



JURIDICAL ANALYSIS OF ARTICLE 167 PARAGRAPH (1) CONCERNING AGE AND WORKERS' RETIREMENT RIGHTS IN LAW NUMBER 13 OF 2003

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ABSTRACT

Background. The National Development of the Republic of Indonesia is carried out in the context of the human development of Indonesia as a whole and the development of Indonesian society as a whole to create a society that is prosperous, just, prosperous, equitable both materially and spiritually based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Doesn't set the retirement age limit, then the retirement age limit follows the statutory regulations that apply. This aimed to describe Law Number 13 of 2003 concerning Employment regulates the rights of workers/laborers such as pension rights.

Research Method. This study uses primary and secondary data types for its descriptive empirical legal research.

Findings. The Retirement Age Limit refers to the provisions in force at the Social Security Administering Body (BPJS of Employment. Because it is related to Old Age Security (JHT). Government Regulation Number 45 of 2015 Currently, the retirement age limit for workers/laborers according to the provisions is 56 years old. For this reason, every worker/laborer who experiences termination of employment will receive severance pay and the amount of value obtained by workers/laborers is under the conditions and causes at the time of the occurrence of work termination.

Conclusion. Severance pay is calculated by the provisions of Law Number 13 of the Year 2003 and is also regulated in the Work Agreement, Company Regulations, and Collective Work Agreement.

Keywords: Age, Pension Rights, Workers.

BACKGROUND

National Development of the Country Republic of Indonesia implemented in the framework for Indonesian human development comprehensiveness and community development Indonesia is all about making things happen a prosperous, just, prosperous society, that is evenly distributed both materially and spiritually based on Pancasila and the Law Foundation of the Republic of Indonesia Year 1945, according to the words of Article 28D paragraph (2) that Everyone has the right to work as well receive fair compensation and treatment and appropriate in an employment relationship[1].

In implementing national development, the Government, Employers, and Labor/ Workers have roles and positions which is very important as a world actor business and development goals. The role and position of the workforce, and employment development are needed continuously to improve the quality of the workforce and their participation in the development and improvement of protection of workers and their families following honor and dignity humanity[2]. Energy protection work is intended to guarantee the basic rights of workers/laborers and whatever for realizing the welfare of workers/laborers and their families permanently pay attention to the progress business world. In guaranteeing equality opportunities and treatment without discrimination based on the relationship between workers and employers, legally workers are free because of the principles of our country no one shall be enslaved, nor enslaved. All shapes and types of slavery is prohibited, regulation and servitude are prohibited, but strictly sociological labor is not free as people who have no means of living other than their energy and sometimes. Sometimes you are

forced to accept a relationship work with an employer though burdensome for the workers themselves, more nowadays in abundance disproportionate number of workers with available jobs[3].

Employment development must be regulated in such a way that the rights are fulfilled fundamental rights and protection for labor and workers/laborers as well as on at the same time can make it happen conditions conducive to the development business world. Employment development has many dimensions and connections. The connection is not only with interests of labor during, before, and after the employment period but also a connection with business interests, government, and society[4]. Therefore, thorough setup is required and comprehensive, including, among other things human Resource Development, increased productivity and competitiveness Indonesian workforce, expansion efforts employment opportunities, placement services workforce, and relationship-building industrial.

In Industrial Relations it is necessary for employment development sustainable. Situation and condition governance and economic stability uncertain impact on the company both large and small companies suffer losses and even close[5, 6]. To save the company still standing and the continuity of the company, a lot the companies terminate Employment Relations (PHK) either by entering retirement or due to termination of employment relationship by employers or superior employee's wishes. In Indonesia employment termination because entering retirement is regulated in Article 167 paragraph (1) of the Law Employment Number 13 of 2003, which reads: "Entrepreneurs can do it termination of employment relations of workers/ workers as they enter retirement age and if the entrepreneur has participated workers/laborers on the pension program the contribution is paid in full by the entrepreneur, then the worker/laborer has no right get appropriate severance pay provisions of Article 156 paragraph (2), money long service awards according to provisions Article 156 paragraph (3), but still has the right to compensation money for rights under the provisions of Article 156 verse (4)."

Retirement is a turning point significant in one's career, during life, or at least for the majority of adults who have spent all or most of their lifetime working. Pension is an important change in the development of an individual's life, which is marked by changes in circumstances, reduced income, and social psychology problems[7]. Some retirees are often plagued with various feelings, like losing everything power, feeling useless, not desired, forgotten, marginalized, as well as feeling no longer needed. Even a retired person tends to feel loneliness, which can have an impact on self-confidence, anxiety, health declining, and even mental (post-power syndrome). This research aimed to find out how much the retirement age limit is according to the statutory provisions-valid invitation and the rights of retirement.

RESEARCH METHOD

The research uses an approach of Normative Juridical[8]. This research examines the article Manpower Law that regulates retirement and termination employment relations (PHK). Primary legal materials consist of: 1) Law Number 3 years 1992 on Social Security Labor, 2) Law Number 11 1992 concerning Pension Funds, and 3) Decree of the Minister of Manpower Number 150 of 2000. The decision of the minister regulates the obligations of businessmen, 4) Law Number 13 years 2003, about employment, 5) Government Regulation Number 45 2015 regarding organizers' pension guarantee program. Secondary legal materials are literature and literature review relevant literature from the internet with the main problem of employment.

