

Termination of Employment Relationships during the Covid-19 Pandemic in East Kalimantan

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Abstract

Termination of employment in companies is usually done for various reasons, one of which is efficiency. Efficiency can be due to company closures or companies experiencing losses. By labour law in Indonesia, companies cannot terminate employment (PHK) without specific reasons for their employees. Layoffs must be based on solid and valid reasons, as stated in the Job Creation Law No. 11 of 2020, Chapter IV Manpower, and point 42 regarding the insertion of Article 154A into the Manpower Act No. 13 of 2003. This was forced to done by several companies due to reasons efficiency due to the impact of covid 19 that hit the world, including Indonesia and Kalimantan Eastin particular. The purpose of this study was to find out how and to what extent the terms of Labor Relations occurred in East Kalimantan Province, especially during the Covid 19 Pandemic. The data source was secondary data originating from various media that reviewed cases of layoffs that occurred in East Kalimantan and some information from related agencies, especially the East Kalimantan Provincial Manpower Office, published by several local media. This research is secondary data analysis using qualitative descriptive analysis.

Keywords

layoffs; pandemic covid 19;
East Kalimantan



I. Introduction

Covid 19 pandemic has hit the world since it first appeared in Wuhan, China, at the end of December 2019. This virus spread very quickly to almost all countries, including Indonesia. not only transmitted through direct contact or close contact with people with COVID-19 but can also occur through the air. This has made several countries implement policies to impose lockdowns to prevent the spread of the Coronavirus. In Indonesia itself, the government implemented Enforcing Community Activity Restrictions (PPKM) to suppress the spread of this virus. Coronavirus is a collection of viruses that can infect the respiratory system. Sihombing (2020) state that Covid-19 pandemic caused everyone to behave beyond normal limits as usual. The outbreak of this virus has an impact especially on the economy of a nation and Globally (Ningrum, 2020). The problems posed by the Covid-19 pandemic which have become a global problem have the potential to trigger a new social order or reconstruction (Bara, 2021).

In most cases, this virus causes only mild respiratory infections, such as the flu. However, this virus can also cause severe respiratory infections, such as lung infections (pneumonia). This virus is transmitted through phlegm (droplets) from the respiratory tract, for example, when in a closed space crowded with air circulation for direct contact with droplets.

The Covid-19 pandemic has created a health crisis and hit the global economy in various countries, including Indonesia. All business sectors were affected, although it is

undeniable that some sectors experienced an increase in turnover. At the end of July 2020, the Ministry of Manpower (Kemnaker) noted that the number of workers affected by Termination of Employment (PHK) and those who had been laid off reached more than 3.5 million. Then from data from the Social Security Administration (BPJS) until July, around 1.1 million people were laid off, 380,000 people were affected by Termination of Work (PHK), and around 630,000 informal sector workers were affected by Covid-19. This makes the challenges of employment development even more complex. Because the impact of Covid-19 on the economy eventually also affected workers, especially in the four main sectors of the Indonesian economy, namely tourism, trade, manufacturing and agriculture. Citing Law Number 13 of 2003 concerning Manpower, layoffs are termination of employment relations due to a particular matter which results in the termination of rights and obligations between workers/labourers and employers.

For the Province of East Kalimantan, the number of layoffs has also increased; there are around 8,504 people from 220 companies in East Kalimantan. Meanwhile, workers received 1,943 Termination of Employment (PHK) from 118 companies. This was published on October 20, 2020 (<https://kalimantan.bisnis.com>). Companies can perform layoffs due to the Covid-19 Pandemic for reasons of efficiency as stipulated in Article 164 paragraph (3) of Law No. 13 of 2003. The difference is that the severance compensation provided by companies for layoffs on the grounds of loss or force majeure is a one-time provision. Meanwhile, the severance pay for layoffs for reasons of efficiency is two times the provision.

II. Review of Literature

Based on this phenomenon, the author is interested in knowing and analyzing further about "Termination of Employment Relationships (PHK) during the Covid-19 Pandemic."

