

Legal Protection for Workers who Have Harmed Employers (Case Study of Supreme Court Verdict Number 702K/Pdt.Sus-Phi/2021)

Sonia Amelia¹, Ega Permatadani², Ida Ayu Rosida³, Rifda Ayu Akmalia⁴, Anang Dony Irawan^{5*}
^{1,2,3,4,5}Faculty of Law, Muhammadiyah University of Surabaya, Surabaya.

*Corresponding: anangdonyirawan@um-surabaya.ac.id

Abstract

The purpose of this research is to find out how legal protection for workers has harmed employers so that workers have been laid off. The type of research used in this study is normative research using the nature of the law approach as well as the theoretical point of view from scientific books and journals that function to provide solutions to existing legal problems. The results show that even though Article 164 paragraph (3) of Law Number 13 of 2003 must provide severance pay, award money, and services during the employee's working period and provide compensation. When workers are proven to be unproductive at work or have problems with the detriment of the employer, the employer can take action to terminate the employment relationship with the worker. From there, the Law does not prohibit companies from taking efficiency measures, but these efficiency actions are no longer valid if there are procedures or reasons that are not in accordance with the applicable regulatory requirements. With the existence of Law No. 13 of 2003 concerning Manpower, I hope that it can implement various national instruments that have been ratified, for example labor rights. This ambiguity makes the Indonesian people have to have strong policies and regulations on labor rights regulations, so that they can restore the wheels of Indonesia's slumping economy.

Keywords: Labor; Legal Protection; Termination of Employment.

Abstrak

Tujuan penelitian yakni untuk mengetahui bagaimana perlindungan hukum bagi para pekerja yang telah merugikan pengusaha sehingga sampai para pekerja di PHK. Jenis penelitian yang digunakan dalam penelitian ini adalah penelitian normatif dengan memakai sifat pendekatan Undang-Undang serta sudut pandang teoritis dari buku dan jurnal ilmiah yang berfungsi untuk memberikan solusi terhadap permasalahan hukum yang ada. Hasil penelitian menunjukkan bahwa Saat pekerja terbukti tidak produktif dalam bekerja atau memiliki masalah sampai merugikan pengusaha disitu pengusaha bisa mengambil tindakan untuk memutuskan hubungan kerja dengan pekerja. Dari situ Undang-Undang tidak melarang perusahaan untuk melakukan tindakan efisiensi namun tindakan efisiensi tersebut menjadi tidak berlaku lagi jika ada prosedur atau alasan yang tidak sesuai dengan syarat peraturan yang berlaku. Adanya Undang-Undang Nomor 13 Tahun 2003 Tentang Ketenagakerjaan saya harap bisa melaksanakan berbagai instrument nasional yang telah diratifikasi contohnya hak hak tenaga kerja. Ketidaktepatan tersebut membuat bangsa Indonesia harus memiliki kebijakan dan peraturan yang kuat atas peraturan hak para tenaga kerja, sehingga bisa mengembalikan roda perekonomian Indonesia yang terpuruk ini.

Kata Kunci: Tenaga Kerja; Perlindungan Hukum; Pemutusan Hubungan Kerja.



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A. INTRODUCTION

Indonesia is a constitutional state with the main objective of maintaining order.^{1,2} Besides that, based on the preamble of the 1945 Constitution of the Republic of Indonesia in the Preamble to the fourth paragraph which states that the right and purpose of life for every Indonesian citizen is to improve a prosperous life, educate the nation's life, and assist in the implementation of world order based on independence, a peaceful life, and fair for all people, this is part of the goals of the Indonesian nation. Aristotle in his book states that the purpose of law is to achieve a better life,³ In other words, to achieve a good life, we need something called law. To achieve a just law, legal protection is needed, in which this protection is a form and effort to obtain guarantees for legal certainty that applies to every citizen, and for every citizen it is prohibited to commit violations that are not in accordance with the applicable provisions.

