are in line with the wishes of the Regional Head. This research is in line with the theme or research policy roadmap determined by Andalas University and the Faculty of Law in 2020 – 2024 related to the theme of Law, politics, and civil society. The results showed that the filling of the position of Primary High Leader in West Sumatra was carried out through the Merit System with the principles of qualifications, competence, openness, and fairness. 2) The authority of the KDP has no regulations that regulate what benchmarks must be used by the Mayor / Regent in choosing candidates for one another whether based on loyalty, structural or managerial of the candidates so that there is no legal certainty for the benchmarks in determine 1 person to be selected. 3) The application of the Merit System in Filling the Primary High Leadership Position in West Sumatra is still not optimal in terms of qualifications, competence, openness, and fairness because there are no competency standards applicable to the nation, there is no career development for civil servants shown, there is no regional policy on the career pattern of civil servants, and there is no openness of values at each stage of selection

Keywords: ASN Management, Merit System, Job Filling, KASN

1. Introduction

The concept of a prosperous country is a big concept that all countries in the world want to obtain. A prosperous country will never be realized if there is no good government. The good government which will then encourage the creation of good governance will not be carried out if the employees or human resources (HR) in it are

© The Author(s) 2023

A. A. Nassihudin et al. (eds.), *Proceedings of the 3rd International Conference on Law, Governance, and Social Justice (ICoLGaS 2023)*, Advances in Social Science, Education and Humanities Research 805,
https://doi.org/10.2991/978-2-38476-164-7_11

not filled by great people and are well controlled. HR in a government bureaucracy is one of the indicators that determine the success or failure of a country. Human resources are an element of the strength of the country's competitiveness, therefore human resources greatly affect the extent to which the state can realize all its strategic plans.[1]

The regulation of officials, positions, and filling of the positions of Primary High Leaders in the reform era is essential, especially in the arrangement of the government apparatus which currently has changed in governance towards democratic and good governance, because to realize a democratic, clean, and authoritative government system, has always been an obsession for the people in modern times.[2] This has been regulated in the State Civil Apparatus Law Number 5 of 2014 hereinafter referred to as the ASN Law.

The filling of the Primary High Leadership Position is carried out by the Civil Service Guidance Officer by first forming a selection committee (panel). The selection committee selects 3 (three) names of candidates for Primary High Leadership Officers for every vacancy. Three names of candidates for the elected Primary High Leadership Officer are submitted to the Civil Service Guidance Officer through the authorized official.[3] The Civil Service Supervisory Officer selects 1 (one) out of 3 (three) candidate names to be appointed and appointed as the Primary High Leadership Officer. Especially for Primary High Leadership Officials who lead the District/City Regional Secretary before being determined by the Regent/Mayor in coordination with the Governor.

Regulations regarding the Filling of Primary High Leadership Positions are also contained in Article 110 paragraph (4) of Government Regulation Number 11 of 2017 concerning Civil Servant Management, namely The filling of Primary High Positions is carried out through open selection based on a merit system, where the process of filling High Leadership Positions is carried out through open competition and is carried out through recruitment and selection from available civil servants, both those from internal Government Agencies and civil servants from other Government Agencies. The goal is to carry out the selection of candidates for the main, intermediate, and primary high leadership officials in a transparent, objective, competitive, and accountable manner.

The implementation of the merit system in the Indonesian bureaucracy aims to produce civil servants who are professional and with integrity by placing them in government bureaucratic positions according to their competence; and provision of fair and proper compensation; develop the ability of civil servants through guidance and training; and protect civil servants' careers from politicization and policies that are contrary to the merit principle. The merit system according to Article 1 number 22 of the ASN Law states that "The Merit System is the policy and management of civil servants based on qualifications, competencies, and performance fairly and reasonably without distinction of political background, race, color, religion, origin, sex, marital status, age, or disability conditions".

The application of the merit system erodes political factors and all factors that cannot be measured objectively, such as proximity or the like. So Prasojo and Rudita

mentioned one of the fundamental changes in the management of civil servants by the ASN Law, namely the change from a close-career system approach that is very oriented towards seniority and rank, to an open-career system that prioritizes competition and competence of civil servants in promotion and filling positions. Muharsono, "Peran Strategis Sekretaris Daerah Dalam Penyelenggaraan Pemerintahan Yang Profesional Untuk Mewujudkan Kabupaten Tulungagung Yang Sejahtera, Mandiri, Berdaya Saing, Dan Berakhlak Mulia," *Jurnal Publiciana* Vol.13, No (2020): hlm.66.