FINDINGS

Law Number 13 year 2003, does not specify when pension and what is the Retirement Age Limit (BUP) is for private sector workers. In article 167 paragraph (1) it is stated that one of the reasons for Termination of Relations Work (PHK) is because the worker has entered

retirement age. But no set clearly and firmly at what age retirement age limits apply. Provision regarding the established retirement age limit in the Employment Agreement (PK), Regulations Company (PP), Collective Labor Agreement (PKB), or statutory regulations relating to retirement according to Article 154 letter C of the Law Employment means: "Workers/laborers reach retirement age following the provisions of the agreement work, company regulations, work agreements together, or statutory regulations." Does not rule out the possibility The company will adjust accordingly to Government Regulation Number 45 of 2015 regarding the Implementation of the Guarantee Program Pension managed by the Agency Social Security Administrator (BPJS) Employment because the company too includes employees in the program. With boundary conditions retirement age is regulated in Article 15, that is:

- 1) For the first time Retirement Age was set 56 (fifty-six) years;
- 2) Starting January 1, 2019, the Retirement Age as intended in paragraph (1) to be 57 (fifty-seven) years old;
- 3) Retirement Age as intended in paragraph (2) then increases by 1 (one) year for every 3 (three) years next until reaching age 65 (sixty-five) years, and If Participants have entered Retirement Age but concerned remain employed, Participants can choose to receive Benefits Retire upon reaching Age Retirement or when you stop working provided that a maximum of 3 (three) years after Retirement Age.

Pension payments are calculated by the company at the time of initial entry until registered with the guarantee program retire and the rest is added with results calculated by the Organizing Body Employment Social Security (BPJS). from initial registration to entry retirement age. If the entrepreneur has included workers/laborers in the program pension whose contributions are paid in full by entrepreneurs, then workers/laborers do not entitled to: a) Severance pay following the provisions of Article 156 paragraph (2); b) Appropriate pay for long service provisions of Article 156 paragraph (3), but still entitled to compensation for appropriate rights provisions of Article 156 paragraph (4).

DISCUSSIONS

Provisions regarding Retirement Age Limits for Workers/laborers Since the enactment of Law Number 13 of 2003, about Employment, entrepreneurs and workers/laborers adhere to the law. These laws are often different interpretations. Because the Law Number 13 of 2003 does not regulate it especially regarding age limits retire, when will the workers/laborers? Retirement and what is the Retirement Age Limit (BUP) for private sector workers[9]. Article 167 paragraph (1) states that it is wrong one reason for termination of employment (layoffs) is because workers have entered retirement age. But no set clearly and firmly at what age retirement age limits apply. Article 167 paragraph (1) "Entrepreneurs can do termination of employment relations of workers/ workers as they enter retirement age and if the entrepreneur has participated workers/laborers on the pension program the contribution is paid in full by the entrepreneur, then the worker/laborer has no right get appropriate severance pay provisions of Article 156 paragraph (2), money long service awards according to provisions Article 156 paragraph (3), but still has the right to compensation money for rights following the provisions of Article 156 verse (4)."

This means that entrepreneurs can do it termination of employment may also not be the case, to provide certainty when retired workers/laborers make an agreement Work (PK), Company Regulations (PP)/ Collective Labor Agreement (PKB), or Related Legislation with retirement. This is contained in Article 154 letter C of the Law employment which reads: "Workers/laborers reach retirement age following the provisions of the agreement work, company regulations, work agreements together, or statutory regulations invitation[10].

To provide certainty when workers/laborers have reached retirement age, then the Government has issued Government regulations governing the implementation of the pension guarantee program for workers/laborers. This guarantee aims to maintain status

and a decent life for participants and/or their heirs by giving income after participants/workers/laborers enter retirement age, experience disability total remains, or dies. Body Social Security Administrator (BPJS) Employment is a public legal entity established by law Number 24 of 2011, concerning the Agency Implementation of Social Security It was previously called BPJS Employment called Social Security[11]. Retirement Age Limit for workers/laborers are regulated in Article 1.

Government Regulation Number 45 of the Year 2015[12], which reads Article 15: 1). For the first time Retirement Age is set at 56 (fifty-six) years; 2). Starting January 1, 2019, the Retirement Age as intended in paragraph (1) to be 57 (fifty-seven) years old; 3). Retirement Age as intended in paragraph (2) then increases by 1 (one) year for every 3 (three) years next until you retire 65 (sixty-five) years old; 4). If the Participant has entered the Age Retired but the person concerned remains employed, the Participant can choose to receive Pension Benefits upon reaching Retirement Age or when stopping work with provisions no later than 3 (three) years after Age Pension. In applying paragraph (4) above Workers after receiving Pension Benefits who still want to return to work status using a Time Work Agreement Certain (PKWT). But it must meet the requirements that must be met like a medical check-up to make sure that workers/laborers are still able to work return which applies every year and Renewable up to a maximum of 3 years.

CONCLUSION

Retirement age limit for workers/laborers because it is not regulated in Law Number 13 of 2003 regarding employment, employers can terminate employment relations because of retirement age, but maybe not terminate employment relations. To provide certainty to workers, the retirement age limit is regulated in the Employment Agreement, Regulations Company, and Collective Labor Agreement, and statutory regulations apply. Calculation of pension money for workers/ workers who have entered the period retirees will receive severance pay which is regulated in Law Number 13 of 2003 concerning employment and Employment Agreement (PK), Company Regulations (PP), and Collective Labor Agreement (PKB). Terms and calculation of severance pay that have been regulated include Pension regulated in Article 156 paragraphs (2), (3), and (4) as well as separation pay as regulated in Collective Labor Agreement (PKB).

Conflict of Interest

The author declares there is no conflict of interest with the publication of this paper.

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