Nowadays cases regarding employment vary widely, ranging from layoffs, PKWT cases, wage issues and so on. Legal guidelines regarding workers are contained in Law Number 13 of 2003 in conjunction with Law Number 11 of 2020. The definition of employment is all matters relating to the workforce before, during and after the working period. Manpower is any legal subject who is able to do work with the aim of producing goods and/or services either to meet their own needs or for the community. Laborers are people who perform work by receiving wages or other forms of compensation, wages here are defined as the rights of workers/laborers who are received and expressed in the form of money as compensation from employers to workers who are paid in accordance with work agreements, agreements. Social justice for workers can be realized by protecting workers against unlimited power from employers according to existing laws.^{4,5}

Work is an effort to earn an income. A job begins with the existence of a work agreement between the employer and the worker which contains the terms of work, rights and obligations of the parties. Regarding paper agreements, Article 1320 KUH-Per states the legal requirements

¹ Ahmad Hunaeni Zulkarnaen dan Tanti Kirana Hunaeni "Perlindungan Hukum Terhadap Pekerja Dalam Pelaksanaan Hubungan Industrial," *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)* 3, no. 2 (2016): 407–27, <https://doi.org/10.22304/pjih.v3n2.a10>.

² Yenny Yorisca, "Pembangunan Hukum Yang Berkelanjutan: Usaha Mencapai Pembangunan Nasional Yang Berkelanjutan," *Jurnal Legislasi Indonesia* 17, no. 1 (March 2020): 98, <https://doi.org/10.54629/jli.v17i1.507>.

³ Raimundus Bulet Namang, "Negara Dan Warga Negara Perspektif Aristoteles," *Jurnal Ilmiah Dinamika Sosial* 4, no. 2 (August 2020): 247, <https://doi.org/10.38043/jids.v4i2.2449>.

⁴ Lalu Gilang Arnawa and H. Zaeni Asyhadi, "Pelaksanaan Hak Dan Kewajiban Terhadap Pekerja/Buruh Di Pt.Semen Indonesia Distributor Lombok Berdasarkan Undang-Undang Nomor 13 Tahun 2003 Dan Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja." *Private Law* 2, no. 2 (June 2022): 390–96. <https://doi.org/10.29303/prlw.v2i2.1170>.

⁵ Bima Meidianto Nugraha and Hari Soeskindi, "Perlindungan Hukum Bagi Karyawan Alfamart Sebagai Saksi Pencurian Barang." *Bureaucracy Journal : Indonesia Journal of Law and Social-Political Governance* 2, no. 2 (August 2022): 855–69. <https://doi.org/10.53363/bureau.v2i2.124>.

for an agreement. A work agreement is considered valid if it fulfills the following four requirements, firstly agreed, secondly skill in making an agreement, thirdly a certain matter, fourthly a lawful cause, this is in line with Article 52 of Law Number 13 of 2003 concerning Manpower. Agreed means that there is an agreement between the worker and the employer, competence here means that the party making the agreement is competent and understands legal actions, a certain matter, for example the object promised must be clear and certain, halal is defined as in accordance with the provisions of the applicable laws and regulations. The agreement in its stipulation must take into account the considerations of the local minister in the field of manpower, namely the Manpower Office which is located in the same location as the company.

Termination of employment or commonly referred to as layoffs is the termination of employment for a certain reason which results in the end of rights and obligations between workers and employers.⁶In the industrial world, layoffs often occur, especially during the current Covid-19 pandemic. The Covid-19 pandemic that has occurred since early March 2020 has had a major impact on almost all fields including employment, the Minister of Manpower Ida Fauziyah stated that layoffs are the last option for entrepreneurs,⁷considering that layoffs can reduce people's welfare and increase unemployment. Termination of employment causes many problems, for example cases of insufficient severance pay, other rights that have not been received and others.

Industrial Relations is a form of human interaction in the workplace, in which there are the interests of the parties, which if these interests intersect will result in industrial problems or disputes. Based on the provisions of Article 1 number (16) of Law Number 13 of 2003, industrial relations is defined as a system formed that has a relationship between actors working in the field of production in the form of goods and/or services consisting of elements from entrepreneurs, workers/labourers, and the government based on the values of Pancasila and the 1945 Constitution of the Republic of Indonesia. Disputes in industrial relations are usually triggered by differences of opinion, both experienced by employers and by a combination of employers and workers, or it could be between fellow labor unions in one company. There are several ways in general to realize the protection of workers' rights by conducting guidance, supervision and law enforcement in the field of manpower.⁸However, in terms of the position of workers, they still have unequal obstacles which are triggered by problems with regulatory factors, cultural factors both from the side of workers and employers which cause the ability of cement companies to compile, for this reason the government must realize justice for the parties by making more adequate regulations. supervision and law enforcement are further enhanced.