One clear evidence of the application of the merit system through the ASN Law is the implementation of open selection for filling High Leadership Positions (JPT), both at the central and regional levels (Province/Regency/City). The regulation stipulates that each stage of the JPT open selection must produce 3 (three) best names for the next Personnel Development Officer (PPK) (President, Head of Central Ministries/Institutions, Governor, Regent, Mayor) to choose one of the three names. The implementation of the merit system in Indonesia, especially in overseeing the process of implementing the JPT open selection as a "major change" in realizing the spirit of merit, a commission was formed, namely the State Civil Apparatus Commission (KASN). KASN has the authority to monitor and evaluate the implementation of ASN policies and management to ensure the realization of the Merit System and supervise the implementation of ASN principles codes of ethics and code of conduct. KASN has the authority to monitor and evaluate the implementation of ASN policies and management to ensure the realization of the Merit System and supervise the implementation of ASN principles codes of ethics and code of conduct.

The open selection conducted by the Selection Committee will produce or narrow down to 3 (three) best names of selection participants, then in the end the three names will be selected 1 (one) by the KDP to then be inducted into JPT. However, this provision provides room for KDP to choose JPT according to its wishes even though its choice was not ranked first in the selection results. But isn't it moral that those who manage to rank first by getting the best grades are the ones who deserve to be chosen? When what happens is not like that, then the decision taken is a decision that does not depart from an ethical concept and is contrary to the spirit to be achieved by the establishment of the Civil Service Law.

2. Problems

- a. How is the filling of Pratama High Positions through Open Selection in West Sumatra?
- b. How is the determination of candidates to be selected by the Civil Service Supervisory Officer determined by the selection committee for filling open selection positions based on the merit system?

3. Method

Method The approach in this study refers to how the method of approaching problems carried out in this research is a sociological juridical (empirical) approach method, namely legal research that analyzes the application of law in reality to individuals, groups, communities, legal institutions in society by focusing on the behavior of individuals or communities, organizations or legal institutions about the application or enactment of law.[5]

Data Collection Techniques in this study are data collected directly by interview techniques. This interview is a primary source of data,[6] where the implementation can be carried out directly by dealing with research subjects or informants as research respondents in the field. Therefore, in simple terms, an interview can be interpreted as a meeting of two people to exchange information and ideas through questions and answers, so that meaning can be constructed in a particular topic. The information exchanged through the question and answer is a question and answer or dialogue that is arranged systematically. Interviews were conducted with the position selection committee, personnel guidance officials, and the State Civil Apparatus Commission (KASN).

4. Discussion

4.1 The filling of Pratama High Positions through Open Selection in West Sumatra

The implementation of the Merit System in the process of Filling the Position of Regional Secretary through Open Selection in West Sumatra has only been carried out with the beginning of the formation of a Selection Committee Team with an odd number of 5 or 7 people consisting of Professionals, Academics, and Pamong. After the panel was formed, it was carried out by announcing the Open Selection for the Filling of Primary High Leadership Positions with requirements, one of which was only for civil servants located in districts/cities in West Sumatra. Furthermore, those who meet the requirements pass the administrative stage. After administration, there is a competency test and track record until the writing of papers. Last interview announcement and 3 best.

The filling of this primary high position is carried out by the Civil Service Development Officer (PPK) by first forming a selection committee (panel), this is regulated in Article 115 of Law Number 5 of 2014 concerning ASN. In forming the selection committee, KDP coordinates with KASN.[3] KASN is authorized to supervise every stage of the process of filling high leadership positions starting from the formation of the selection committee, announcement of vacancies, implementation of selection, proposing names of candidates, determination, and inauguration of high leadership officials.[3]

The selection committee of government agencies consists of internal and external elements of the relevant government agencies, selected and appointed by personnel guidance officials based on knowledge, experience, competence, track

record, moral integrity, and neutrality through an open process. Selection is carried out by taking into account the requirements for competence, qualifications, rank, education and training, position track record, integrity, and competency test assessment through the assessment center or other assessment methods. The selection committee selects 3 (three) names of candidates for Primary High Leadership Officers for every vacancy. Three names of candidates for the elected Primary High Leadership Officer are submitted to the Civil Service Guidance Officer through the authorized official. The Civil Service Supervisory Officer selects 1 (one) out of 3 (three) candidate names to be appointed and appointed as the Primary High Leadership Officer. Especially for Primary High Leadership Officials who lead the District/City Regional Secretary before being determined by the Regent/Mayor in coordination with the Governor.

