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Unilateral Termination Of Employment (PHK) By PT. Pong Codan Indonesia (PCI) As Reviewed In The Connection With Government Regulation Number 35 Of 2021 Concerning Fixed-Term Employment Agreements, Outsourcing, Working Hours And Rest Hours, And Termination Of Employment (Study Of Decision Number 16/Pdt.Sus-Phi/2025/Pn Bdg)

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Abstract: Unilateral termination of employment constitutes a fundamental issue in industrial relations, reflecting the imbalance of bargaining power between employers and workers. The state intervenes through labor regulations, particularly Law Number 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation as Law and Government Regulation Number 35 of 2021 concerning Fixed-Term Employment Agreements, Outsourcing, Working Time and Rest Time, and Termination of Employment, to ensure legal protection for workers. This study examines how termination of employment is regulated under Government Regulation Number 35 of 2021 and how the panel of judges considered unilateral termination cases in Decision Number 16/Pdt.Sus-PHI/2025/PN Bdg. The research employs a qualitative method with a normative legal approach through literature study of statutory regulations and court decisions. Government Regulation Number 35 of 2021 regulates termination of employment comprehensively as a last resort with strict procedures. In Decision Number 16/Pdt.Sus-PHI/2025/PN Bdg, the panel of judges declared that the fixed-term employment agreement had transformed into an indefinite-term employment agreement and that the termination was null and void. However, a contradiction arises as the employment relationship was ultimately terminated on grounds of efficiency solely based on Article 100 of Law Number 2 of 2004 without considering Constitutional Court Decision Number 19/PUU-IX/2011, whereas the efficiency provisions within that Constitutional Court Decision cannot justify the termination of employment of the Plaintiffs whose status had been established as indefinite-term, thus the legal basis employed was inaccurate and entirely without juridical foundation, ultimately failing to provide optimal legal protection for workers.

Keyword: Unilateral Termination, Fixed-Term Employment Contract, Worker Legal Protection.

INTRODUCTION

Employment is a constitutional right of every citizen, guaranteed by the 1945 Constitution of the Republic of Indonesia. Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia affirms that every citizen has the right to work and a decent living for humanity. This constitutional guarantee places the state as the bearer of the obligation to ensure the fulfillment of every citizen's right to work, while also providing adequate legal protection for the employment relationship between workers and employers. (Ikhwan Fahrojih, 2016). In the context of industrial relations, this employment relationship is referred to as industrial relations. (M. Gary Gagarin Akbar & Deny Guntara, 2019) This relationship is not merely a normal civil relationship, but rather one steeped in social and humanitarian dimensions that require state intervention through labor law instruments to maintain a balance between the interests of workers and employers.

Indonesian labor law is fundamentally built on the principle of protecting the vulnerable party in industrial relations, namely workers. According to Harjono, legal protection is defined as protection provided through legal means to ensure that people's rights are respected, protected, and fulfilled. This protection can be achieved through judicial remedies, namely through judicial institutions in law enforcement processes, or through non-judicial preventive measures such as warnings, reprimands, and summonses, or through non-judicial institutions such as state administrative officials. (Devi Rahayu, dkk., 2021). This is driven by the imbalanced bargaining power between employers and workers, where workers are often in a weaker position and vulnerable to abuse of power by employers. (Asri Wijayanti , 2018)

Workers, who are structurally under the control of employers, require adequate legal protection as economic actors. This protection is not merely administrative but must reflect humanitarian values and religious norms, encompassing aspects of occupational safety and health, maintaining morality, and fostering morality in the workplace. (Muhamad Abas, 2017) Therefore, the state exists through various labor regulations to guarantee legal protection, certainty of rights, and welfare for workers. Law Number 13 of 2003 concerning Manpower (hereinafter referred to as Law 13/2003), which was later amended by Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation as Law (hereinafter referred to as Law 6/2023), is a major milestone in comprehensively regulating employment relations in Indonesia.