2.1 Human Resource Management

According to Tua in (Sunyono 2014), Human resource management is defined: human resource management is an activity carried out to stimulate, develop, motivate and maintain high performance within the organization. According to Snell and Bohlander (Edison, 2016), the function or responsibility of human resource management consists of Planning, Recruitment, Staffing, Job Design, Training/Development, Appraisal, Communications Compensation, Benefits, Labor Relations. According to (Suparyadi, 2015) several principles must be met in the practice of human resource management, namely:

- a. Employees as an investment element must be managed and developed correctly to have high performance so that they can make a long-term contribution to the organization, namely the achievement of several goals Organization.
- b. Organizational policies and programs must be directed to achieve the goals of both parties (employees and organizations) so that they can be satisfied, both for the organization or employees.

2.2 Termination of Employment (PHK)

Termination of employment is the termination of the employment relationship due to one thing that results in the termination of the rights and obligations between the worker/labourer and the entrepreneur.

Provisions regarding termination of employment are regulated in the Law of the Republic of Indonesia no. 13 of 2003 concerning employment. Termination of employment may not be carried out unilaterally and arbitrarily; layoffs can only be carried out for specific reasons that layoffs do not need to occur after efforts have been made.

2.3 Termination of Employment Relationship may occur due to the Following Reasons

- a. The company merges, consolidates, takes over, or separates the company, and the worker/labourer is unwilling to continue the working relationship, or the entrepreneur is unwilling to accept workers/labour.
- b. The company performs efficiently, followed by closing the company or not followed by closing the company due to the company experiencing losses.
- c. The company closed because the company suffered losses continuously for 2 (two) years.
- d. The company closed due to force majeure.
- e. The company is in a state of suspension of debt payment obligations.
- f. Bankrupt company.

There is an application for termination of employment that the worker/labourer submits because the entrepreneur has committed the following acts:

- a. Persecuting, abusively insulting or threatening the worker/labourer.
- b. Persuade and order workers/labourers to take actions that are contrary to the laws and regulations.
- c. Failure to pay wages on time for 3 (three) consecutive months or more even though the entrepreneur pays wages promptly after.
- d. They are not performing the obligations that have been promised to the workers/labourers.
- e. Ordering the worker/labourer to carry out work outside the agreement; or
- f. Providing work that endangers workers/labourers' lives, safety, health, and morals of workers/labourers while not stated in the work agreement.

There is a decision of the industrial relations dispute settlement institution which states that the entrepreneur has not committed the Act as referred to in letter g against the application submitted by the worker/labourer. The entrepreneur decides to terminate the employment relationship.

- a. The worker/labourer resigns of his/her own volition and must meet the following requirements:
 - b. Submit a written application for resignation no later than 30 (thirty) days before the date of resignation.
 - c. Not bound by official ties, and
 - d. Continue to carry out their obligations until the date of resignation.
- b. The worker/labourer is absent for 5 (five) working days or more in a row without written information accompanied by valid evidence and has been summoned by the entrepreneur 2 (two) times correctly and in writing.
- c. The worker/labourer violates the provisions stipulated in the work agreement, company regulations, or collective work agreement and has previously been given the first, second, and third warning letters, respectively, each valid for a maximum of 6 (six) months unless otherwise specified. In the employment agreement, company regulations, or collective labour agreement.
- d. Workers/labourers cannot work for 6 (six) months due to being detained by the authorities because they are suspected of committing a crime.
- e. The worker/labourer experiences a prolonged illness or disability due to a work accident and cannot carry out his/her work after exceeding the limit of 12 (twelve) months.
- f. Workers/labourers entering retirement age; or
- g. Worker/labour dies.

The laws and regulations state that the parties, namely Entrepreneurs, Workers/Labourers, Trade Unions/Labour Unions, and the government, must strive to prevent layoffs from occurring. However, if layoffs cannot be avoided, then layoffs can be carried out with the following provisions (article 37 PP 35/2021):

- a. The purpose and reasons for the layoffs must be notified by the Employer to the Workers/Labourers and the Trade Unions/Labour Unions within the company if the Workers/Labourers the worker concerned is a member of a Trade Union/Labour Union.
- b. The notice of termination of employment is made in the form of a notification letter and submitted legally and adequately by the Employer to the Worker/Labourer and Trade Union/Labour Union no later than 14 working days prior to the layoff.
- c. If the layoff is carried out during a probationary period, the notification letter is submitted no later than seven working days prior to the layoff.

