

Enhance Urisdictions on the Implementation of Uncertain Time Working Agreements

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Abstract

An Indefinite Time Work Agreement is an unspecified work agreement, which is permanent and valid forever until termination of employment. This type of research uses empirical juridical research using qualitative data using purposive sampling in taking samples. The research method used is field research. The data collection technique used is through interviews and literature as well as other sources that support and relate to this research.

Keywords

unspecified time; work agreement; company



I. Introduction

Life and work are two sides of one coin. In order for people to live, people have to work. Life for humans, of course, has a broader meaning, so its needs are broader than just the needs of the body (Budiono, 2018).

In working between employers and workers, it is necessary to have a work agreement that contains procedures that have been mutually agreed upon and then outlined in the form of a work agreement, were a "means" for the occurrence of legal relations between workers and employers in an employment relationship (Porumb et al., 2016).

Rights and obligations of the parties who make it. In Law No. 13 of 2003 concerning Manpower, it is stated that a work agreement between a worker or laborer and an entrepreneur or employer contains the working conditions, rights, and obligations of the parties (Sagama, 2016).

In this case, the entrepreneur where they work. This is due to the existence of incompatibility of opinions of each person and bad behavior arising from the heart of each individual because of a particular job. The Labor Law qualifies employment contracts based on the period into two kinds: an agreement on Certain Time Work (PKWT) and Indefinite Time Work Agreement (PKWTT). PKWT is a work agreement between workers and employers to hold a working relationship for a particular time or job. At the same time, PKWTT is a work agreement between a worker or laborer and an entrepreneur to hold a permanent employment agreement.³ Thus, the work agreement for the time not certain continues.⁴ According to Article 52 paragraph (1) of Law Number 13 2003 concerning Manpower, work agreements are made based on (Sakit & Chalid, n.d.):

- a. Both side agree;
- b. Ability or Ability to perform legal actions;
- c. The existence of the promised work;
- d. The agreed work does not conflict with public order, decency, and applicable laws and regulations.

In agreeing, be it a work agreement or a term contract, The principle of binding force is a rule that humans make agreements. Although the rights in PKWTT are better than in PKWT, however As social beings who constantly interact with other humans, it is a natural thing if, in the interaction, there is a difference of understanding that lead to conflict with one another. In other words, PKWT and PKWTT have their advantages and disadvantages (MENTERI et al., 2015).

The things in the PKWTT are:

- a. work that is continuous or permanent;
- b. an agreement whose duration is not stated in the employment agreement does not specify how long the worker must complete the work or is not limited by a certain period.
- c. work related to services or products that are always needed, which, if not done, will interfere with community activities.

Even though the company has made an agreement by the provisions Manpower Act and outlined in company regulations, in reality, on the ground, industrial disputes are not spared Employment Relationship is the relationship between employers and workers with employer that occurs after the employment agreement. Obviously, working relationship as a form of legal relationship born or created after a work agreement between workers and employers. Iman Soepomo gave an opinion regarding the employment relationship, that: An employment relationship is a relationship between a worker and an employer in which the worker declares his/her ability to work for the employer by receiving wages, and where the employer declares his/her ability to employ workers by paying wages (Maamari & Saheb, 2018).

Article 1 paragraph (1) of Law Number 2 of 2004 concerning the settlement industrial relations dispute states that: "Industrial relations disputes are differences of opinion which result in conflict between employers and workers/labor or trade unions/labor union due to disputes regarding rights, conflicts of interest, disputes termination of employment, and disputes between trade unions/labor unions in one company (Rossanty et al., 2018)."

Juridically, the position of workers and employers is equal, so that must get the same treatment before the law, but in the study Sociologically, it is not easy, considering that other than the entrepreneur, it is the party who have money but also a percentage of the number of job opportunities and the community or the number of workers who need work is never balanced. This thing which triggers the bargaining position of workers in the practice of labor relations to be weak (Eddy et al., 2018).

Generally, individual workers are in a weak position in fight for their rights but due to limited ability and dilemma to meet the needs of life, like it or not, you have to run it in a state of forced, and this factor is one of the triggers for the lack of work ethic on the part of worker. While workers have positions that greatly affect progress company, and has an important role in increasing productivity and company welfare (Adha Inapty & Martiningsih, 2016).

Each company has a different work agreement, in the agreement clearly states the rights and obligations of the parties, but based on the work agreement made by the entrepreneur there are deviations where one of the parties does not fulfill its obligations. The increase in the value of the company's shares, the higher the company value, the higher it will be (Katharina, 2021). In the current economic development, manufacturing companies are required to be able to compete in the industrial world (Afiezan, 2020). The existence of the company can grow and be sustainable and the company gets a positive image from the wider community (Saleh, 2019). Therefore, through this thesis it can be seen whether the process of implementing an indefinite work agreement at PT. Energi Berkah Palace in Medan has complied with the legal provisions stipulated in the law valid or not.