The settlement of industrial disputes to be settled at the Industrial Relations Court, which is then abbreviated as PHI, is regulated in Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes, which philosophically this law was created as a breakthrough in

⁶ RA Aisyah Putri Permatasari, " Perlindungan Hukum Bagi Pekerja Kontrak Yang Di Phk Saat Masa Kontrak Sedang Berlangsung." *Mimbar Keadilan*, September 2018. <https://doi.org/10.30996/mk.v0i0.1608>.

⁷ Yusuf Randi, "Pandemi Corona Sebagai Alasan Pemutusan Hubungan Kerja Pekerja Oleh Perusahaan Dikaitkan Dengan Undang-Undang Ketenagakerjaan." *Yurispruden* 3, No. 2 (2020): 119–36.

⁸ Niru Anita Sinaga and MH SH, " Perlindungan Hukum Bagi Pekerja/Buruh Dan Pengusaha Dalam Pelaksanaan Outsourcing Di Indonesia." *Jurnal Ilmiah Hukum Dirgantara* 5, no. 2 (June 2014). <https://doi.org/10.35968/jh.v5i2.105>.

resolving disputes in the industrial sector in a fast, precise, fair and inexpensive way.⁹There are various types of industrial relations disputes based on Law Number 2 of 2004 as follows:

1. The emergence of disputes regarding rights, this begins due to the non-fulfillment of rights, the emergence of different interpretations or implementation of the basis of statutory regulations, work contracts, company regulations, or collective labor agreements.
2. Differences in interests, this occurs because we do not find the same opinion, especially in terms of making, changing certain conditions contained in the work agreement or collective bargaining agreement through company regulations. For example related to salary increases, meal allowances, transportation and other fund premiums.
3. Disputes over layoffs, usually occur due to rights that are not fulfilled when workers are laid off, in this case severance pay.
4. Disputes between trade unions/labourers, this is due to disagreements related to membership, obligations of members and exercise of rights.

Termination of employment for workers who have made serious mistakes previously regulated in Article 158 of Law Number 13 of 2003, the types of serious mistakes are explained in Article 1 letters a to j for example theft, embezzlement, fraud, giving false statements that harm the company and others, this serious mistake must be proven by evidence in the form of a report or the perpetrator was caught red-handed, or there is a confession from the worker/laborer. When the worker is laid off, he is given compensation money as referred to in Article 156 paragraph (4), namely annual leave that has not been taken and has not fallen, fees or expenses for returning home for the worker/laborer and his family to the place where the worker/laborer is accepted to work, housing replacement as well as treatment and care is set at 15% (fifteen percent) of severance pay and/or long service pay for those who meet the requirements, other matters stipulated in the work agreement, company regulations or collective bargaining agreement. Regarding the calculation of award money and compensation for rights, it is regulated in Government Regulation Number 35 of 2021 concerning Work Agreements for Specific Periods, Outsourcing, Working Time and Rest Time, and Termination of Employment.

One of the many cases of employment is about layoffs that are detrimental to the company. An example of a case raised in the discussion this time is the layoff of workers at PT ALAM LESTARI UNGGUL ABADI in the Supreme Court Decision Number 702 K/Pdt.Sus-PHI/2021. The Supreme Court decision is related to the rights that should be received by workers when the employment relationship is terminated. Based on this description and the many cases of disputes in the field of employment, the problem that can be drawn is how is the form of legal protection for workers who have harmed employers based on Law Number 13 of 2003 concerning Manpower?, and what rights do workers who are laid off get? based on Government Regulation Number 35 of 2020 concerning Work Agreements for a Specific Time, Outsourcing,

⁹ Haikal Arsalan and Dinda Silviana Putri, " Reformasi Hukum Dan Hak Asasi Manusia Dalam Penyelesaian Perselisihan Hubungan Industrial." *Jurnal HAM* 11, no. 1 (April 2020): 39. <https://doi.org/10.30641/ham.2020.11.39-50>.