Filling positions can be done by the method of selecting and/or appointing state officials individually or in groups with institutions where they serve, both in state institutions and government institutions, both in the central and local governments.[7] The filling of the Regional Secretary Position is carried out through an open selection method in a selection process that is integrated with the merit system.[8] The merit system according to Article 1 number 22 of the ASN Law states that "The system Merit is the policy and management of civil servants based on qualifications, competence, and performance fairly and reasonably without distinction of political background, race, color, religion, origin, gender, marital status, age, or disability conditions". According to Sulistiyani, the merit system is a process of planning, procuring, selecting, placing, compensating, and evaluating personnel whose policies, provisions, and steps must pay attention to minimum qualification provisions, competency standards, and performance so that in the end professionalism is formed. This is in line with what is mentioned in Article 1 number 22 of the Civil Service Law.[8]

However, when viewed from the regulation of the implementation of the Merit System, the implementation in West Sumatra has not been carried out properly. First, the ASN Law regulating the merit system was formed in 2014, while in West Sumatra, especially the capital city of Padang City Province, it will only be implemented in 2022. Second, in the selection of Pansel, there is no special regulation on the requirements to become a Pansel, so only those who will be appointed will become Pansel even though they come from Professionals and Academics. Third, the lack of interest in applicants who will apply is evidenced by the extension of the vacancy announcement time that has been announced by Pansel because the number of applicants is still small from the minimum provisions set so it takes a long time in the selection process and considerable costs to be incurred in the selection process. Fourth, PermenPAN RB No. 15 of 2019 explains that the Open Selection process based on the Merit System applies to all civil servants in Indonesia without exception, while districts/cities in West Sumatra only open to civil servants in West Sumatra. Finally, the final results of the top 3 do not have special provisions for the expertise of candidates chosen by the Regional Head such as loyalty, managerial, or structural, but there may still be political, or kinship factors chosen by the Regional Head to assist his duties as Mayor / Regent. Even though it is explained in the Merit System that any position to be applied must align aspects of competence, qualification, work

performance (performance), fairness, and open (open) without any political / kinship elements, to achieve fairness in elections.

4.2 The determination of candidates to be selected by the Civil Service Supervisory Officer determined by the selection committee for filling open selection positions based on the merit system.

This research was carried out in several districts/cities in West Sumatra with the consideration that open selection at JPT Pratama Regional Secretary in its implementation there is a diversity of interpretations of open selection based on the merit system. Some observations of the implementation of the JPT Pratama Regional Secretary open selection show several findings such as the diversity of participant requirements arrangements in the open selection announcement, which is more dominantly determined based on the wishes of the regional head as a Personnel Development Officer. Some do not limit selection participants, meaning that it is open to all civil servants who meet the requirements both from central agencies and from all local government agencies in Indonesia as stipulated in the announcement of the open selection of the Padang Panjang Regional Secretary in 2016. On the contrary, many who limited participants only come from Provincial Government civil servants and Regency / City Government civil servants throughout West Sumatra, such as in Pasaman, West Pasaman, and South Pesisir regencies, Sijunjung Regency, Padang City, and Payakumbuh. Even for certain JPT Pratama, opportunities are only opened to civil servants in the internal government agencies concerned. This happens because the arrangement is not yet clear and firm.

Since the provisions apply the principle of system merit to improve the ability, performance, and professionalism of Civil Servants.[9] Start local governments in Indonesia to carry out JPT Pratama filling through open selection and based on a merit system, including Regional Governments in West Sumatra Province. This began in 2015 with the issuance of West Sumatra Governor Regulation No. 26 of 2015 concerning Guidelines for Filling Primary High Positions Openly within the West Sumatra Provincial Government. The goal is to carry out a transparent, objective, competitive, and accountable selection of candidates for Primary High Leadership Officials by the mandate of laws and regulations. The Regency / City Government in West Sumatra then also did the same. Each region begins the process of filling JPT Pratama by issuing a regional head regulation on guidelines for filling primary high positions by regional policies, including the Filling of Regional Secretary Positions.

Another problem was also found, namely the small number of applicants who decided to participate in the selection process, because there were still doubts that the open selection process would be carried out purely and transparently, and there were still parties who felt that the position was a mandate and a form of appreciation for work achievements so that they felt it was not suitable if the position had to be applied, it took a long time for the selection process, and the amount of budget allocation that must be prepared for the implementation of open selection.[10] Case Example that occurred in Padang City in the news Kompas.com, Head of BKPSDM Padang City Arfian said that the selection was open for filling the position of Regional Secretary held by the Padang City Government was empty of enthusiasts, even though the committee itself had even extended the registration period. So that

the Padang City Government coordinates with the ASN Commission (KASN) to determine what steps will be taken in finding candidates who will fill the position of Regional Secretary.[11]

