

Pemutusan hubungan kerja dengan alasan efisiensi terhadap 38 karyawan Hotel Papandayan Bandung (studi kasus Putusan Mahkamah Konstitusi Republik Indonesia Nomor 19/PUU-IX/2011) = Termination of employment relationship based on efficiency against 38 employees of Hotel Papandayan Bandung (case study of Constitutional Court of Republic of Indonesia Decision no 19/PUU-IX/2011) / Roosmaya Abubakar

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Abstrak

ABSTRAK

Pemutusan Hubungan Kerja PHK kerap menimbulkan masalah, khususnya disebabkan oleh pengusaha dengan alasan efisiensi. Undang - Undang tidak melarang pengusaha melakukan tindakan pemutusan hubungan kerja karena alasan efisiensi. Namun banyak pihak baik pemerintah, praktisi hukum, pengusaha, maupun pekerja/buruh salah dalam mengartikan PHK dengan alasan efisiensi sebagaimana diatur dalam Undang - Undang Nomor 13 Tahun 2003 Tentang Ketenagakerjaan. Pasal 164 ayat 3 UU No.13 Tahun 2003 telah mengatur alasan dan keadaan dengan dimana PHK dapat dilakukan baik oleh Pengusaha. Namun UU No.13 Tahun 2003 tidak memberikan penjelasan yang memadai pengertian batasan dan kualifikasi efisiensi. Dengan mempertimbangkan kondisi diatas, penelitian ini membahas penyelesaian perselisihan Pemutusan Hubungan Kerja dengan alasan efisiensi berdasarkan Putusan Mahkamah Konstitusi RI Nomor: 19/PUU-IX/2011 yang dianalisa berdasarkan Undang - Undang Nomor 2 Tahun 2004 tentang Penyelesaian Perselisihan Hubungan Industrial dan UU No.13 Tahun 2003. Permohonan uji material Judicial Review terkait Pasal 164 ayat 3 UU No.13 Tahun 2003 diajukan oleh 38 pekerja PT. Citragraha Nugrahatama, selaku pemilik Hotel Papandayan Bandung. Penelitian ini merupakan penelitian yuridis normatif yang diharapkan dapat diperoleh aturan-aturan hukum yang mendasari pengambilan putusan penyelesaian perselisihan PHK dengan alasan efisiensi sesuai dengan peraturan perundang-undangan terkait ketenagakerjaan, Peraturan Perusahaan PP , Perjanjian Kerja Bersama PKB dan prinsip-prinsip hubungan industrial.

ABSTRACT

Terminations of Employment often cause problems, especially caused by Employer based on efficiency reasons. The law does not prohibit Employers from terminating of employment due to efficiency. However, many parties, both government, legal practitioners, employers, or employees workers are mistaken in interpreting the termination due to efficiency reasons as stipulated by the Labour Law Number 13 Year 2003 Law No.13 of 2003 . Article 164 Point 3 of Law No.13 of 2003 outlined the reasons and circumstances by which the termination can be executed by the Employer. However Law No.13 of 2003 does not defined clearly the definition of limits and qualification of efficiency. Taking into account the above condition, this thesis examine the settlement of Employment Termination disputes due to efficiency based on Constitutional Court Decision Number 19 PUU IX 2011 which is analyzed based on Law Number 2 Year 2004 on Industrial Relations Dispute Settlement and Law No.13 of 2003. The judicial review of Article 164

Point 3 of Law No.13 of 2003 was filed by 38 workers of PT. Citragraha Nugrahatama, the owner of Hotel Papandayan Bandung. This study is a normative juridical research which aim to obtain by the legal rules underlying the decision of the settlement of disputes based on efficiency in accordance with the employment labour laws and regulations, Company Regulation, Collective Labour Agreement CLA and principles of Industrial Relations Industrial.