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Application of the Principles of Legality and Due Process of Law in the Indonesian National Police Personnel Dispute: A Legal Analysis of the Jakarta Administrative Court Decision Number 50/G/2020/PTUN.JKT

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Abstract: *The study aims to analyze whether the issuance of the decision complies with the principle of legality in administrative law and whether the examination and decision-making process reflects due process of law and provides fair legal protection for the concerned individual. This research uses a normative legal method with statutory, case, and conceptual approaches by analyzing court decisions, relevant legislation, and legal literature in administrative law. The findings indicate that while the decision has a valid formal legal basis in terms of authority, there are indications of deficiencies in procedural and substantive aspects affecting the full application of the principle of legality. In addition, the examination process does not fully reflect due process of law due to shortcomings in the right to be heard, transparency, and objectivity of the proceedings. The study concludes that the implementation of both the principle of legality and due process of law in this dismissal case has not been optimally fulfilled in police administrative practice.*

Keywords: *Principle of Legality, Due Process of Law, Dishonorable Discharge, Administrative Court Dispute, Indonesian National Police, Administrative Court Decision*

INTRODUCTION

Indonesia, as a state based on the rule of law, as asserted in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, carries the consequence that every act of government administration must be based on applicable law and cannot be carried out arbitrarily. The principle of a law-based state (*rechtsstaat*) places law as the primary foundation in every administrative decision, including in the field of state civil service affairs. In this context, the existence of the State Administrative Court plays an important role as a mechanism of judicial control over government actions to ensure compliance with the principle of legality and protection of citizens' rights (Hadjon, 2007).

One form of administrative action with significant impact on individual rights is the decision of dismissal with dishonor (*PTDH*) against members of the Indonesian National Police (*Polri*). *PTDH* is the most severe administrative sanction in the *Polri* personnel system as it directly results in the loss of employment status, income, and the individual's honor. Therefore, the issuance of a *PTDH* decision must fulfill the principles of administrative law, especially the principle of legality and due process of law, in order to avoid violations of the rights of state apparatus (Ridwan HR, 2016).

The principle of legality in administrative law mandates that every decision by a government official must be based on legitimate authority, correct procedures, and substance that complies with prevailing laws and regulations. In other words, a state administrative decision must fulfill aspects of authority, procedure, and substance to be declared legally valid (Indroharto, 1993). On the other hand, the principle of due process of law emphasizes the need for fairness in every governmental action, including providing the affected party with the opportunity to be heard, to defend themselves, and to receive non-discriminatory treatment (Asshiddiqie, 2010). This principle is also reflected in the general principles of good governance (*AUPB*), such as the principles of prudence, transparency, and justice (Lestari, 2022).

In practice, it is not uncommon for personnel disputes within the *Polri* to result in judicial review before the State Administrative Court (*PTUN*). One example is Jakarta State Administrative Court Decision Number 50/G/2025/PTUN.JKT, which tested the validity of the decision of the Chief of the Indonesian National Police regarding the dishonorable dismissal of a *Polri* member. This dispute arose due to allegations that the examination process and issuance of the *PTDH* decision did not comply with procedural requirements and disregarded the rights of defense of the affected party. In such cases, the *PTUN* serves to assess whether the decision in question is in accordance with the principle of legality and whether the process reflects the principle of due process of law.

Conceptually, this research is based on the understanding that a legitimate administrative decision is measured not only by its conformity to written legal norms but also by the fulfilment of procedural justice principles. Thus, analysis of the *PTUN* ruling becomes important in examining how judges apply both principles in resolving personnel disputes, particularly in *PTDH* cases involving *Polri* members. Moreover, this research aims to contribute to the development of administrative law, particularly in strengthening legal protection for state apparatus against potentially unlawful administrative actions.

Based on the above description, the objective of this research is to analyze the application of the principle of legality in the issuance of dishonorable dismissal decisions for *Polri* members and to examine whether the examination and issuance process of such decisions reflects the principle of due process of law, thereby affording fair legal protection to the affected party.

The problem formulation in this research is as follows: has the issuance of the Dishonorable Dismissal Decision in Jakarta State Administrative Court Decision Number 50/G/2025/PTUN.JKT fulfilled the principle of legality in administrative law, and do the examination and issuance processes of the decision reflect the principle of due process of law and provide fair legal protection to the relevant *Polri* member?

METHOD

This research employs normative legal research, or juridical-normative research, focusing on the examination of legal norms contained within laws and regulations, court decisions, and legal doctrines found in the literature. This approach is used because the research object consists of State Administrative Decisions and court judgments analyzed based on administrative law principles, particularly the principles of legality and due process of law.