II. Review of Literature

Indefinite Time Employment Agreement (PKWTT) in a literal language is Legal documents for workers/laborers who are permanent employees from employers. More specifically, PKWTT is an agreement whose term is not stated in the employment agreement, does not mention how long the worker must Complete the work, there is an extension period.¹¹ For PKWTT can be made in writing or orally and is not required to obtain approval from Relevant employment agencies. If the PKWTT is made orally, then the clauses.

Clauses that apply between employers and workers are clauses as regulated in the Manpower Act. This PKWTT itself can requires a maximum trial period of 3 (three) months. During this probationary period, employers are prohibited from paying wages below wages. Applicable minimum. This provision is an effort to protect workers/ Workers from the arbitrary attitude of entrepreneurs. PKWTT is also not allowed made orally because in accordance with the provisions of Article 63 paragraph (1) of the Law 13 of 2003 concerning Manpower, employers are required to make a letter.

Termination of the employment relationship due to a certain termination of rights and obligations between workers and employers. End of agreement employment will result in the termination of the employment relationship between the employer and the worker. If the working relationship on the basis of PKWTT ends, Law no. 13 2003 requires employers to pay layoff compensation to Permanent Workers in accordance with the provisions of Article 156 of Law no. 13 of 2003.

The expiration of the above work agreement is regulated in Article 61 paragraph (1) Labour Laws.¹⁸ The work agreement does not end when he dies entrepreneur or the transfer of rights to the company due to sale, inheritance, or grant. In the event of a transfer of the company, the rights of the worker/labourer become responsibility of the new entrepreneur, unless otherwise specified in the transfer agreement which does not reduce the rights of workers/labourers. However, if the entrepreneur individual dies, the heirs of the entrepreneur can terminate the agreement work after negotiating it with the worker/labourer.

III. Research Method

In order to achieve maximum research results, it is good and proper data collection. The nature of this research is descriptive. Research that is analytical descriptive is research that describes, examines,

explain, and analyze legal regulations.²⁰ Research that is descriptive is research those studies problems in society, both regarding procedures, situations, relationships, attitudes, behavior, perspectives and influences in a community group. In addition, descriptive method also learns the norms or standards that apply.

Study carried out at PT. Energi Berkah Palace in Medan. From the data that has been provided by PT. Energi Berkah Palace in Medan regarding the form of PKWTT which was agreed later interviews were conducted to find out how the work agreement, which then analyze by comparing the applicable laws and regulation applies, then the final result will be a conclusion regarding the implementation of work indefinite period of time in terms of labor laws and regulations.

The type of research in writing this thesis is qualitative research namely research that aims to find the true truth, therefore research Qualitative research seeks to find facts that

develop in an object of research, in this study, especially at PT. Energi Berkah Palace in Medan.

The type of research used in this study is a juridical-empirical approach, namely research on the effectiveness of the law is a study that discusses how the law operates in society, this research is very relevant in developing countries such as Indonesia. By using this approach it will be able to find clear and accurate data to find out how PT. Energi Berkah in Medan in the implementation of the PKWTT which had been agreed with the workers.

Field Research Methods (Field Research) is used by conducting observations (observations), namely observing real field conditions and interviews (interviews) directly with the personnel department with assistance a structured list of questions related to the problem under study in order to obtain clarity and accurate data. The location of the field research is at PT. Energi Berkah in Medan.

The type of data used is primary data, namely data obtained through data analysis by looking directly at the facts obtained from good research through interviews at PT. Energi Berkah and re-analyzed by the author. In addition, secondary data is needed, namely data obtained indirectly.

Directly from the object under study, including: literature books, writing reports, writings of experts, laws and regulations relating to the object being studied. researched.

The secondary data consists of:

1. Primary Legal Materials

Primary legal materials, namely legal materials consisting of legal rules contained in statutory regulations or various legal instruments, such as the 1945 Constitution of the Republic of Indonesia, the Book of Civil Law Law, and Law no. 13 of 2003 concerning Manpower.

2. Secondary Legal Material

Secondary legal materials consist of legal books including theses, and legal journals related to research issues.

3. Tertiary legal materials

Tertiary legal materials are legal materials that can provide explanations for primary legal materials and secondary legal materials, such as legal dictionaries, the internet and encyclopedias.

