

Legal Protection of Tourism Workers on Employment Termination as The Impact of Covid-19 In Badung Regency, Bali

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Abstract. The island of Bali is one of the world's tourist destinations, of the many tourist objects in Indonesia. The tourism sector provides about 69 percent of the income for the Bali Provincial Government's Original Regional Revenue. One of the areas as a tourism center is located in Badung Regency. As a tourism destination, the existence of tourist support accommodation facilities plays an important role in stretching tourism development. Facilities in the form of hotels, restaurants, transportation, and others are important components in the world of tourism. Its existence creates many job opportunities. So that many workers are absorbed, and can provide the welfare of the citizens (krama) of the Balinese people. The unexpected emergence of the Covid-19 pandemic has brought a hit on the tourism sector. This condition resulted in the occurrence of work termination which had become a very sharp contraction of the Balinese economy. Employers took employment termination because no tourists were visiting Bali. In this regard, the implementation of employment termination no longer pays attention to the basis of the work contract that has been made. In this situation, many workers who have been laid off do not get their rights in the event of termination of employment. Based on this, the legal issue is related to the legal protection of workers in the tourism sector against termination of employment (PHK) due to the impact of Covid-19 in Badung Regency. The occurrence of employment terminations for workers is a consequence of the downturn experienced in the workplace. However, in such a situation, it seems that there is no legal protection for termination of employment due to the Covid-19 pandemic. Even though the service which has been given by employees so far has contributed a lot to the company.

Keywords: Legal protection; workers; employment termination

1 Introduction

The position of employees is very important and strategic for various aspects of the development of Indonesia. This arrangement has been stated in the 1945 Constitution of the Republic of Indonesia, as stated in Article 27 paragraph (2), which states that; "Every Indonesian citizen has the right to work and a decent life for humanity". In human life, the existence of job vacancy has a very important meaning because a job is a source of income for a person to meet the needs of life for himself and his family. In this regard, the right to work is a worker's human right that must be respected and cannot be ignored by the employer.

Concerning development concerning manpower, Law Number 13 of 2003 concerning Manpower has also been issued. In the law, it is stated that manpower is an integral part of national development based on Pancasila and the 1945 Constitution of the Republic of Indonesia, carried out in the context of complete human development and the development of Indonesian society as a whole to increase the dignity, value, and self-esteem of the employee and create a prosperous society, fair, affluent, and equitable, both materially and spiritually.

Talking about employment also has a relationship with the development of the tourism sector. Tourism activities need to be supported by facilities that are directly related to tourism activities. The facilities, in the form of; hotels, restaurants, cafes, means of transportation, even souvenirs, and culinary delights. All of these provide opportunities to create jobs, which lead to welfare for the community. In every activity, especially those related to businesses related to the service sector, especially services in the field of tourism, the conditions are very competitive, so to adjust to market demands, it is necessary to improve services in various forms so that tourists feel safe and comfortable.

Considering the importance of the position of the workforce in the context of comfort for tourists. So, in carrying out work according to the job description/field based on the skills they have, it is necessary to have legal certainty in the form of legal protection for workers. Moreover, work is related to individuals or groups who are involved in tourism. Tourism activities are needed, in the form of tourism support which is something that can facilitate tourism activities, both tangible and intangible, for example, transportation services, accommodation, eating/drinking, toilets, guides, information, and others.

The tourism activities mentioned above occupy an important position in the tourism industry. As an industry, components related to tourism can be interpreted as a service trade business (trade-in service), namely a trading business that places services as a commodity which includes the notion of services and assistance to get something, or a system that organizes activities to meet needs. the basis of a person or several people.

To meet the expectations of tourists for a comfortable travel trip. The existence of any tourism supporting facilities requires attention. Maximum professionalism is needed in placing tourists to get excellent service. Therefore, every business actor in the tourism sector must comply with the provisions of the legislation in tourism activities. The provisions are as regulated in Article 4 point 4, and Article 7 of Law Number 11 of 2020 concerning Job Creation. These provisions relate to business permit arrangements and are risk-based.

Thus, even though tourism business activities have the potential to provide promising benefits. On the other hand, of course, in this field, there are consequences and a level of risk. To anticipate this, the existence of human resources in the form of readiness and professional workforce employed in the tourism business. Given the existence of a workforce that determines the quality of tourism. So, it is necessary to pay attention to every worker, in the form of legal protection for workers in the tourism sector.

Badung Regency is one of the regencies in its territory as a central tourist spot. Many star hotels, restaurants, and travel agencies have been built and established. There were 79 in all classes of 246 classy hotels in Bali. Not including some small hotels or inns. As for restaurants, while for restaurants, there were 823 of the 2,864 restaurants in the Province of Bali until 2019. For travel agencies, there were 264 of the 4,216 in Bali. With many business fields growing and developing in the tourism sector, it also creates more jobs. Thus, many people in the sustainability of their lives are very dependent on the tourism sector.