B. METHOD

The method used in this research is the normative legal research method, using a statutory approach as well as a theoretical point of view from scientific books and journals which function to provide solutions to existing legal problems so that it is not just a limited statutory approach.¹⁰ Normative legal research refers to the concept of law as a rule and is a process for solving existing problems or cases and/or making decisions based on applicable positive law.¹¹ The statute approach is used to examine one rule with another to obtain appropriate results. This research refers to library research by examining legal materials obtained both on a primary, secondary and tertiary basis.

Primary legal material is obtained from legislation in this study using Law Number 13 of 2003 concerning Manpower, Law Number 2 of 2004 concerning Industrial Relations Dispute Settlement, Law Number 48 of 2009 concerning Judicial Power, Government Regulation Number 35 2020 concerning PKWT, Civil Code, and HIR. Secondary legal material is obtained through written works or legal dogmas contained in dissertations such as journals, articles, dictionaries, books, research results in both print and electronic media. Meanwhile, tertiary legal materials are materials obtained from the internet or encyclopedias as supporting materials in this research.

In this study the case raised is related to the form of legal protection for workers who have harmed employers based on Law Number 13 of 2003 concerning Manpower, how many rights do workers who have been laid off based on Law Number 11/2020 concerning Job Creation Job Regulations Government Number 35 of 2020 concerning Work Agreements for Specific Time, Outsourcing, Working Time and Rest Time, and Termination of Employment based on Supreme Court Decision Number 702K/Pdt.Sus-PHI/2020.

C. RESULTS AND DISCUSSION

The right to work and a decent living for humanity has been stipulated since the inception of this country as a human right of citizens which has specifically been contained in the 1945 Constitution of the Republic of Indonesia which has become the constitutional basis of this country, where the right to work and receive remuneration and fair and proper treatment in employment relations. Termination of Employment (PHK) is defined as the end of the working period between the employer and the worker. The types of reasons for layoffs made by employers against workers include the worker making serious mistakes including theft, embezzlement, fraud, giving false statements that harm the company and others, this serious mistake must be proven by evidence in the form of a report or the perpetrator is caught red-handed, or there is acknowledgment from the worker/labourer. This is contained in Article 158 of Law Number 13 of 2003 concerning Manpower. The termination process itself is inseparable from what is called severance pay or compensation money. In this research, a study of what

¹⁰ Fitrah Agung Sabda Pamungkas and Anang Dony Irawan, " Perlindungan Hukum Terhadap Pekerja Akibat Pemutusan Hubungan Kerja Dimasa Pandemi Covid-19." *Ajudikasi : Jurnal Ilmu Hukum* 4, no. 1 (2021): 29–38. <https://doi.org/10.30656/ajudikasi.v4i1.2216>.

¹¹ Kornelius Benuf and Muhamad Azhar, " Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer." *Gema Keadilan* 7, no. 1 (April 2020): 20–33. <https://doi.org/10.14710/gk.2020.7504>

forms of rights protection are obtained by PT. Alam Lestari Superior Abadi based on Supreme Court Decision Number 702K/Pdt.Sus-PHI/2020.

1. Forms of Legal Protection for Workers who have Harmed Entrepreneurs Based on Law Number 13 of 2003 concerning Manpower.

Basically, the provisions regarding dismissal are regulated in Chapter XII, Articles 150 to 172 of Law Number 13 of 2003 concerning Manpower in Article 1 number 25 of the Manpower Act explaining the meaning of layoffs as the final process between workers and employers who terminate the employment relationship because of something certain things so that the rights and obligations have been completed. An employment relationship is a relationship resulting from an employment contract signed or agreed upon by an employer and an employee. A work contract is an agreement that regulates the rights and obligations of the parties, as well as an agreement to adjust the work system carried out by the employee on the basis of the conditions and rights/obligations that will be received by the worker/employee.