This study uses data analysis methods with qualitative methods, Qualitative methods are carried out by analyzing data covering regulations legislation, documents, bibliography, and literature

Others related to the PKWTT implementation process at PT. Energi Berkah, then carried out the data collection and compilation systematically and describe it in regular sentences so that it can be drawn a conclusion.

The agreed working period has indeed ended.

The employee concerned has reached retirement age in accordance with the provisions in the Work Agreement, PP, PKB, or statutory regulations; The termination of employment has been approved by the relevant trade union concerned. Termination of employment is carried out due to an emergency which is it is no longer possible to continue working

relations, for example, the company in question goes bankrupt, the employer dies and no heirs can continue the working relationship, and etc.

Article 1 of the Manpower Law, employers are prohibited from termination of employment by reason:

1. Workers/laborers are unable to come to work due to illness according to a doctor's statement for a period not exceeding 12 (twelve) months continuously;
 - a. Workers/labourers are unable to carry out their work because they fulfill their obligations to the state in accordance with applicable laws and regulations applies;
 - b. Workers/labourers carry out the worship ordered by their religion;
 - c. The worker/ laborer is married;
 - d. Female workers/laborers are pregnant, give birth, have an abortion or breastfeed their babies;
 - e. Workers/labourers have blood ties and/or marital ties with other workers/ laborers in the same company, unless it has been regulated in work agreement, company regulations or collective labor agreement;
2. Workers/labourers establish, become members and/or administrators of trade unions/ labor union, Workers/labourers carry out trade union/labor union activities outside working hours, or within working hours with the agreement of the employer, or based on the provisions stipulated in the employment agreement, company regulations, or collective labor agreement;
3. Workers/laborers who complain about employers to the authorities regarding the action of the entrepreneur who commits a criminal act; Due to differences in understanding, religion, political sect, ethnicity, skin color, class, gender, physical condition, or marital status;
4. Workers/laborers are permanently disabled, sick due to work accidents, or sick due to a work relationship according to a doctor's certificate for a period of time cure is uncertain.

IV. Discussion

4.1 Rights and Obligations of Employers and Workers in Law

Number 13 of 2003 concerning Manpower. Employment relationship after the employment agreement, and employment agreement is a legal event, so the consequences of an employment relationship give rise to the rights and obligations of the parties, namely employers and workers. Right measure and the obligations of each must be balanced. In the context of the employment relationship,

Obligations of the parties are reciprocal. For that if it happens violation of obligations that have been regulated by laws and regulations or work agreement, each party can sue the other party. Basically, the working relationship is a relationship that regulates rights and obligations between workers and companies. The rights and obligations of each parties must be balanced. Therefore, the essence of "employee rights is an obligation". employers", and conversely "the rights of the entrepreneur are the obligations of the workers".

In accordance with the provisions of Article 108 of Law no. 13 Year 2003 Entrepreneurs are obliged to make Company Regulations. Company regulations created to encourage the realization of a more harmonious relationship between entrepreneurs and workers, in which a guideline is made regarding the certainty of rights and obligations between employers and workers, so that doubts and uncertainties can be avoided as early as possible.

In Law Number 13 of 2003 concerning Manpower, it explains the rights and obligations of an entrepreneur and a worker in a company. Protection of workers is intended to guarantee the rights workers' basis and ensure equal opportunity and treatment without discrimination on any basis, even to realize the welfare of the workers taking into account the development of the progress of the business world.

The rights and obligations of employers within the scope of Law Number 13 of 2003 concerning Manpower consist of:

Rights of Employer/Employer:

- a. The employer is fully entitled to the work of his workers, Employers have the right to comply with work rules by workers, including giving penalty,
- b. The right to the respectful treatment of workers,
- c. The right to carry out the work rules that have been made by the employer.

4.2 Obligations of Employer/Employer

- a. Give permission to workers to rest and carry out their obligations according to their religion,
- b. It is forbidden to employ more than 7 (seven) hours a day and 40 (forty) hours a week unless there is a deviation permit,
- d. Should not discriminate between men and women in wages,
- e. Companies that employ 25 employees or more are required make company regulations
- f. Obligation to pay workers wages during rest/holidays on official holidays,
- a. f. Mandatory to include workers in the labor social security program (Article 99 paragraph (1) of the Law Number 13 of 2003 concerning Employment. Workers' rights and obligations within the scope of Law Number 13 2003 concerning Employment:

4.3 Workers' Rights

- a. The right to have equal opportunities without discrimination to obtain work (Article 5 UUTK),
- b. The right to obtain equal treatment without discrimination from the employer (Article 6 UUTK),
- c. The right to obtain or improve work competence in accordance with the ability of workers through job training (Article 11 UUTK), the right to have equal opportunity to participate in job training according to their field of work (Article 12 paragraph 3 UUTK), as well as the right to obtain recognition of work competence after take part in on-the-job training organized by on-site training institutions work (Article 18 paragraph 1 UUTK), Right to participate in apprenticeship programs and qualifications work competence of the workplace company or certification body (Article 23 UUTK),
- d. Equal rights and opportunities to vote, get or move work and earn a decent income at home or abroad (Article 31 UUTK),
- e. The right to obtain protection in accordance with the type and degree of disability (Art UUTK), The right to receive overtime pay (Article 78 paragraph 2 UUTK), The right to obtain rest and leave for workers (Article 79 paragraph 1 UUTK), The right to perform worship required by his religion (Article 80 UUTK),
- g. The right to get a break for 1.5 (one and a half) months before the time giving birth to a child and 1.5 (one and a half) months after giving birth according to calculation of obstetrician or midwife for female workers (Article 82 UUTK).
- h. The right to obtain protection for occupational safety and health, morals and decency, and treatment in accordance with human dignity and religious values (Article 86 UUTK)

4.4 Obligations of Workers

- a. In carrying out industrial relations, workers and trade unions have the function of carrying out work in accordance with their obligations, maintaining order for the sake of continuity of production, channeling aspirations in a democratic manner, develop their skills and expertise and participate in advancing company and fight for the welfare of members and their families in Article 102 paragraph 2 UUTK,
- b. Employers, trade unions and workers are required to implement the provisions contained in the collective labor agreement in Article 126 paragraph 1 UUTK,
- c. Employers and trade unions are obligated to notify all workers of the contents of the collective labor agreement or its amendments. Article 126 paragraph 2 UUTK,
- d. Settlement of industrial relations disputes must be carried out by the employer and workers or trade unions by deliberation to reach consensus within the Article 136 paragraph 1 UUTK,
- e. At least 7 (seven) working days before the strike is carried out, workers and trade unions are obliged to notify the employer and the agency responsible for the field of work in writing. local employment. Article 140 paragraph 1 UUTK.

From the explanation above, we can clearly see that with the right and obligations of the workers, there will be equivalence or equality between the status of the workers with each other within the scope employment. In addition, it is possible to avoid arbitrary attitudes by the employer as the employer's superior. Hence the employment agreement is very important and even affects a company, so that the work agreement must be made as good and fair as possible and for the sake of justice because it involves both parties.

For this reason, workers and even entrepreneurs must be submissive and obedient to the work agreement letter that has been agreed with the worker, so that there is no abuse of work status which will later lead to a legal case, both criminal and civil. By obeying even If a work agreement is implemented properly, a work agreement will be formed work balance between workers and employers and will even develop a a good work process so that it is possible to create progress and comfortable working in a corporate environment.

4.5 Rights and Obligations of Employers and Workers in PKWTT at PT. Energi Berkah Medan

Obligations and Rights of Entrepreneurs at PT. Energi Berkah in Medan

Employer's Obligations

The entrepreneur's obligation is an achievement that must be carried out by employers for the benefit of their workforce.⁶⁰The main obligations of entrepreneurs is:

1. Obligation to Pay Wages

In an employment relationship, the main obligation for the employer is to pay wages to employees in a timely manner. This provision regarding wages too underwent a change in regulation towards public law. It can be seen Danang Sunyoto, Rights and Obligations for Workers and Employers, Yustisia Library, Jakarta, 2013, p. 43 from government intervention in setting the lowest wage The employer must pay the minimum wage.

2. The obligation to provide time off and annual leave.

Employers are required to provide workers with annual rest regularly. The right to rest is important to eliminate boredom of workers in doing their jobs. Long annual leave 12 working days, besides that, workers are also entitled to 2 months long leave after working continuously for 6 years in a company Article 79 paragraph 2 letter d of Law Number 13 of 2003 concerning Employment.

3. Obligation to take care of care and treatment

Employers are obliged to take care of or treat or treat workers who work for him, because it is the employer's obligation to workers regulated in the labor law in Article 86 paragraphs 1 to 3 and Article 87 paragraphs 1 to 2 which regulates occupational safety and health, this obligation is also regulated in Articles 99 to Article 101 concerning welfare.

Then Husni, Introduction to Indonesian labor law, Raja Grafindo Persada, Jakarta, 2008, p. 56 62Ibid, Thing.