In response to the dismissal that has been imposed, the worker can accept or reject it, provided that (articles 38 and 39 of PP 35/2021):

- a. If the Worker/Labourer who has received a notification letter receives the layoff, the Employer must report the layoff to the Ministry that administers government affairs in the area. Workforce sector and the office that carries out government affairs in the province and district/city workforce sector.
- b. If the Worker/Labourer refuses, he/she must make a rejection letter accompanied by reasons no later than seven working days after receiving the notice of termination of employment and then must go through the industrial relations dispute settlement mechanism, in this case, the dismissal dispute, by the provisions of the legislation.

III. Research Methods

The type of research is descriptive qualitative. This type of descriptive qualitative research aims to describe a population, situation or phenomenon accurately and systematically. This type of research can answer the what, where, when and how questions, but not the why questions. Unlike in experimental research, the researcher does not control or manipulate any variables but only observes and measures them.

In this study, the data used is secondary data. Some secondary data sources are books, journals, government publications, and websites or other supporting sources. Sugiyono (2012:141) defines secondary data as follows: "Secondary Sources are sources of data obtained by reading, studying and understanding through other media sourced from literature, books, and documents."

IV. Discussion

4.1 Impact of the Covid-19 Pandemic on Workers

The spread of Coronavirus Disease 2019 (Covid-19) in Indonesia, including East Kalimantan Province, has had an enormous impact, including thousands of workers having to be laid off and hundreds of workers also having an impact on termination of employment (PHK).

From the data above, it can be seen that companies in the city of Balikpapan are listed in the first place to lay off 1,091 workers per the year 2020, following the city of Samarinda with 420 people and Kutai Kartanegara with 295 workers. The rest are Bontang city with 101 workers, West Kutai 13 people and 4 Paser people. The rest are East Kutai, Berau, North Penajam Paser and Mahakam Ulu each 0.

While the data on the kaltimprov.go.id page as of July 11, 2020, states that 45,671 employees from various business sectors in East Kalimantan Province experienced layoffs (PKs). And laid off since the emergence of the Coronavirus Disease 2019 (COVID-19) pandemic until the data as of the end of May 2020. The total number of laid-off workers and those affected by layoffs came from various employment sectors, but the dominant ones were hospitality, mining, and trading. The details of the 45,671 workers who were laid off and laid off, consisting of 22,043 workers who were laid off, this number has increased compared to the position in April 2020 where 22,027 people were laid off.

Meanwhile, the number of workers who were laid off until May 2020 reached 23,628 people. East Kalimantan province is in fifth place from the number of employees laid off until May; the first position is in West Java with 107,398 people, the second in Central Java with 47,266 people, the third in East Java with 44,441 people, and the fourth in DKI Jakarta with 39,868 people. And East Kalimantan 22,043 people.

As for the number of laid-off employees, East Kalimantan ranks 10th after DKI Jakarta with 247,760 people, West Java 162,315, Central Java 159,691, East Java 87,557, Bali 55,459, Banten 43,532, North Sumatra 34,800, Riau 26,271, DI Yogyakarta 26,271 and East Kalimantan. As many as 23,628 people. East Kalimantan is the province with the fifth-highest layoffs and the 10th highest rate of laid-off workers in Indonesia. East Kalimantan is also the province with the third-highest rate of laid-off workers outside Java and Bali,

4.2 Labor Force, Working Population and the Unemployment

The total workforce in East Kalimantan in February 2020 reached 1,993,702 people, an increase of 93,802 people compared to the workforce in February 2019 (1,899,900 people). The working population in February 2020 reached 1,856,513 people, an increase of 83,142 people compared to the situation in February 2019 (1,773,371 people). The Open Unemployment Rate (TPT) in February 2020 reached 6.88 per cent or 137,189 people, an increase compared to the February 2019 TPT, which was 6.66 per cent (126,529 people).