Another fact is that the appointment of officials in high leadership positions is not only purely based on the terms or conditions that have been regulated in laws and regulations but sometimes even more determined by factors outside of this. As in the appointment of positions or placements, it is still dominated by political interests, relatives, family, and so on. This explains that in practice the appointment of employees in JPT Pratama, especially Regional Secretaries, is often not by what has been determined in the laws and regulations, even though the Merit System explains that any position to be applied must align aspects of competence, qualification, performance, fairness, and open without political / kinship elements, to achieve justice in the election. This is what often causes staffing problems, among others, displeasure with the appointed officials because they feel the appointment is unfair. This displeasure often results in a decrease in the level of work ethic with the official concerned so that eventually the work that is a shared responsibility between the employee concerned and the official becomes less good. In addition, there is often a sense of dissatisfaction from other employees which ultimately results in decreased employee performance.[11]

The merit system is expected to erode political factors and all factors that cannot be measured objectively, such as proximity or the like. Prasajo and Rudita in KASN mentioned one of the fundamental changes in the management of civil servants by the ASN Law, namely the change from a close-career system approach that is very oriented towards seniority and rank, to an open-career system that prioritizes competition and competence of civil servants in promotion and filling positions.[12] The filling of positions in government must be based on positive laws that apply and prioritize the sense of justice of the community in general and as a whole, not based on a mere desire to override the qualities that are tried to be raised subjectively. Plato argued that the state should administer justice based on written rules.[13]

The application of a merit system that is carried out competitively and openly among civil servants to guarantee the careers of civil servants and protect them from subjective, like and dislike policies; reduce political intervention in the management of civil servants; And not only creates a sense of fairness among employees but can also encourage improvement in competence and performance. So, this merit system conditions that bureaucratic offices should not be interfered with by political offices. The merit system demands transparency, effectiveness, efficiency, and professionalism in managerial personnel of the government bureaucracy and this system regulates, filling positions must be done by open selection, and all qualified civil servants have the same rights.[14] Any position to be applied must align aspects of competence, qualification, performance, and fairness, and be open without political / kinship elements, to achieve fairness in elections.

Judging from the qualification aspect, the selection of candidates for Regional Secretary has met and is by the qualification requirements determined by the Selection Committee. Meanwhile, in terms of openness and fairness, it is still not

optimally implemented, because there are still districts/cities that have not been transparent about the value of selection results that are not announced openly, so each participant who registers does not know what position and value is obtained, it causes a sense of justice has not been applied. Furthermore, there are still regions that have not opened vacancies for all civil servants throughout Indonesia, this causes the principle of openness in selection is still not implemented optimally. Therefore, openness and fairness in the selection of Regional Secretaries based on the merit system have not been optimally implemented because there are still political or kinship elements by the PPK.

Furthermore, in terms of competence aspects, it is still not carried out properly, because it does not fully see the competence of civil servants. Those selected from the top 3 are not taken the highest scores, the highest scores will be lost to the candidates for the second and third positions and if those selected are in second or third positions they will not violate the laws and regulations. But isn't it moral that the person who manages to rank first by getting the best score is the one who deserves to be chosen? When what happens is not like that, then the decision taken is a decision that does not depart from an ethical concept and is contrary to the spirit to be achieved by the establishment of the Civil Service Law.

Based on the results above, if it is associated with the Theory of Legal Certainty, the Theory of Legal Certainty greatly determines the existence of law as a guide for behavior in society. The law must be able to ensure that there is no arbitrariness in society. In addition, normative legal certainty is when regulations are made and promulgated with certainty because they regulate logically and clearly. This means there is no vagueness of norms or indecision and void of norms. Logical is to be a system of norms with other norms so that they do not clash or cause norm conflicts. Legal certainty is given only from the beginning of recruitment to the top 3 results of the Regional Secretary election, while in choosing 1 person who will become Regional Secretary there is no legal certainty. Thus, because only up to the top 3 there is legal certainty, the author assumes that choosing one person is done with political or kinship elements carried out by the Regional Head to determine 1 person who will be elected. If it is related to the General Principles of Good Government in Law Number 30 of 2014 concerning Government Administration, there are principles of Legal Certainty, Openness, and Impartiality. The principle of Legal Certainty is a principle in a legal state that prioritizes the basis for the provisions of laws and regulations, propriety, safety, and justice in every government administration policy. Furthermore, the Principle of Impartiality is a principle that requires Government Agencies and/or Officials to determine and/or carry out Decisions and/or Actions by considering the interests of the parties as a whole and not discriminatory. The Principle of Openness is a principle that serves the public to gain access and obtain true, honest, and non-discriminatory information in the administration of government while still paying attention to the protection of personal rights, groups, and state secrets. Therefore, the application of the Merit System in the Theory of Legal Certainty and General Principles of Good Governance has not been implemented optimally, because the final result is that there is no written legal certainty and openness of value transparency, if it has not been implemented, there is still a sense of partiality towards the candidates to be elected and there has not been a

sense of justice in good governance by the mandate of the Law and regulations that have been determined.