The approaches used in this research include statute approach, case approach, and conceptual approach. The statute approach involves reviewing various relevant legal provisions, including Law Number 5 of 1986 concerning State Administrative Courts and its amendments, Law Number 30 of 2014 on Government Administration, Law Number 2 of 2002 regarding the Indonesian National Police, as well as National Police Regulation Number 7 of 2022 on the Police Professional Code of Ethics. The case approach is carried out through analysis of Jakarta State Administrative Court Decision Number 50/G/2025/PTUN.JKT as the main object of the research. Meanwhile, the conceptual approach is used to understand legal concepts such as the principle of legality, due process of law, and the general principles of good governance.

This research does not use populations and samples as in empirical research, but instead uses legal materials as the main data source. These legal materials consist of primary, secondary, and tertiary legal materials. Primary legal materials include relevant laws and regulations and court decisions. Secondary legal materials consist of books, scientific journals, and expert opinions related to administrative law and civil service law. Tertiary legal materials include law dictionaries and encyclopedias used to support the understanding of legal terms.

Legal materials are gathered through library research, by collecting and examining various literature, regulations, and court judgments related to the issues addressed in the study. All collected legal materials are subsequently classified and systematically organized according to analytical needs.

The technique for analyzing legal materials in this research is conducted qualitatively using legal interpretation methods. The analysis is carried out by examining the compatibility between applicable legal norms and the legal facts found in court decisions. Subsequently, interpretation of the relevant legal provisions is performed to assess whether the issuance of the dishonorable dismissal decision has met the principle of legality and whether the process reflects the principle of due process of law. The results of the analysis are then presented descriptively-analytically to provide a comprehensive understanding of the issues studied.

Through this method, this research is expected to provide a systematic and in-depth analysis regarding the validity of administrative decisions in the context of *Polri* personnel disputes, and to contribute to the development of legal science, especially in the field of administrative law.

RESULTS AND DISCUSSION

The Application of the Principle of Legality in Issuing Decisions of Dishonorable Discharge (PTDH) for Members of the Indonesian National Police (A Study of Jakarta Administrative Court Decision Number 50/G/2025/PTUN.JKT)

The principle of legality is a fundamental tenet in administrative law, affirming that every action and decision of government officials must be based on lawful authority, carried out in accordance with applicable procedures, and have content that aligns with statutory regulations. In a state governed by law, this principle serves as a limitation on governmental power to prevent arbitrary actions and to ensure the protection of individual rights (Hadjon, 2007). Therefore, within the context of administrative disputes, examining compliance with the principle of legality serves as the main instrument for assessing the validity of a State Administrative Decision (*KTUN*).

In Jakarta Administrative Court Decision Number 50/G/2025/PTUN.JKT, the object of dispute is the Decision of the Chief of the Indonesian National Police Number Kep/1756/X/2024 concerning the dishonorable discharge (*PTDH*) of a member of the Indonesian National Police. Conceptually, the decision already fulfills the elements of a *KTUN* because it is written, concrete, individual, and final, making it a valid object of lawsuit in administrative courts (Indroharto, 1993). Thus, the examination of the legitimacy of this

decision must be conducted based on three main aspects of the principle of legality: authority, procedure, and substance.

In terms of authority, the Chief of Police essentially has the authority to issue decisions regarding the discharge of members of the Police, including dishonorable discharge. This authority originates from Law Number 2 of 2002 on the Indonesian National Police and its implementing regulations, including Police Regulation Number 7 of 2022 concerning the Police Professional Code of Ethics. In administrative law theory, authority is considered legitimate if obtained through clear attribution, delegation, or mandate (Ridwan HR, 2016). In this context, the Chief of Police's authority is attributive in nature, so formally there are no issues regarding the competence of the official issuing the *PTDH* decision (Rahardi, 2007).

However, problems arise during the exercise of that authority, particularly in the internal investigation process conducted by the Police Code of Ethics Commission (*KKEP*). The plaintiff in this case argued that the formation and implementation of *KKEP* was not based on a lawful delegation of authority from the Chief of Police to regional officials, bringing into question the validity of the investigation process underlying the issuance of the *PTDH* decision. From the perspective of administrative law, a defect in the establishment of bodies or exercise of authority can result in indirect illegality, ultimately affecting the validity of the resulting decision. Therefore, even if the formal authority of the Chief of Police is not in dispute, the exercise of that authority must still fully comply with the principle of legality.