In the middle of 2019, there was an emergence of Covid-19 that hit the world, including Indonesia. The Covid-19 pandemic for tourism business actors is a scary thing because it paralyzes the life of tourism. The implementation of lockdown by countries in the world against

citizens, making no foreign tourist visits, and the implementation of PPKM (Enforcement of restrictions on community activities) levels in the country, limiting the mobility of citizens' traveling activities, including restrictions and closures of tourist objects. This situation has resulted in many business actors engaged in tourism continuing to lose money, even going out of business due to the impact of Covid-19.

The emergence of the Covid-19 pandemic that hit the tourism sector for a long time has resulted in many work terminations. Without paying attention to the provisions of the applicable laws and regulations. The rights of workers that they do not obtain as they should.

2 Discussion

Employment Arrangements in Legislation.

As mentioned earlier, the regulation of manpower development in Indonesia is based on the issuance of Law Number 13 of 2003 concerning Manpower. With the advancement of technology, and the rapid development of the global economy, there have been many changes in various sectors, including the use of labor, wages, and so on. By considering how important and strategic the position of the workforce or workers is, the government presents the idea of the Omnibus Law concept.

This concept aims to target major issues that allow for several changes to several laws at once (cross-sectoral) to then be simplified in their arrangements so that it is hoped that there will be no concurrency/dispute and/or resistance between norms with one another. It is often found that there are overlapping regulations that have an impact on the worsening of the investment climate. Because all this time, the procedures he made, took quite a long time and cost quite a bit. Not to mention that the process of designing and forming laws and regulations often results in deadlocks or not according to interests.

The field of employment and tourism is part of the regulated in the Omnibus Law concept. Subsequently, Law Number 11 of 2020 concerning Job Creation was issued. However, along the way, a Judicial Review was carried out by the Constitutional Court, through Decision Number 91/PPU-XVIII/2020, in the end, it was stated that the Job Creation Law had a formal defect.

There are 11 (eleven) clusters contained in the Job Creation Law, namely:

- a. Simplification of land permits.
- b. Investment requirements.
- c. Employment.
- d. Ease and protection of MSMEs.
- e. Ease of conducting business.
- f. Research and innovation support.
- g. Government administration.
- h. Imposition of sanctions.
- i. Land control.
- j. Ease of government projects.
- k. Special Economic Zones (SEZs).

Of the 11 clusters in the Job Creation Law, one of them regulates employment. Within the cluster, harmonization of 4 (four) laws is carried out, including;

- a. Law Number 13 of 2003 concerning Manpower.
- b. Law Number 40 of 2004 concerning the National Social Security System.
- c. Law Number 24 of 2011 concerning the Social Security Administration

- d. Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers

The scope of the protection arrangements for workers/laborers is as follows:

- a. Protection of workers' basic rights. The objects of this protection include:
 - 1) Protection of female workers/labor.
 - 2) Protection of child workers/laborers, and
 - 3) Protection for people with disabilities.
- b. Protection for Occupational Safety and Health
- c. Protection for Workers' Social Security, and
- d. Protection of Wages.

In addition to the regulation in law as mentioned above, there is also a regulation through Government Regulation of the Republic of Indonesia Number 35 of 2011 concerning Employment Termination.

Legal Protection of Work Termination

No parties want employment Termination, especially for every worker/laborer. This situation is one of the most difficult conditions for workers to bear. Termination of Employment is the termination of the employment due to a certain matter which results in the termination of the rights and obligations between the employees and the employer. A Termination of Employment is said to be mass if it is carried out to 10 (ten) or more workers in a company in one month or there is a series of employment terminations on a large scale. This generally occurs because the uncertain economic situation "forces" entrepreneurs to conduct termination of the workers.

Observing the definition of employment termination, it can be ascertained that this situation is not desired by the majority of workers and at the same time is also concerned about the continuity of the status of the employment relationship concerning the position of the employer in the employment relationship. Therefore, repressive legal protection for workers, needs attention if this situation appears, so that workers become more comfortable and can guarantee legal certainty in obtaining the inherent rights regarding employment termination.

There are regulatory provisions in Law no. 13 of 2003 concerning the prohibition of employment termination with the reasons and juridical implications. This provision is stated in Article 153 of the Manpower Law. This provision is a form of legal protection for every worker so that the continuity of their work in their company does not occur arbitrarily by employers. Even if there is a prohibition on employment termination employers are also allowed to do employment termination in the following cases;

- a. Workers conduct serious mistakes.
- b. Workers involved in criminal cases.
- c. Workers breach employment agreements, company regulations, or collective labor agreements.
- d. Workers resign of their own accord.
- e. Change of status of merger, consolidation, or change of share ownership
- f. The company loses 2 (two) consecutive years or force majeure.
- g. The company performs efficiency
- h. Bankrupt companies.
- i. The worker dies.
- j. Retired workers.
- k. Workers are absent from work for 5 (five) consecutive days.

1. Workers submit applications for employment termination to the Industrial Relations Settlement Institute (PPHI).

Workers/laborers who experienced employment termination by the employers/companies for reasons as said above, as a form of compensation for legal protections given to workers. Workers/laborers are entitled to their rights in the form of; severance pay, period of service award, compensation for entitlements that must be given by the employer with the variation amount under the period of service and the type of employment termination given following the work agreement, company regulations, collective work agreement, and applicable laws and regulations.