The implementation of workers' rights in the event of termination of employment can be recorded in Article 1 of the Regulation of the Minister of Manpower Number Kep150/Men/200, in the form of:

- a. Severance pay, severance pay can be defined as the amount that must be paid by the employer to the worker/employee as a result of termination of employment.
- b. Working Time Allocation Money, this is money that must be given by the entrepreneur/employer to the worker/employee in the form of wages during the working period of the worker concerned.
- c. Compensation Money, in this case is the salary paid by the employer to the worker/employee to compensate for all costs suffered by the worker/employee due to termination of employment. This includes reimbursement for public holidays, sabbaticals, travel expenses to a new place of work, medical facilities, accommodation and the like. Legal issues related to employment in Indonesia are still being heard every year. There are rights that workers have, but are not granted by the companies where they work. Termination of employment is an issue that still persists today as one of the legal issues in the field of employment.¹²

Legal protection for workers should cover two things, namely protection from employer power and protection from government action.^{13,14} Legal protection provided by employers can be carried out if laws and regulations in the field of labor force employers to act in accordance with applicable laws and are properly carried out by all parties.^{15,16} Legal protection for workers

¹² Rizka Maulinda, D Dahlan, and M Nur Rasyid, "Perlindungan Hukum Bagi Pekerja Kontrak Waktu Tertentu Dalam Perjanjian Kerja Pada PT. Indotruck Utama" *Kanun Jurnal Ilmu Hukum* 18 18, no.3 (2016): 337-51.

¹³ Triana Sofiani, " Perlindungan Hukum Pekerja Perempuan Sektor Informal," *Muwazah* 9, no. 2 (Februari 6, 2018): 138–50, <https://doi.org/10.28918/muwazah.v9i2.1125>.

¹⁴ Ngabidin Nurcahyo, " Perlindungan Hukum Tenaga Kerja Berdasarkan Peraturan Perundang- Undangan Di Indonesia," *Jurnal Cakrawala Hukum* 12, no. 1 (April 1, 2021), <https://doi.org/10.26905/idjch.v12i1.5781>.

¹⁵ Ida Hanifah, "Kebijakan Perlindungan Hukum Bagi Pekerja Rumah Tangga Melalui Kepastian Hukum," *Jurnal Legislasi Indonesia* 17, no. 2 (June 30, 2020): 193, <https://doi.org/10.54629/jli.v17i2.669>.

¹⁶ Musrin Musrin, Bachtiar Simatupang, and Darwis Anatami, " Analisis Yuridis Perlindungan Hukum Terhadap Tenaga Kerja Indonesia Ditinjau Dari Undang-undang Nomor 18 Tahun 2017 Tentang Perlindungan Pekerja

is strictly regulated in accordance with Article 5 of Law No. 13 of 2003 concerning Manpower which emphasizes that workers have the right to have equal opportunities to obtain decent work regardless of gender, ethnicity, race, religion and political orientation according to interests and labor capability.¹⁷Based on the articles of the Labor Law, legal protection for workers includes:

- a. Basic rights of workers to bargain with employers
- b. Special protection for women workers, children and persons with disabilities
- c. Work safety and health protection
- d. Protection of workers' wages, welfare and social security

Worker protection is a public law norm that aims to regulate the condition of workers in companies. Including all public legal norms that affect and threaten occupational health safety and welfare of workers in carrying out work, which includes economic protection, social protection and technical protection. Law should have an important role to protect workers in the midst of the problems caused by the current pandemic. These issues include termination of employment (PHK), unpaid leave, reduced working hours and delays in payment due to workload.¹⁸The protection given to workers/employees is aimed at respecting the basic rights of workers/employees and guaranteeing the harmony of agreements and treatment with the basic rights of workers/labourers as well as guaranteeing harmony and treatment without discrimination. This aims to achieve the welfare of employees/workers and their families by taking into account developments in the business world. In this work all employers have one goal, which is to ensure the continuity of the industrial relations system without pressure from various parties. Therefore, employers are obliged to implement provisions relating to this protection in accordance with the applicable laws and regulations.¹⁹Regarding the attitude towards legal protection for workers, namely the implementation of all rights owned by workers, one of which is human rights, because work is related to everything so that workers can live, even human rights to a decent life have been regulated in the NKRI Constitution of 2011. 1945.²⁰Article 27 paragraph 2 of the 1945 Constitution of the Republic of Indonesia stipulates that "Every citizen has the right to work and a decent living for mankind".