5. Conclusion

Applying the Merit System in Filling Primary High Leadership Positions through Open Selection in West Sumatra is still not optimal. Although West Sumatra has carried out all stages of the Selection as mandated in PANRB Ministerial Regulation Number 13 of 2014, both the stages of preparation, implementation, and monitoring and evaluation, in terms of compliance with the Merit System Implementation, the Open Selection of Regional Secretaries in West Sumatra is still not optimal. First, at the time of the Open Selection competency standards were still being prepared in the regions, and there were no competency standards applicable to the nation. This makes the results of the Open Selection different from region to region. Second, for optimal application of the Merit System, Local governments must already have competency standards for all positions.

Meanwhile, the government in West Sumatra currently has no competency standards for all positions. Third, vacancies have not been opened for all civil servants throughout Indonesia. This causes the principle of openness to selection is still not implemented optimally. Fourth, the absence of regional policies on civil servant career patterns shows the absence of career development.

References

- [1] M. Abdulkadir, *Hukum dan Penelitian Hukum*. Bandung: Citra Aditya Bakti, 2004.
- [2] M. A. Huselid, "The Impact Of Human Resource Management Practices On Turnover, Productivity, And Corporate Financial Performance," *Acad. Manag. J.*, 1995, doi: 10.5465/256741.
- [3] UU No.5 tahun 2014, "UU ASN," *J. Chem. Inf. Model.*, 2014.
- [4] Muharsono, "Peran Strategis Sekretaris Daerah Dalam Penyelenggaraan Pemerintahan Yang Profesional Untuk Mewujudkan Kabupaten Tulungagung Yang Sejahtera, Mandiri, Berdaya Saing, Dan Berakhlak Mulia," *J. Publiciana*, vol. Vol.13, No, 2020.
- [5] Muhaimin, *Metode Penelitian Hukum*. Mataram: Mataram University Press, 2020.
- [6] Bachtiar, *Metode Penelitian Hukum*. Tangerang: UNPAM Press, 2019.
- [7] C.S.T. Kansil, *Sistem Pemerintahan Indonesia*. Jakarta: Rineka Cipta, 2005.
- [8] Wahyudi Kumorotomo, dan Ambar Widaningrum, *Reformasi Aparatur Negara Ditinjau Kembali* Yogyakarta: . Yogyakarta: Gava Media, 2010.
- [9] M. Thoha, *Manajemen Kepegawaian Sipil di Indonesia*. Jakarta: Kencana, 2010.
- [10] T. Fatimah, "Pengisian Jabatan Tinggi Pratama Sekretaris Daerah pada Kabupaten/Kota di Sumatera Barat," Padang, 2019.
- [11] Rahmadhani, "Seleksi Terbuka untuk Jabatan Sekda Kota Padang Sepi

- Peminat, Ini Kata Pemda,” Kompas, 2022. <https://amp.kompas.com/regional/read/2022/03/11/230237378/seleksi-terbuka-untuk-jabatan-sekda-kota-padang-sepi-peminat-ini-kata-pemda> (accessed Mar. 06, 2023).
- [12] “Pemetaan Penerapan Sistem Merit dalam Manajemen Aparatur Sipil Negara (ASN),” Komisi Aparatur Sipil Negara (KASN)., Jakarta, 2018.
- [13] Achmad Ali, *Menguak Tabir Hukum*, (Edisi 2). Jakarta: Prenada Media Group.
- [14] Sekertaris Daerah Provinsi and S. Selatan, “Sekda : Sistem Merit Wujudkan ASN yang berkualitas dan Berkinerja Tinggi,” Pemerintah Provinsi Sulawesi Selatan, Makassar.

Open Access This chapter is licensed under the terms of the Creative Commons Attribution-NonCommercial 4.0 International License (<http://creativecommons.org/licenses/by-nc/4.0/>), which permits any noncommercial use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons license and indicate if changes were made.

The images or other third party material in this chapter are included in the chapter's Creative Commons license, unless indicated otherwise in a credit line to the material. If material is not included in the chapter's Creative Commons license and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder.