Next, with regard to procedure, the principle of legality requires that every administrative decision be issued through steps that have been stipulated in statutory regulations. Law Number 30 Year 2014 on Government Administration expressly affirms that procedure is an integral part of the validity of an administrative decision; procedural violations may render the decision legally flawed (Ridwan HR, 2016). In this case, the Plaintiff presented several arguments suggesting procedural violations, including the lack of an investigative audit stage as mandated by Police Regulation Number 7 of 2022, the absence of a legitimate formal summons in the investigative process, and the failure to properly deliver a special placement order (*patsus*).

Additionally, the Plaintiff also stated that the *PTDH* process was not preceded by a recommendation from the work unit, as required by the Police's internal administrative mechanism. If these arguments are proven, this would indicate violations of essential procedures. According to the doctrine of administrative law, violation of fundamental (essential) procedural requirements can justify declaring a decision null and void (Indroharto, 1993). This is because procedure is not merely a formality, but rather a guarantee for the fulfillment of the principles of fairness and legal certainty in decision-making processes (Siharta, 2010).

In terms of substance, the principle of legality requires that the contents of a decision must be based on applicable legal norms and supported by sufficient and relevant facts. In this case, the *PTDH* decision was based on alleged violations of the code of ethics deemed gross misconduct under Police Regulation Number 7 of 2022. The Defendant argued that the member's actions met the criteria for gross misconduct and thus justified the *PTDH* sanction. However, the Plaintiff denied that their actions satisfied the elements of gross misconduct as defined in the regulation, reasoning that there were no concrete legal impacts, no significant public attention, and no final and binding criminal court ruling.

Furthermore, the Plaintiff emphasized that the *PTDH* decision lacked adequate justification, both in juridical, sociological, and philosophical terms. In fact, Law Number 30 Year 2014 requires that every administrative decision be based on clear, rational, and accountable considerations as part of applying the principles of prudence and legal certainty (Asshiddiqie, 2010). The absence of sufficient rationale may be categorized as a substantive defect, indicating that the decision was not grounded in strong and proportional reasoning.

Moreover, from the perspective of General Principles of Good Governance (*AUPB*), weaknesses in the substance of the decision are also related to violations of the principles of accuracy and transparency. The principle of accuracy requires that government officials base their decisions on complete and accurate data and information, while the principle of transparency demands openness in the decision-making process. If the *PTDH* decision is not based on clear facts and is not accompanied by transparent reasoning, this shows a violation of *AUPB*, further indicating the non-fulfillment of the principle of legality (Kelsen, 1961).

Based on the analysis of these three aspects, it can be concluded that, although the formal authority of the Chief of Police to issue the *PTDH* decision is not in question, there are strong indications of procedural and substantial violations in the issuance of the decision. Procedural violations, such as failure to conduct an investigative audit and lack of official summons, as well as substantial weaknesses in evidence and reasoning, show that the application of the principle of legality in this case has not been fully met (Sadjijono, 2008).

Therefore, in the Jakarta Administrative Court Decision Number 50/G/2025/PTUN.JKT, the issuance of the Dishonorable Discharge (*PTDH*) Decision against a member of the Police can be considered as not fully complying with the principle of legality in administrative law, especially in terms of procedure and substance. This emphasizes that the application of the principle of legality requires not only formal authority, but also adherence to procedure and the quality of the decision's substance. Hence, consistency in applying the principle of legality is crucial to ensuring legal certainty as well as protecting individual rights from arbitrary administrative actions.

The Application of the Principle of Due Process of Law in the Examination Process and Issuance of a Dismissal Without Honor (*PTDH*) Decision for Members of the Indonesian National Police (Study of Jakarta Administrative Court Decision Number 50/G/2025/PTUN.JKT)

The principle of due process of law is one of the main pillars in the rule of law, emphasizing that every governmental action must be carried out through procedures that are fair, transparent, and not arbitrary. This principle is not only related to formal legal compliance but also concerns the protection of individual rights in every governmental decision-making process. In the context of administrative law, due process of law is reflected in the fulfillment of the right to be heard (*audi et alteram partem*), the right to defend oneself, and the guarantee that the examination process is objective and impartial (Asshiddiqie, 2010).

In Jakarta Administrative Court Decision Number 50/G/2025/PTUN.JKT, the main issue examined is not only related to the formal validity of the dismissal without honor (*PTDH*) decision, but also whether the internal examination process carried out by the National Police (*Polri*) institution provided fair legal protection to the concerned member. This becomes significant considering *PTDH* is the severest administrative sanction, which directly impacts the individual's status, career, and honor.

One of the fundamental aspects of due process of law is the existence of an appropriate opportunity for the examined party to know the allegations made against them and to provide a defense. In this case, the Plaintiff argued that he never received an official and proper summons in the examination process conducted by the Police Ethics Code Commission (*KKEP*). The absence of a valid summons indicates a violation of the right to be heard, which is a fundamental principle in administrative examination processes (Hadjon, 2007). Without a clear and valid summons, the person examined does not have an adequate opportunity to prepare a defense, thus making the ongoing process unfair.