One of the most fundamental issues in employment relations is Termination of Employment (PHK). Article 1, number 25 of Law 13/2003 states that a PHK is the termination of an employment relationship due to conditions or circumstances that result in the termination of the rights and obligations between the employee/laborer and the employer. The consequence of this termination is that the employee/laborer is no longer bound by the obligation to perform work, while the employer is also no longer obligated to provide wages. (Ida Hanifah, 2020) In employment law theory, terminations are classified into four main categories: those occurring by operation of law, at the employee's request, those initiated by the employer, or those imposed by a court order.(Zaeni Asyhadie, dkk., 2016)

The phenomenon of unilateral layoffs by employers without proper procedures remains a frequent occurrence in industrial relations practices in Indonesia. Unilateral layoffs are forced terminations of employment by employers without the employee's consent and without following the mechanisms established by applicable regulations. (Simanjuntak & Payaman J., 2020) This situation reflects the ongoing inequality in employment relations, where employers exploit their dominant position to unilaterally terminate employment without fulfilling their legal obligations. Unilateral layoffs are often carried out without proper procedures, resulting in financial and psychological losses for workers. (Muhamad Padilah, Yuniar Rahmatiar, Muhamad Abas, (2024)

To provide legal certainty regarding layoffs, the government has issued Government Regulation Number 35 of 2021 concerning Fixed-Term Employment Agreements, Outsourcing, Working Hours and Rest Periods, and Termination of Employment (hereinafter referred to as PP 35/2021) as an implementing regulation of Law 6/2023. Articles 36 and 37 of PP 35/2021 regulate in detail various aspects related to termination of employment, from the grounds that can be used as grounds for layoffs, mandatory procedures, to the obligation to provide compensation to laid-off workers. (*Peraturan Pemerintah Nomor 35 Tahun 2021*, 2021) This regulation is intended to ensure that any layoffs carried out by employers meet the material and formal requirements stipulated by law.

Indonesian labor law places layoffs as a last resort (ultimum remedium) that must be avoided by the parties in industrial relations. (Deby Ayu Fauziah , 2026) Article 37 paragraph (1) of PP 35/2021 requires employers, workers/laborers, trade unions/labor unions, and the government to work together to prevent layoffs. If layoffs cannot be avoided, employers are required to convey the intent and reasons for the layoffs in writing to workers/laborers no later than 14 (fourteen) working days before the layoffs are implemented. If workers refuse this notification, a resolution must be reached through bipartite negotiations, and if no agreement is reached, it must be continued through the industrial relations dispute resolution mechanism as stipulated in Law Number 2 of 2004 (hereinafter referred to as Law 2/2004). (*Peraturan Pemerintah Nomor 35 Tahun 2021*, 2021) Layoffs carried out without following these procedures are contrary to the principles of justice and legal certainty. However, in practice, many employers ignore their legal obligations to workers, so that layoffs are often carried out unilaterally and without regard to applicable provisions. (Arifuddin Muda Harahap, 2023)

One common mode of irregularity in employment practices is the illegal use of Fixed-Term Employment Agreements (PKWT), particularly those for permanent employment and those exceeding the maximum time limit permitted by law. Article 59 paragraph (1) of Law 6/2023 expressly prohibits the use of PKWT for permanent and continuous employment. Furthermore, Article 8 paragraph (1) of Government Regulation 35/2021 limits the term of a PKWT and its extensions to a maximum of 5 (five) years. If a PKWT violates these provisions, it will legally become an Indefinite-Term Employment Agreement (PKWTT) from the date the employment relationship first begins, as stipulated in Article 59 paragraph (3) of Law 6/2023 in conjunction with Article 8 paragraph (3) of Government Regulation 35/2021. (Asep Rudi Gunawan, dkk, 2024)