Kegiatan Utama (1)	2019 (2)	2020 (3)
Penduduk 15+	2 697 337	2 763 230
Angkatan Kerja	1 899 900	1 993 702
- Bekerja	1 773 371	1 856 513
- Pengangguran	126 529	137 189
Bukan Angkatan Kerja	797 437	769 528
Tingkat Partisipasi Angkatan Kerja (%)	70,44	72,15
Tingkat Pengangguran Terbuka (%)	6,66	6,88

Source: BPS Kaltim

Penduduk Usia 15 Tahun ke Atas menurut Kegiatan Utama dan Jenis Kelamin Provinsi Kalimantan Timur, Februari 2019 - Februari 2020

Kegiatan Utama (1)	2019		2020	
	Laki-laki (2)	Perempuan (3)	Laki-laki (4)	Perempuan (5)
Penduduk 15+	1 425 298	1 272 039	1 459 763	1 303 467
Angkatan Kerja	1 204 498	695 402	1 298 803	694 899
- Bekerja	1 126 719	646 652	1 210 508	646 005
- Pengangguran	77 779	48 750	88 295	48 894
Bukan Angkatan Kerja	220 800	576 637	160 960	608 568
Tingkat Partisipasi Angkatan Kerja (%)	84,51	54,67	88,97	53,31
Tingkat Pengangguran Terbuka (%)	6,46	7,01	6,80	7,04

Source: BPS Kaltim

Penduduk Usia 15 Tahun ke Atas yang Bekerja menurut Lapangan Pekerjaan Utama Provinsi Kalimantan Timur, Februari 2019 - Februari 2020

Lapangan Pekerjaan Utama (1)	2019 (2)	2020 (3)
A-Pertanian, Kehutanan, Perikanan	363 867 (20,52 %)	428 495 (23,08 %)
B-Pertambangan dan Penggalian	140 795 (7,94 %)	142 191 (7,66 %)
C-Industri Pengolahan	139 977 (7,89 %)	152 910 (8,24 %)
D,E-Pengadaan Listrik, dan Gas; Pengadaan Air Pengelolaan Sampah, Limbah, dan Daur Ulang	21 668 (1,22 %)	16 799 (0,90 %)
F-Konstruksi	103 069 (5,81 %)	108 997 (5,87 %)
G-Perdagangan Besar dan Eceran, Reparasi dan Perawatan Mobil dan Sepeda Motor	368 899 (20,80 %)	366 805 (19,76 %)
H-Transportasi dan Pergudangan	80 331 (4,53 %)	74 763 (4,03 %)
I-Penyediaan Akomodasi dan Makan Minum	139 944 (7,89 %)	145 206 (7,82 %)
J,K,L,M,N-Informasi dan Komunikasi; Jasa Keuangan dan Asuransi; Real Estate; dan Jasa Perusahaan	116 962 (6,59 %)	85 146 (4,59 %)
O-Administrasi Pemerintahan, Pertahanan dan Jaminan Sosial Wajib	102 330 (5,77 %)	112 329 (6,05 %)
P-Jasa Pendidikan	88 369 (4,98 %)	103 815 (5,59 %)
Q-Jasa Kesehatan dan Kegiatan Sosial	29 797 (1,68 %)	32 978 (1,78 %)
R,S,T,U-Jasa Lainnya	77 373 (4,36 %)	86 079 (4,64 %)
TOTAL	1 773 371 (100,00 %)	1 856 513 (100,00 %)

Source: BPS Kaltim

4.3 Open Unemployment Rate (TPT) in East Kalimantan

The data for the TPT rate in East Kalimantan can be seen in the description below, the data obtained from the Old BPS East Kalimantan.

- The Open Unemployment Rate (TPT) in East Kalimantan in August 2020 was 6.87 per cent or 124.88 thousand people, which means an increase of 0.93 percentage points or an increase of 17.92 thousand people compared to August 2019.
- In August 2020, as many as 488.46 thousand people (28.86 per cent) worked less than 35 hours per week, while the population works 35 hours or more per week (including those temporarily not working), reaching 1.20 million people (71,14 per cent).
- There are more than 411,000 people affected by Covid-19 or 12.04 per cent. Consisting of unemployment due to Covid-19 (30.99 thousand people), BAK due to Covid-19 (14.34 thousand people), temporarily not working due to Covid-19 (21.20 thousand people), and working residents who experienced a reduction in hours. Work due to Covid-19 (344.85 thousand people).