Moreover, the Plaintiff also claimed that he was not given access to documents and information forming the basis of the examination, including reports of alleged violations and case review results. From the perspective of due process of law, information transparency is a

crucial element to ensure procedural justice. Without access to relevant information, the examined party cannot fully understand the accusations and cannot mount an effective defense. This runs counter to the principle of openness, which is part of the general principles of good governance (*AUPB*) (Ridwan HR, 2016).

Furthermore, the Plaintiff also argued that he was not accompanied by legal counsel during the examination process. In fact, in an examination that could potentially result in a severe sanction such as *PTDH*, the presence of legal assistance is very important to ensure that individual rights are optimally protected. The absence of legal representation can lead to an imbalance of position between the examined party and the institution with authority, potentially resulting in injustice in the examination process.

Another aspect highlighted in this case is the alleged lack of neutrality in the examination process. The Plaintiff stated that the official conducting the examination also acted as the decision-maker, thereby creating a conflict of interest. According to the principle of due process of law, this contravenes the *maxim nemo iudex in causa sua*, namely the principle that no one should be a judge in their own case (Asshiddiqie, 2010). This lack of neutrality can diminish objectivity in assessment and cast doubt on the fairness of the examination outcome.

In addition, the Plaintiff also pointed out the existence of pressure or intimidation during the examination process. If this is proven, it would constitute a serious violation of the principle of due process of law, as every examination process must be conducted free from pressure and coercion. A process carried out under duress not only violates individual human rights but can also affect the validity of the examination's results.

Regarding the issuance of *PTDH* decisions, the principle of due process of law also requires that such decisions be based on transparent and accountable processes (Cappelletti, 1989). The resulting decision must reflect that all stages of examination were conducted fairly and afforded the examined party an equal opportunity to defend themselves. However, in this case, the Plaintiff argued that the *PTDH* decision was issued without adequately considering the defense submitted and was not accompanied by clear and detailed reasons. This shows that the decision-making process did not fully reflect the principles of procedural justice.

From an administrative law perspective, violations of the principle of due process of law may render an administrative decision invalid, even if the decision is formally based on legitimate authority (Nonet & Selznick, 1978). This is because procedural justice is an integral part of the validity of governmental actions. In other words, a decision must not only be formally legal but also procedurally fair.

Based on analysis of the facts in Jakarta Administrative Court Decision Number 50/G/2025/PTUN.JKT, it can be concluded that the examination process and issuance of the *PTDH* decision against the Plaintiff did not fully reflect the principle of due process of law. This is evidenced by indications of violations against the right to be heard, lack of transparency in delivering information, absence of legal assistance, as well as allegations of lack of neutrality in the examination process. All these factors indicate that the legal protection afforded to the Plaintiff was not optimal.

CONCLUSION

Based on the analysis of Jakarta Administrative Court Decision Number 50/G/2025/PTUN.JKT, it can be concluded that the issuance of the Dismissal with Disrespect (*PTDH*) Decision against members of the Indonesian National Police (*Polri*) has not fully satisfied the principle of legality in administrative law. Although, in formal terms, the authority of the official issuing the decision is not in question because it stems from legitimate attribution, in practice, indications of violations were found in both procedural and substantial aspects. Procedural discrepancies, such as the failure to conduct the required stages of investigation and shortcomings in the considerations underlying the decision, demonstrate that the principle of

legality was not fully implemented. This affirms that the validity of an administrative decision is determined not only by formal authority, but also by adherence to proper procedure and the quality of its underlying substance.

Furthermore, from the perspective of due process of law, the investigation process and the issuance of the *PTDH* decision in this case have also not fully reflected the principles of procedural justice and adequate legal protection for the affected police officer. The failure to fulfill the right to be heard, the lack of transparency in the investigation process, and the indication of impartiality in decision-making all indicate that the administrative process carried out has not yet met appropriate standards of justice. In a state governed by the rule of law, every governmental action must not only be legally valid, but also carried out through fair procedures that respect individual rights.

Thus, this research shows that the application of the principles of legality and due process of law within the internal disciplinary enforcement system of the Indonesian National Police still faces challenges in practice. These findings contribute to the development of administrative law, particularly by strengthening the importance of integrating formal legality and procedural justice in every governmental administrative action. Moreover, this study highlights the need to improve the quality of internal investigative mechanisms to be more transparent, accountable, and to ensure fair legal protection for every individual subject to administrative action.

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