The issue of unilateral layoffs involving the misuse of PKWT occurred in a case between workers and PT Pong Codan Indonesia, as stated in the Industrial Relations Court Decision Number 16/Pdt.Sus-PHI/2025/PN Bdg. In this case, three workers, namely Anwar Suminta, Abdul Muhtadin, and Siti Masitoh, who had worked for 10 to 12 years with PKWT status, received notice of the termination of their employment relationship from PT Pong Codan Indonesia on the grounds of contract expiration. However, based on Special Inspection Note Number 20733/TK.04.01/PK.Wil.I.Bgr dated November 3, 2023, issued by the Bogor Region I Manpower Inspection UPTD, it was found that the PKWT applied by the company did not comply with applicable legal provisions because the workers' employment was permanent and the work period had exceeded the maximum limit permitted by law and the layoffs were null and void. However, the Defendant failed to implement the recommendation and, in June 2024, issued letters prohibiting the plaintiffs from entering the factory grounds. These letters were Letter Number 001/HRD/VI/2024 dated June 1, 2024, for Anwar Suminta and Abdul Muhtadin, and Letter Number 002/HRD/VI/2024 dated June 6, 2024, for Siti Masitoh. Since then, the Plaintiffs have been unable to perform their work and have not received wages, holiday bonuses, or annual leave entitlements from the Defendant. Ultimately, the case was submitted to the Industrial Relations Court.

Furthermore, Decision Number 16/Pdt.Sus-PHI/2025/PN Bdg also raises issues in the context of legal protection for workers. The Panel of Judges, in its ruling, declared that the layoffs carried out by PT Pong Codan Indonesia were null and void due to failure to comply with established procedures. However, the Panel of Judges instead terminated the employment relationship by qualifying it as a layoff due to efficiency losses due to the company's losses.

Based on this description, the problem identification that is the focus of this research concerns the Regulation of Termination of Employment (PHK) based on the provisions of Government Regulation Number 35 of 2021 concerning Fixed-Term Employment Agreements, Outsourcing, Working Hours and Rest Periods, and Termination of Employment, as well as the Considerations and Decisions of the Panel of Judges in Deciding on Cases of Unilateral Termination of Employment (PHK) as stipulated in Decision Number 16/Pdt.Sus-PHI/2025/PN Bdg.

METHOD

This research uses a juridical approach. This normative legal research, or library research, is conducted by examining library materials or secondary data. (Nur Solikin, 2021) Primary legal materials include laws and regulations related to employment, namely Law Number 13 of 2003 concerning Employment, Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes, Law Number 6 of 2023 concerning Job Creation, Government Regulation Number 35 of 2021 concerning Fixed-Term Employment Agreements, Outsourcing, Working Hours and Rest Time, and Termination of Employment, Constitutional Court Decision Number 19/PUU-IX/2011 and Pu Industrial Relations Court Decision Number 16/Pdt.Sus-PHI/2025/PN Bdg. Secondary legal materials include books and journals. This research is descriptive and analytical, analyzing and linking applicable legal provisions to the problem under study, specifically the court decisions that are the object of the research. The stages include determining the title, formulating the problem, developing a conceptual framework and research method, collecting data through literature review, and analyzing the data using a systematic interpretation method of laws and regulations related to termination of employment to obtain conclusions that align with the research objectives.

RESULTS AND DISCUSSION

Regulations on Termination of Employment According to Government Regulation Number 35 of 2021 concerning Fixed-Term Employment Agreements, Outsourcing, Working Hours and Rest Periods, and Termination of Employment

From Termination of Employment (PHK) is a challenging moment with serious consequences for workers. (Agus Wibowo, 2024) From the worker's perspective, layoffs not only end the employment relationship but also result in the loss of a livelihood, which can have economic and psychological impacts. Therefore, layoffs must be avoided to ensure business continuity and employee well-being. (Arifuddin Muda Harahap, 2020)

1. Reasons for Termination of Employment (PHK)

   The reasons for layoffs are regulated in Article 154A of Law 6/2023 in conjunction with Article 36 of Government Regulation 35/2021. This provision explains various reasons that can lead to layoffs, including company conditions, employee/laborer desires, or specific circumstances or actions occurring within the employment relationship. Based on Article 36 of Government Regulation 35/2021, layoffs can occur for various reasons, including: (*Peraturan Pemerintah Nomor 35 Tahun 2021*, 2021)

   a. The company is merging, consolidating, taking over, or separating, and one party is unwilling to continue the employment relationship;
   b. Company efficiency due to losses;
   c. Company closure due to continuous losses for two years;

d. Closure due to force majeure;
e. Postponement of debt payment obligations;
f. Bankruptcy;
g. Request for termination by an employee due to an employer's actions that violate workers' rights;
h. Decision of a dispute resolution body;
i. Voluntary resignation with certain conditions;
j. Absence from work for 5 consecutive days;
k. Violations after three warning letters;
l. Detention by the authorities for 6 months;
m. Prolonged illness or disability exceeding 12 months;
n. Retirement age; or
o. Death of the worker.