Jumlah Pengangguran dan Tingkat Pengangguran Terbuka (TPT) Penduduk Usia 15 Tahun ke Atas menurut Pendidikan Tertinggi yang Ditamatkan Provinsi Kalimantan Timur, Februari 2019 - Februari 2020

Pendidikan Tertinggi yang Ditamatkan		2019	2020
(1)		(2)	(3)
Sekolah Menengah Pertama (SMP) Ke Bawah	Jumlah	58 515	72 322
	TPT	6,40 %	7,43 %
Sekolah Menengah Atas dan Kejuruan (SMA/SMK)	Jumlah	55 446	55 452
	TPT	7,38 %	7,40 %
Perguruan Tinggi	Jumlah	12 568	9 415
	TPT	5,37 %	3,47 %
TOTAL	Jumlah	126 529	137 189
	TPT	6,66 %	6,88 %

Source: BPS Kaltim

4.3 Efforts Made

Layoffs or laying off employees amid the current pandemic are the last steps employers are forced to take. They have no other option that may be retaken. This was done after efforts to eliminate overtime, reduce shifts and working hours, lay off in rotation by paying half salary have been tried but have not impacted the efficiency of companies that the outbreak of Covid-19 has hit.

To overcome this, the East Kalimantan provincial government has allocated funds from the budget, refocusing on the 2020 APBD of Rp 388.281 billion. There is an allocation of IDR 56.3 billion to deal with the economic impact. Three regional organizations will manage the funds: the Department of Industry, Cooperatives and Small and Medium Enterprises, the Tourism Office, and the Marine and Fisheries Service.

The budget allocation for social safety nets (JPS) and handling economic impacts is prepared at Rp 125.1 billion. The budget will be divided into three activities. First, the provision of assistance to 4,109 workers who were laid off as much as Rp. 3 billion. Second, the provision of assistance to 96,111 families in 10 districts/cities amounting to Rp 72 billion. Each family head is given Rp 250 thousand for three months. The third budget for the expansion of JPS and SMEs is Rp 50 billion.

Meanwhile, the Legislature advised the East Kalimantan provincial government to provide social assistance to workers affected by layoff and being laid off. Assistance can be in cash or the form of working capital for business actors and MSMEs to prevent layoffs.

On the other hand, the East Kalimantan Manpower and Transmigration Service has collected data on workers who have impacted the Covid-19 pandemic. The data will be sent to the centre. The Manpower Office also continues to appeal to district/city governments to report these data. Later, it is hoped that workers affected by layoffs can get a Pre-Employment Card. Eleven thousand one hundred seventy-nine workers had received a pre-employment card from the Ministry of Manpower, consisting of several sectors. The area that received the most pre-employment cards was Balikpapan City, with 3,709 people from the hotel, service, and culinary sectors—then followed by Samarinda with 3,613 people from the hospitality, services and timber sectors. Moreover, the minor pre-employment card recipients are in Mahakam Ulu, as many as three people (<https://kalimantan.bisnis.com/>) October 6 2020.

IV. Conclusion

Layoffs during the covid 19 pandemic in East Kalimantan mainly occurred in the hotel, mining, and mining sectors. Moreover, in the trade sector, there are permanent layoffs or layoffs. The most significant cause of layoffs was in City Balikpapan. East Kalimantan is the province with the fifth-highest layoffs and the 10th highest rate of laid-off workers in Indonesia. East Kalimantan is also the province with the third-highest rate of laid-off workers outside Java and Bali. The solution provided is the record number of workers laid off. AT layoffs from across the City and County of East Kalimantan proposed obtaining cards Pra-Kerja, providing assistance, and preparing a budget to help workers affected by lay off to Pandemic Vivid 19.

Layoffs Steps taken by companies in East Kalimantan during a pandemic like this is by the provisions regarding termination of employment as regulated in the Law of the Republic of Indonesia no. 13 of 2003 concerning employment. Layoffs can be accepted on the grounds contained in the provisions of the Act. Among other things, it reads that the company can carry out layoffs because it is closed due to the company experiencing continuous losses for 2 (two) years, the company closing due to force majeure. Termination of employment may not be carried out unilaterally and arbitrarily; layoffs can only be carried out for specific reasons that layoffs do not need to occur after efforts have been made.

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