

Pemberhentian sekretaris desa dengan menggunakan wewenang diskresi kepala desa, studi Putusan PTUN Bandung = Dismissal of village secretary using the discretionary authority of the village head, study of Bandung Administrative Court Decisions.

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Abstrak

Permasalahan penelitian pemberhentian Sekretaris Desa dengan menggunakan wewenang diskresi Kepala Desa studi putusan PTUN Bandung adalah Bagaimana kewenangan Kepala Desa mengelola Administrasi Kepegawaian perangkat desa? Bagaimana penggunaan wewenang diskresi Kepala Desa memberhentikan sekretaris desa? Bagaimana sikap PTUN Bandung memutus perkara pemberhentian sekretaris desa dengan diskresi Kepala Desa? Metode penelitiannya adalah penelitian yuridis normatif, tipologi preskriptif, jenis data sekunder, jenis bahan hukum primernya perundang-undangan administrasi pemerintahan, dan desa beserta peraturan turunannya, jenis bahan hukum sekunder yang digunakan buku dan jurnal ilmiah hukum administrasi negara, hukum administrasi kepegawaian, jenis bahan hukum tersier yang digunakan adalah black law dictionary, dan Kamus Besar lainnya. Data berupa deep interview dan perpustakaan online. Hasil penelitian dengan analisis argumentatif dapat disimpulkan, Kepala Desa memiliki wewenang atribusi untuk mengelola perangkat desa, Kepala Desa menggunakan wewenang diskresi memberhentikan Sekretaris Desa adalah hak prerogatif, sebagai problem solver, dengan prinsip rule of law, dan Asas Umum Pemerintahan Yang Baik (AUPB). Sikap PTUN Bandung membatalkan diskresi kepala desa karena melanggar asas tidak menyalahgunakan wewenang. Penulis menyarankan Kepala Desa dalam menggunakan diskresi untuk memperhatikan peraturan perundang-undangan, menggunakan AUPB, rule of law, dan asas penyelenggaraan pemerintah desa, untuk meminimalisir resiko gugatan ke PTUN, maka diskresi yang akan dikeluarkan dilakukan revidi oleh pejabat yang berwenang.

.....The problem research regarding the dismissal of the Village Secretary by using the the discretionary authority of the Head Village, the study of Bandung Administrative Court decision, is how the authority of the Village Head to manage the Village Apparatus Administration? How is use of the Village Head's discretion to dismiss the Village Secretary? What is the attitude of the Bandung Administrative Court in deciding the case of dismissing the Village Secretary at the discretion of the Village Head? The research method normative judicial research, prescriptive typology, types of secondary data, types of primary legal materials, government administration, and village laws and regulations, types of secondary legal materials books and scientific journals of State administrative law, civil service administration law, types of tertiary legal materilas is black law dictionary, and other major dictionaries. The data are in the form of deep interviews and an online libraries. The result of the research with argumentative analysis can be concluded, the Village Head has attribution authority to manage the village apparatus, the Village Head uses the discretionary power to dismiss the Village Secretary as a prerogative, as a problem solver, with the principle of rule of law, and General Principles of Good Governance (AUPB) The attitude of the Bandung Administrative Court in this research case nullifies the Village Head's discretion for violating the principle of not abusing authority. The Author advises the Village Head in using discretion to pay attention to statutory regulations, using General Principles of Good Governance, the rule of law, and the principles of

village government administration, to minimize the risk of lawsuit against the State Administrative Court, so the discretion that has been issued must be reviewed first by the authorized official.