Furthermore, it should be noted that if layoffs are carried out for efficiency reasons, there are specific provisions that must be met by the employer. The Constitutional Court, through Constitutional Court Decision No. 19/PUU-IX/2011, based on Circular Letter of the Minister of Manpower 907/2004, stated that companies cannot lay off workers before taking several measures, namely: (*Putusan Mahkamah Konstitusi Nomor 19/PUU-IX/2011,* 2011) cutting salaries and benefits for high-ranking positions such as managers and directors; reducing shift schedules; limiting or even eliminating overtime; shortening working hours; minimizing the number of work days; implementing a rotating rest system or giving workers/laborers alternating leave for a certain period; discontinuing the employment of workers whose contracts have expired. and retiring workers who meet the requirements.

Furthermore, Article 154A paragraph (2) of Law 6/2023 explains that the reasons for layoffs can also be specified in the employment agreement, company regulations, or collective bargaining agreement. Furthermore, paragraph (3) stipulates that the procedures for layoffs will be further regulated in government regulations.

2. Termination Procedures

Termination of employment cannot be carried out unilaterally by employers. (Devi Rahayu, dkk., 2021) Unilateral layoffs without a legal basis and valid procedures contradict the principles of justice and legal certainty. (Rian Silhatunnayati & Mushafi Miftah, 2025) Provisions regarding termination procedures are essentially regulated in Law 13/2003, as amended by Article 151 of Law 6/2023 and reaffirmed in Article 36 of Government Regulation 35/2021.

The first stage requires all parties in industrial relations—employers, workers, trade unions, and the government—to work together to prevent layoffs. This obligation is stipulated in Article 37 paragraph (1) of Government Regulation 35/2021, which essentially aims to provide legal protection for workers.

The second stage is notification as stipulated in Article 37 paragraph (2) of Government Regulation 35/2021, which states that if layoffs are unavoidable, employers are required to convey the reasons for the layoffs to workers and/or workers' unions if they are union members. Furthermore, based on Article 37 paragraph (3), the notification must be made in writing and delivered legally and properly no later than 14 working days before the layoffs are implemented. Meanwhile, for probationary periods, it must be delivered no later than 7 working days before the layoffs. (Article 37 paragraph (4)). (*Peraturan Pemerintah Nomor 35 Tahun 2021*, 2021) If the notification has been received and there is no objection, then in accordance with Article 38 of Government Regulation 35/2021,

employers are required to report the termination of employment to the Ministry of Manpower or the Manpower Office at the provincial or district/city level.

Article 151A of Law 6/2023 stipulates that employers are not required to provide notice of termination of employment under certain circumstances. These circumstances include workers who voluntarily resign, employment relationships that end due to the expiration of the contract period as agreed by the parties, workers who have reached the retirement age specified in the employment agreement, and workers who die.

The obligation to notify termination of employment also does not apply if the termination is carried out due to an urgent violation by the worker/laborer as stipulated in Article 52 paragraph (3) of Government Regulation 35/2021, as long as the provisions are stipulated in the employment agreement, company regulations, or collective bargaining agreement. Furthermore, the Explanation of Article 52 paragraph (2) of PP 35/2021 explains that urgent violations are certain acts that allow employers to immediately terminate employees, including fraud, theft, or embezzlement of company assets; providing detrimental false information; substance abuse in the workplace; violations of morality or gambling; violence, threats, or intimidation; encouraging others to commit violations of the law; damaging or leaving company assets in a dangerous condition; leaving coworkers or employers in a dangerous condition; leaking company secrets; or other acts that carry a minimum criminal penalty of five years in prison. (*Penjelasan Peraturan Pemerintah Nomor 35 Tahun 2021*, 2021)