Employment Termination as the Impact of Covid-19 Pandemic

As previously stated, All parties do not want termination of employment. However, it is known that every company/business is prone to risk. The occurrence of risk can be internal and also external, externally it can be caused by natural factors. For almost 2 (two) years, people have been haunted by exposure to the Covid-19 virus. This fear is very reasonable, considering that the transmission is very fast, even people who are exposed can result in death.

The emergence of Covid-19, which has occurred for a very long time, has also had an impact on various fields of society's lives. The impact is felt the most for tourism business actors and workers who depend on tourism activities for their livelihoods. This is experienced by business actors and workers in Badung Regency. According to the chairman of the Indonesian Hotel and Restaurant Association (PHRI) of Badung Regency, I Gusti Agung Rai Rai Suryawijaya, he said that due to Covid-19, tourism business actors/entrepreneurs have fallen at a low point. Many hotel owners, in particular, sell their hotels because they collide to meet their debt payment obligations at the bank.

According to him, the occurrence of Covid-19 has severely hit the economic life of the tourism community. It does not only have an impact on the community, the impact is also on the income of the Badung Regency Government which has so far contributed to the payment of Hotel and Restaurant Tax whose collection is under the authority of the regency/city government. So, it is not surprising that the Badung Regency Government is one of the richest regencies in Indonesia.

With the decline in tourism activities in the tourism area of Badung Regency, not a few entrepreneurs did Termination of Employment (PHK). It is estimated that until 2021 there will be as many as 3,300 workers who have been laid off due to the impact of Covid-19. Even in the province of Bali, there are around 79,100 people who have been sent home due to Covid-19. The occurrence of employment termination made the percentage of the number of unemployed in Bali reach 5.63 percent. Even in Badung Regency, it reached 6.92 percent. This shows that the level in Badung Regency is greater than in Bali Province or is the highest number for the regency/city area in Bali. Observing these conditions shows that the impact of Covid-19 is very much felt by business actors/entrepreneurs and tourism sector workers in Badung Regency.

Concerning the impact of Covid-19 on the tourism sector. Employment termination of workers/laborers is unavoidable. The existence of hotels and restaurants requires costs for maintenance including the need for electricity supply and other needs. To bear the costs, without any income for a long time. Of course, it will not be able to bear the salaries (wages) of the workers/laborers who have been part of the business/company in carrying out their activities. According to the Head PHRI (Indonesian Hotel and Restaurant Association) of the Badung Regency, those entrepreneurs are very concerned about the aspects that are the rights of

workers/laborers which have so far been a part of what they have not achieved. Therefore, in the beginning, they never immediately did employment termination. The initial step that was taken was to "lay off" some workers/laborers while waiting for the development of Covid-19. However, the current Covid-19 pandemic does not know when it will end, and it is getting worse by the day.

So, one of the things he did was employment termination. Entrepreneurs in the tourism sector have realized the consequences of doing layoffs. To carry out employment termination, the employers are obliged to fulfill the rights of workers under the provisions of the legislation. For this condition, based on Law no. 13 of 2003, there are provisions for reasons for doing employment termination, including due to force majeure. Because of the Covid-19 pandemic, the government has issued several regulations regarding emergencies, and workers can understand them. Concerning the obligations that need to be fulfilled when doing employment termination, various efforts have been taken, including; employees submitting full resignations. There is also a resignation, accompanied by a statement letter for re-employment at any time.

Not all rights of the employee can be fulfilled due to employment termination. However, entrepreneurs, because they are based on a sense of humanity, provide an opportunity to take goods/objects to support hotels and restaurants for sale or use. Thus, the effect of the regulation regarding employment termination cannot be fully implemented.

3 Conclusion and Suggestions

Conclusion

Based on the explanation above, it can be concluded the following:

- a. Regulations on employment based on Law Number 13 of 2003, have regulated those relating to Termination of Employment (PHK) as regulated in Article 153 by regulating the reasons and also the rights of workers/laborers who encounter employment termination.
- b. There was mass employment termination of workers in the tourism sector in Badung Regency, Bali Province because not all of the impacts of Covid-19 and also fully getting the rights as stipulated in the provisions of the legislation. Considering the Covid-19 pandemic is a force majeure situation that has also hit the world globally. So most workers who work in the tourism sector do so by submitting their resignation. So that it does not add to the burden for entrepreneurs/business actors who are obliged to give their rights.

Suggestions

- a. Life and tourism activities are very vulnerable to global world problems. For this reason, the regulation of employment termination in the laws and regulations needs to be adjusted by taking into account the Covid-19 pandemic that has hit almost all countries in the world. This is important, as a form of strengthening the form of legal protection arrangements for workers affected by employment termination for workers in the tourism sector.
- b. Entrepreneurs/business actors engaged in the tourism sector, in the future in the context of providing wages, should pay attention to or formulate allowances for wages, with cuts to anticipate unforeseen conditions and circumstances. If one day it happens, such as the Covid-19 pandemic or other forms, workers will get capital to start their business when encountering employment termination.

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