4. The obligation to provide a certificate.

This obligation is based on the employment provisions that determine that the employer is required to provide a dated and signed certificate explaining the nature of the work being carried out and the length of the employment relationship. The letter is very important for the provision of workers in finding new jobs so that they are treated accordingly with work experience.⁶³It is regulated in Article 18 paragraph 3 UUTK. At PT. Energi Berkah, as for the obligations of the Entrepreneur, are as follows:

5. The obligation to pay wages; in an employment relationship the main obligation for Employers is paying wages to their workers in a timely manner. (Chapter 88 paragraph (1) of Law Number 13 of 2003 concerning Manpower). The results of the interview with the HRD manager of PT. Deli Kencana Palace Medan, namely Mrs. Dina Andriati stated: "wages are paid at the end of the month, around the 27th". until the 30th, and it's never too late." Obligation to provide rest/leave; employers are required to provide annual breaks to workers on a regular basis.

6. The results of interviews with employees of the cashier PT. Energi Berkah, Medan, namely Mrs. Neang Lasroha Manik stated: "During 9 years of work, not yet" ever get the right to a sabbatical for 2 months after working continuously continuously, and annual leave of at least 12 days is deducted from joint leave, so no fully entitled to 12 days of leave."

7. The obligation to provide welfare facilities for workers to improve the welfare of workers providing welfare facilities carried out by taking into account the needs of workers and measures of ability company. (Article 100 paragraphs (1) and (2) of Law Number 13 of 2003 on Employment).

The results of interviews with employees HRD PT. Energi Berkah Medan, namely Mrs. Dina Andriati stated: "According to law no. 24 years old 2011 on BPJS, PT. Jamsostek changed to BPJS Employment since dateJanuary 1 2014. At PT. Energi Berkah in Medan, workers are registered at BPJS of Employment. The rights received are Accident Insurance Work (JKK), Death Benefit (JKM), and Old Age Security (JHT)."

Obligation to notify and explain the contents and provide manuscripts company regulations or changes thereto to employees. (Article 114 of Law Number 13 of 2003 concerning Manpower) Obligation to carry out the provisions of working time. Working time as meant are:

Interview with employees of the cashier PT. Energi Berkah, namely Mrs. Neang Lasroha Manik, on January 24, 2020, at 15.00 WIB. Interview with HRD manager of PT. Energi Berkah, namely Ms. Dina Andriati, on January 24, 2020, at 14.00 WIB.

V. Conclusion

1. The legal terms of the agreement on the work agreement of PT. Energi Berkah is suitable Article 52 UUTK no. 13/2003. The conditions for making a work agreement are: between material requirements and formal requirements. The material terms consist of a second agreement parties, the ability or ability to carry out legal actions, the

existence of an agreement the agreed work and the agreed work do not conflict with the public order, decency, and applicable laws and regulations. Condition the form consists of name, gender, age, and address of the worker/labourer, position or type of work, the work, the number of wages and methods of payment, rights and obligations of employers and workers; the start date and the validity period of the agreement work, the place and date the work agreement is made and the signatures of the parties in employment agreement. The work agreement must not conflict with company regulations and other laws and regulations.

2. Implementation of an indefinite work agreement or abbreviated as PKWTT at PT. Energi Berkah between employers and workers is in accordance with the law Manpower Number 13/2003. Workers undergoing probational period (probation) for three months, during the probationary period the entrepreneur must pay workers wages and the wages cannot be lower than the minimum wage applicable regulations, and job appointments are made verbally and in writing. Temporary termination of industrial relations is resolved if the worker dies, decisions or stipulations in the settlement of industrial relations that already have permanent legal force, there are circumstances or events listed in the agreement employment, company regulations, or cooperation agreements, and the termination of the relationship work.
3. Implementation of the rights and obligations of workers at PT. Energi Berkah with a system PKWTT. Legal protection and dispute resolution and rights and workers' obligations are still not specifically regulated in the work agreement, so that all of this refers to the laws and regulations in force in Indonesia. The rights of workers in the work agreement are not in accordance with the laws and regulations Article paragraph 2 which requires employers to pay overtime wages to workers who exceed working time. And workers who have worked continuously for more than six years don't ever get the right to take a long break, for the supposed annual leave get at least 12 days of annual leave if you have worked for at least 1 year or 12 months continuously at the company, not fully accepted due to leave is deducted from joint leave.
4. The high demand of society and the urgent need for car service, make workers continue to work on holidays and official days which are the working hours counted as overtime. In accordance with Article 78 of the Manpower Act Number 13/2003, Article 79 of the Manpower Act Number 13/2003 and Article Manpower Law Number 13/2003. Workers are also entitled to occupational safety and health in accordance with Article 86 of the Manpower Act Number 13/2003, but there are still work accidents due to the lack of equipment K3, this greatly affects work productivity that is less than optimal.

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