The third stage is bipartite negotiations. These negotiations must be conducted between employers and workers/laborers and/or trade unions/labor unions. This formulation is fully regulated in Article 151 Paragraph (3) of Law 6/2023, which essentially states that if workers/laborers have received notice of termination of employment but reject it, then the proposed termination must be resolved through bipartite negotiations between the parties. (*Undang-Undang Nomor 6 Tahun 2023*, 2023) If bipartite negotiations are successful, the agreement reached is outlined in the minutes of the negotiations as a collective agreement, which serves as the basis for their implementation. (Muhamad Abas, Yuniar Rahmatiar, Wahyu Mulyandaru, 2022)

The fourth stage is the resolution of industrial relations disputes. This provision is stipulated in Article 151 paragraph (4) of Law 6/2023, which is further reaffirmed in Article 39 paragraph (3) of Government Regulation 35/2021. Essentially, if bipartite negotiations as referred to in paragraph (2) do not result in an agreement, the termination of employment shall proceed through industrial relations dispute resolution mechanisms in accordance with applicable laws and regulations. (*Peraturan Pemerintah Nomor 35 Tahun 2021*, 2021) The resolution of industrial relations disputes is regulated in Law 2/2004.

If bipartite negotiations fail to reach an agreement, the settlement shall proceed through mediation by the regional labor agency, as stipulated in Article 8 of Law 2/2004. If the mediation reaches an agreement, the results shall be outlined in a collective agreement, which shall be registered with the court as legal evidence. Conversely, if mediation fails to produce an agreement, the mediator is authorized to issue a written recommendation, and if agreed to by the parties, the recommendation is outlined in a collective agreement registered with the Industrial Relations Court to obtain evidentiary force through a registration deed as stipulated in Article 13 paragraph (2) letter e of Law 2/2004. If an agreement is still not reached through mediation or conciliation, either party has the right to file a lawsuit with the Industrial Relations Court, as stipulated in Article 5 of Law 2/2004. (*Undang-Undang Nomor 2 Tahun 2004*, 2004)

Under the provisions of Article 157A paragraph (1) of Law 6/2023, as long as a final decision has not been issued, the parties, both employer and employee, remain bound to fully exercise their rights and obligations. This means that the employment relationship

between them continues, and each party is obliged to fulfill its obligations properly until a decision is issued by the industrial relations dispute resolution body.

Considerations and Decision of the Panel of Judges in Deciding on the Unilateral Termination of Employment Case in Decision Number 16/Pdt.Sus-PHI/2025/PN Bdg

Before entering into the merits of the case, the Panel of Judges first determined the legal status of the employment relationship between the Plaintiffs and the Defendants. The Panel of Judges' first consideration focused on the legality of the PKWT status applied by the Defendants. Based on Exhibit P-3, in the form of Special Examination Note Number 20733/TK.04.01/PK.Wil.I.Bgr dated November 3, 2023, issued by the Bogor Region I Manpower Inspection Technical Implementation Unit (UPTD), the Panel of Judges found that the PKWT between the Defendants and the Plaintiffs did not comply with applicable law. This fact indicates that the type of work performed by the Plaintiffs during work at the Defendant's company is a type of permanent work, not temporary work or work that will be completed within a certain time as required by Article 59 paragraph (1) of Law 6/2023. In addition, the Defendant was also proven to have employed the Plaintiffs with PKWT status exceeding the time limit permitted by the provisions of Article 8 paragraph (1) and paragraph (2) of PP 35/2021, namely a maximum of five years including extensions, even though the Plaintiffs had worked for 10 to 12 years.

By referring to these two simultaneous violations, namely the use of PKWT for permanent work and the length of work that exceeded the maximum limit set by law, the Panel of Judges then applied the provisions of Article 59 paragraph (3) of Law 6/2023 Jo. Article 8 paragraph (3) of PP 35/2021. Based on these provisions, the Panel of Judges stated that the PKWT between the Plaintiffs and the Defendant was legally changed to PKWTT since the employment relationship first occurred, so that the Plaintiffs must be treated as permanent workers. This decision also confirms the labor inspector's recommendation, which the Defendant had previously ignored.