In this case it has also been emphasized that these human rights are very necessary in any condition or situation. Therefore, it is very important that companies respect the normative rights of employees first, rather than fulfilling the needs of other creditors. Imam Soepomo explained that the provision of legal protection covers five areas of hunting law, namely:

- a. Field of work/placement, legal protection workers need before they choose to leave work. This period is known as the appointment or leadership period

Migran Indonesia," *Jurnal Syntax Fusion* 2, no. 12 (December 22, 2022): 884–900, <https://doi.org/10.54543/fusion.v2i12.229>.

¹⁷ Ashabul Kahfi, "Perlindungan Hukum Terhadap Tenaga Kerja," *Jurisprudentie* 3, no. 2 (2016): 59–72, <https://doi.org/10.15408/Jadi.v1i1.8200>.

¹⁸ Mohammad Orinaldi, "Dampak Pembatasan Kegiatan Masyarakat Terhadap Pertumbuhan Ekonomi: Suatu Kajian," *J-MAS (Jurnal Manajemen dan Sains)* 6, no. 2 (October 27, 2021): 391, <https://doi.org/10.33087/jmas.v6i2.301>.

¹⁹ Abdul Azis, Aan Handriani, and Herlina Basri, "PERLINDUNGAN HUKUM HAK PEKERJA PADA PERJANJIAN KERJA WAKTU TERTENTU DALAM KETENAGAKERJAAN," *Jurnal Surya Kencana Satu: Dinamika Masalah Hukum Dan Keadilan* 10, no. 1 (September 2, 2019): 59, <https://doi.org/10.32493/jdmhkdmdhk.v10i1.3175>.

²⁰ Rudi Febrianto Wibowo and Ratna Herawati, "Perlindungan Bagi Pekerja Atas Tindakan Pemutusan Hubungan Kerja (PHK) Secara Sepihak." *Jurnal Pembangunan Hukum Indonesia* 3, no. 1 (Januari 30, 2021): 109–20, <https://doi.org/10.14710/jphi.v3i1.109-120>.

- b. In the Industrial Relations Sector, the period of time that must be owned by workers since entering into an employment relationship with the employer. An employment agreement that can be made for a specified or unlimited period of time is known as a permanent job.
- c. In the field of occupational health, legal relations with employees must follow health insurance
- d. The field of work safety, the area of work safety is the protection for workers for the tools used by workers.
- e. In the field of workers' health insurance, workers are entitled to receive sufficient social security to meet their guaranteed needs for compensation according to law. Legal protection is usually defined as the protection provided by the state through regulations to those who are vulnerable who are oppressed by state power or economic power. The weakest part because of the economic power is the workers.

In the case under investigation, violations of Article 96 of Law Number 2 of 2004 in conjunction with Article 155 of Law Number 13 of 2003 to pay all wages and rights normally received by workers whose payment was stopped from February 2020 to August 2020 totaling Rp. 514,611,000 (in spelled out: five hundred fourteen million six hundred and eleven thousand rupiah) but after being examined by the Supreme Court, it was explained that the above violations were carefully cassation memorandum dated 11 February 2021 and counter appeal memory dated 9 March 2021 connected with *Judex Facti's* considerations in this matter The Industrial Relations Court at the Serang District Court did not misapply the law, with the following considerations:

- a. PT Alam Lestari Unggul Abadi Cooperative sources of funds come from workers' wages which are deducted as mandatory savings; Whereas the Plaintiffs as Chair, Secretary and Supervisor of PT Alam Lestari Unggul Abadi Cooperative have the obligation to be responsible for the discrepancy in the balance sheet amounting to Rp1,714,903,736.00;
- b. The Plaintiffs have admitted that they made a mistake that harmed the cooperative based on the cooperative's balance sheet for the period 1 December 2018 - 31 July 2019 which was signed by the Plaintiff Mr. Adi Susiardi and there is a statement from the Plaintiffs who are willing to return the loss by submitting a guarantee;
- c. The mistake or negligence of the Plaintiffs which resulted in a difference in the balance sheet was a serious mistake so that the *judex facti* decision was appropriate which declared the termination of the working relationship between the Plaintiffs and the Defendants since 14 February 2020 where the Plaintiffs are only entitled to compensation money;

Considering, that apart from the considerations mentioned above, the Supreme Court is of the opinion that the decision of the Industrial Relations Court at the Serang District Court must be corrected insofar as it concerns the amount of compensation for rights

So considering, that based on the above considerations, the cassation petition filed by the Cassation Petitioners: ADI SUSIARDI, and Comrades must be rejected with an amendment to the decision of the Industrial Relations Court at the Serang District Court Number 119/Pdt.sus-PHI/2020/ PN.Srg on January 20, 2021 so the orders are as stated below;

- a. Considering, that because the cassation petition of the Cassation Petitioners was rejected, even though with the amendment of the verdict, the Cassation Appellant must be punished to pay the costs of the case at this cassation level;
- b. Considering, that because the value of the lawsuit in this case is above IDR 150,000,000.00 (one hundred and fifty million rupiah), as stipulated in Article 58 of Law Number 2 of 2004, the costs of the case at this cassation level will be borne by the Cassation Petitioners;
- c. Taking into account, Law Number 13 of 2003 concerning Manpower, Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes, Law Number 48 of 2009 concerning Judicial Power, Law Number 14 of 1985 concerning the Supreme Court as amended by Law Number 5 of 2004 and the second amendment with Law Number 3 of 2009 and other relevant laws and regulations (DECISION Number 702 K/Pdt.Sus-PHI/2021).

2. Rights obtained by workers who were laid off based on Law Number 11/2020 concerning Job Creation in conjunction with Government Regulation Number 35 of 2021 concerning Work Agreements for Specific Periods, Outsourcing, Working Time and Rest Time, and Termination of Employment.

If you submit to the laws and regulations, the rights that you get when a worker is laid off are severance pay, and/or long service reward money, and/or compensation for rights that should be received. This is contained in Article 156 of Law Number 13 of 2003 in conjunction with Law Number 11/2020 in conjunction with Article 40 of Government Regulation Number 35 of 2021 with the following criteria:

Table1. Rights obtained when workers are laid off

Severance Pay Terms		Terms of Service Award Money	
≤ 1 year working	1 month	3 years ≤ 6 years of work	2 months Wages
1 year ≤ 2 years of work	Wages	6 years ≤ 9 years of work	3 months Wages
2 years ≤ 3 years of work	2 months	9 years ≤ 12 years of work	4 months Wages
3 years ≤ 4 years of work	Wages	12 years ≤ 15 years of work	5 months Wages
4 years ≤ 5 years of work	3 months	15 years ≤ 18 years of work	6 months Wages
5 years ≤ 6 years of work	Wages	18 years ≤ 21 years of work	7 months Wages
6 years ≤ 7 years of work	4 months	21 years ≤ 24 years of work	8 months Wages
7 years ≤ 8 years of work	Wages	24 years ≥	10 months Wages
8 years ≥	5 months		
	Wages		
	6 months		
	Wages		
	7 months		
	Wages		
	8 months		
	Wages		
	9 months		
	Wages		

Rights Compensation Money

- a. Annual leave that has not been taken and has not fallen
 - b. Return costs for workers and their families to the place where workers are accepted for work
 - c. Other matters stipulated in the employment agreement, Company Regulations or Collective Agreement.
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In the case of PT. Alam Lestari Unggul Abadi based on the work agreement with each worker, the rights received by workers who were laid off since February 14 2020 are each in the amount of:

- a. Adi Susiardi with a working period of 12-23-1988 to 2-14-2020 (32 years) with the last salary of Rp. 7,295,000.00
 - Severance pay
 $9 \times 1 \times \text{Rp. } 7,295,000.00 = \text{Rp. } 65,655,000.00$
 - Long service award
 $10 \times \text{Rp. } 7,295,000.00 = \text{Rp. } 72,950,000.00$
 - Amount = Rp. 138,605,000.00
 - Reimbursement money
 $15\% \times \text{Rp. } 138,605,000.00 = \text{Rp. } 20,790,750.00$
- b. Evi Mourita Sitompul, with a working period of 4-8-1994 to 14-2-2020 (26 years), with the last salary of Rp. 43,000,000.00
 - Severance pay
 $9 \times 1 \times \text{Rp. } 43,000,000.00 = \text{Rp. } 387,000,000.00$
 - Long service award
 $10 \times \text{Rp. } 43,000,000.00 = \text{Rp. } 344,000,000.00$
 - Amount = Rp. 731,000,000.00
 - Reimbursement money
 $15\% \times \text{Rp. } 731,000,000.00 = \text{Rp. } 109,650,750.00$
- c. Supardi, with a working period of 3-4-1996 to 14-2-2020 (24 years), with the last salary Rp. 6,884,000.00
 - Severance pay
 $9 \times 1 \times \text{Rp. } 6,884,000.00 = \text{Rp. } 61,956,000.00$
 - Long service award
 $10 \times \text{Rp. } 6,884,000.00 = \text{Rp. } 55,072,000.00$
 - Amount = Rp. 117,028,000.00
 - Reimbursement money
 $15\% \times \text{Rp. } 117,028,000.00 = \text{Rp. } 17,554,200.00$

In addition to the compensation for these rights, the worker is given a letter of having worked at PT. Eternal Superior Sustainability Realm. So that all of this is only because of the principle as a principle of employment guarantee, in fact all of that was born as a result of the

negative impact of the industrial revolution which made many countries understand that the principle of freedom of contract at the beginning which is one of the principles of general economic theory is liberalism which has limitations, mainly due to the weak bargaining of workers compared to employers. Therefore workers must be protected by clear laws to protect workers from arbitrary dismissal.

The job copyright law requires employers to provide compensation to workers with a Specific Time Work Agreement (PKWT) as stipulated in Article 61A of the Job Copyright Law. What is meant is that employers must prepare compensation money for workers before the contract period ends. Because there is a possibility that results in the termination of the agreement period before the specified period of time.²¹ In the event of termination of employment, the entrepreneur is required to pay severance pay and gratuity pay and compensation for rights that should have been received. Because it is clear based on Article 164 paragraph (1) that employers can only terminate employment with workers because the company is closed or due to compelling circumstances, provided that workers are entitled to 1 time severance pay, 1 time award and replacement rights. So there is no reason for employers to give these workers rights.²²

However, if an error in the employment relationship occurs because of the worker, then the worker must compensate or deduct wages for a fine with the terms agreed in the work agreement or company regulations. . It is a different matter with mistakes by third parties, so these mistakes are the responsibility of the employer/company, for example, because of work orders outside of assignments and agreements and regulations and even working beyond the stipulated time, these mistakes should be the burden and responsibility of the entrepreneur/company, not the risk of the worker. .

D. CONCLUSION

Losses caused by workers will still receive legal protection based on Law Number 13 of 2003 concerning Manpower. Based on their obligations, employers must continue to provide workers' rights after termination of employment (PHK). And for workers who cause losses, they can be held responsible for their treatment by returning losses and submitting guarantees. The rights of workers who have been terminated from employment, in addition to receiving severance pay, compensation pay, award money during their work period. Workers also get the right to get a letter having worked at PT. Alam Lestari Unggul Abadi this is due to the principle of employment guarantees.

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²¹ Mokoginta et al., "Perlindungan Hukum Terhadap Hak Pekerja Menurut Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja," *Lex Crimen* 11, no. 5 (2022): 1–8.

²² M Rikhardus Joka, "Implikasi Pandemi Covid-19 Terhadap Pemenuhan Hak Hukum Pekerja Yang Diputuskan Hubungan Kerja Oleh Pengusaha," *Binamulia Hukum* 9, no. 1 (2020): 1–12, <https://doi.org/10.37893/jbh.v9i1.97>.

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