Next, the Panel of Judges considered the validity of the Defendant's termination of employment by the Plaintiffs. Based on the trial facts, it was proven that the Defendant terminated the employment relationship through a notice of termination of employment on the grounds of contract expiration, as stated in exhibits T-4, T-5, and T-6. However, because the Panel of Judges had determined that the Plaintiffs' employment relationship was a PKWTT (Work-Permanent Contract), the Defendant's stated reason for contract expiration was legally inadmissible. This was reinforced by the fact that the Defendant prohibited the Plaintiffs from entering the factory area through a prohibition letter, thereby preventing the rights and obligations of both parties from being exercised without legal certainty. The Panel of Judges also found that the termination of the employment relationship had not yet been determined by the Industrial Relations Court, therefore, based on Article 151 paragraph (4) of Law 6/2023 in conjunction with Pursuant to Article 39 paragraph (3) of PP 35/2021, the Panel of Judges then declared that the Defendant's termination of employment was declared null and void by law and the parties' employment relationship was declared never to have been terminated by law.

However, the Panel of Judges did not grant the Plaintiffs' demand for reinstatement. Based on evidence T-1 in the form of the Minutes of the Board of Directors' Meeting Decision dated June 6, 2023, and evidence T-2 in the form of PT. Pong Codan Indonesia's Financial Report for the period 2019–2023, the Panel of Judges concluded that the Defendant's company had experienced continuous losses from 2020 to 2023 caused by various factors. Based on this financial condition, the Panel of Judges relied on Article 100 of Law 2/2004, which requires judges to decide cases based on law, agreements, customs, and justice. Based on these considerations, the Panel of Judges qualified the layoffs as efficiency layoffs due to company losses as stipulated in Article 36 letter b of PP 35/2021, and declared the employment

relationship between the Plaintiffs and the Defendant terminated by law as of the pronouncement of the decision.

Based on these qualifications, the Panel of Judges determined the compensation that the Defendant must pay to the Plaintiffs based on Article 43 paragraph (1) of PP 35/2021, in the form of severance pay of 0.5 times the provisions of Article 40 paragraph (2) and long service award money of 1 time the provisions of Article 40 paragraph (3), without compensation for rights as stipulated in Article 40 paragraph (4), because no employment agreement, company regulations, or collective labor agreements were found that regulate this matter. The Company Regulations of PT. Pong Codan Indonesia for 2012–2014 submitted by the Defendant as evidence T-3 were set aside by the Panel of Judges because they had expired and had not been renewed, so they could not be used as an autonomous legal source binding on the parties. The total compensation awarded to the three plaintiffs was Rp121,357,838, with Rp38,926,099 each for Anwar Suminta and Abdul Muhtadin, and Rp43,505,640 for Siti Masitoh.

Regarding the Plaintiffs' demands for wages during the six-month dispute process based on Circular Letter of Employment Number 3 of 2015, THR (Holiday Allowance) for 2024, and annual leave entitlement for 2023, the Panel of Judges rejected all claims. The rejection of the claim for process wages was based on Circular Letter of Employment Number 3 of 2018, which states that in the event of a PKWT (Working Permit) changing to a PKWTT (Working Permit) changing, workers are not entitled to process wages in the event of a layoff. The Panel of Judges concluded that because this case involved a change in status from a PKWT to a PKWTT, Circular Letter of Employment Number 3 of 2018 was more appropriate to apply than Circular Letter of Employment Number 3 of 2015, which the Plaintiffs relied on.

In relation to the non-compliance of similar procedures with the provisions in force in Indonesia, it is contained in the Decision Number 267/Pdt.Sus-PHI/2022/PN.Jkt.Pst and Decision Number 156/Pdt.Sus-PHI/2022/PN Bdg. Both decisions expressly order companies to rehire workers when layoffs are declared invalid. In Decision Number 16/Pdt.Sus-PHI/2025/PN Bdg, the Panel of Judges contradicted themselves. They declared that the PKWT (Working Permit) was legally changed to PKWTT (Working Permit) from the outset and that the layoffs were null and void, but failed to draw the logical consequence of reinstating the employment relationship for the Plaintiffs.

However, the Panel of Judges then terminated the employment relationship by qualifying it as an efficiency layoff due to company losses based on Article 36 letter b of PP 35/2021, referring to the Minutes of the Board of Directors' Meeting Decision and the company's financial report. Referring to Constitutional Court Decision No. While Law No. 19/PUU-IX/2011 does recognize layoffs for efficiency reasons, one form of efficiency recognized is not renewing the contracts of workers whose contracts have expired. This provision applies to workers with valid PKWT (Working Permit) status. It can be seen that even if the Panel of Judges used the Constitutional Court Decision as a basis, its provisions would still not justify the termination of the Plaintiffs' employment relationship, considering that the Panel of Judges themselves had determined that the Plaintiffs had PKWTT status and that their layoffs were null and void. In other words, the Panel of Judges relied solely on Article 100 of Law 2/2004 without even mentioning Constitutional Court Decision No. 19/PUU-IX/2011, even though that decision should have been the benchmark for assessing efficiency layoffs in this case. This demonstrates that although the Panel of Judges attempted to consider the company's financial condition, the legal basis used was inappropriate and lacked comprehensive legal basis, thus failing to provide optimal legal protection for workers.

In terms of compensation, although Article 43 paragraph (1) of PP 35/2021 formally serves as the normative basis for determining 0.5 times the severance pay for efficiency layoffs, this qualification implies that the Plaintiffs received less compensation. If layoffs were qualified differently, the Plaintiffs, who held PKWTT status with 10 to 12 years of service,

could potentially receive significantly greater compensation. Likewise, the rejection of processing wages based on SEMA Number 3 of 2018 is inappropriately applied in this case, because SEMA regulates the transition period for changing PKWT status to PKWTT, whereas in this case, PKWTT status had occurred automatically by law from the outset, not through a transition process.

All of these issues demonstrate that the ruling does not fully provide optimal legal protection for workers. Therefore, consistency in the application of labor law by the courts, stricter oversight by the government, and a better understanding by employers and workers of their respective rights and obligations in industrial relations are needed.

CONCLUSION

Termination of Employment (PHK) in Indonesia has been comprehensively regulated through Law 13/2003 as amended by Law 6/2023 and reinforced in Government Regulation 35/2021, which stipulates that layoffs must be viewed as a last resort and should be avoided by all parties. These regulations cover the reasons for layoffs as stipulated in Article 154A of Law 6/2023 in conjunction with Article 36 of Government Regulation 35/2021, as well as the procedures that must be followed in stages, including preventative measures, written notification no later than 14 working days before the layoff, bipartite negotiations if the worker refuses the notification, and resolution through industrial relations dispute mechanisms if no agreement is reached. During this process, both employers and workers are required to continue to exercise their respective rights and obligations as stipulated in Article 155 paragraph (2) of Law 6/2023.

In Decision Number 16/Pdt.Sus-PHI/2025/PN Bdg, the Panel of Judges determined that the PKWT was legally changed to PKWTT based on Article 59 paragraph (3) of Law 6/2023 Jo. Article 8 paragraph (3) of PP 35/2021, because the Plaintiffs were employed in permanent jobs for 10 to 12 years and exceeded the maximum limit of five years as stipulated in Article 8 paragraph (1) of PP 35/2021, while also stating that the Defendant's termination of employment was null and void because it did not comply with the procedures as stipulated in Article 151 paragraph (4) of Law 6/2023 Jo. Article 39 paragraph (3) of PP 35/2021. Both legal statements should have logical consequences in the form of restoration of the employment relationship. However, the Panel of Judges actually ended the employment relationship by qualifying it as an efficiency layoff based on Article 36 letter b of PP 35/2021 by only relying on Article 100 of Law 2/2004 without even considering the Constitutional Court Decision No. 19/PUU-IX/2011 as a benchmark for the validity of efficiency layoffs, even though even if the Constitutional Court Decision is used as a basis, the provisions therein still cannot justify the termination of the employment relationship of the Plaintiffs who have PKWTT status, so that the legal basis used by the Panel of Judges is not appropriate and does not have a comprehensive legal basis, which ultimately does not provide optimal legal protection for workers.

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