

Legal Protection for Workers Experiencing Unilateral Wages Cuts by Companies Due to the Covid-19 Pandemic

Allena Marvelia Silalahi

Universitas Tarumanagara, West Jakarta, Province of DKI Jakarta, Indonesia

Email: allenamarvelia@gmail.com

Abstract

One of the issues that is currently surfacing is companies cutting workers' wages due to the Covid-19 pandemic. Actual wage deductions can be made in labor or wage regulations if they are based on: In accordance with the agreement between the employer and the worker and of course the applicable legal provisions. However, it is also true that many companies are cutting wages without workers' consent due to poor business conditions exacerbated by the pandemic. The survey method used in this research is a prescriptive law survey method, namely a survey that uses secondary information sources based on positive law in the field of employment as the main source of information. In the case that occurred at PT Y Bandung City, the company failed to fulfill the requirements and obligations to workers/laborers due to unilateral wage deductions. The way to reduce worker/labour wages during the Covid-19 pandemic was supposed to be with an agreement between the company and workers/labourers and it turned out that PT Y Bandung did not fulfill what was required of Law No.13. Mandate related to employment and Sekda No. 3 of 2020 mentions cutting wages during the Covid-19 pandemic and must be in line with the company's agreement.

Keywords: Layoffs, Wages, Covid-19



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INTRODUCTION

Corona Virus Disease 2019 (COVID-19) was declared a pandemic by the World Health Organization (WHO) since March 11 2020. Currently the COVID-19 outbreak continues to spread, not only affecting health issues but also other areas such as education and the economy. To prevent the spread of this virus, the government, following the lockdown policy, issued Decree Number 21 of 2020 regarding the Directive for Mass Social Restrictions (PSBB). The PSBB policy has reduced all activities, especially the Indonesian economy. This decline in economic activity has created new problems. As a result of the increasing poverty rate, many MSMEs have gone bankrupt and the industrial sector has also suffered huge losses. The government has also implemented a work from home (WFH) policy which has a major impact on the employment sector (Fadli: 2020).

As a result of the WFH policy, many companies in Indonesia are in a difficult situation because they cannot carry out their operational activities optimally and have even gone bankrupt. As a result, many companies are unable to pay their employees. Around 88% of companies affected by the pandemic generally lose money, according to data released by the Ministry of Labor in November 2020. Studies conducted show that MSMEs usually experience a decrease in demand, production and profits of 90% or more. The accommodation, real estate and construction industries were hit the hardest (Putra, et al: 2022).

17.8% of companies are laying off employees, 25.6% of companies are laying off employees, and 10% of companies are doing both. in a month In March 2021, the ministry again mentioned 29.4 million workers affected by Covid-19. This number includes those who have been laid off, sent home, and are facing salary cuts (Ministry of Manpower: 2023).

Wages are one of the workers' rights that arise because of a binding agreement between the employer and the worker. Wages are an important issue for employers to consider as they relate to employee benefits. In Article 88 Paragraph (1) Law no. 13 of 2003 jo. UU no. 11 of 2020, it is explained that "every worker/laborer has the right to earn an income that fulfills a decent living for humanity. In terms of ensuring workers receive wages that fulfill a decent living, the government implements a wage policy to protect workers, namely a minimum wage policy that is based on decent living needs and pays attention to productivity and economic growth."

The existence of labor law itself aims to provide protection to workers in realizing wealth. While workers have the right to a decent life under the above system, there are still many workers who receive inadequate wages and are treated unfairly. This is because workers' status tends to be lower than that of employers, so it often creates a sense of injustice in Indonesia. One of the issues that is currently surfacing is companies cutting workers' wages due to the Covid-19 pandemic. Wage deductions can actually be made in labor regulations or wages. However, only if this is based on an agreement between the employer and the worker and of course in accordance with applicable legal provisions. However, it is also true that many companies are cutting wages without workers' consent due to poor business conditions exacerbated by the pandemic.

Responding to this, the Government Secretariat has issued the Decree of the Minister of Manpower No. 104 of 2021 concerning Guidelines. Implementation of Industrial Relations During the Covid-19 Pandemic (hereinafter referred to as Kepmenaker No. 104 of 2021) as a reference for the implementation of industrial relations between companies and workers during the Covid-19 Pandemic. where employers are not due to the impact of the Covid-19 pandemic, payment of workers' wages can be made. After fair consideration, the amount of wages can be adjusted based on an agreement between the worker and the employer, taking into account the survival of the worker and the continuity of the business. can be customized.

The issue of wages that surfaced during this pandemic will have broad implications if it continues. Failure to pay workers adequately affects not only their purchasing power, but also the standard of living of workers and their families. On the other hand, according to Kepmenaker No. 104 of 2021, workers must also understand the current situation and be able to make contracts to adjust work contracts for a certain time in good faith, taking into account the interests of the company as well. The reason is, during the pandemic, the company's own income has decreased along with decreased production activities. However, it seems that the company's practice is unilaterally reducing labor costs as the influence of the new coronavirus spreads in the industry. The company believes this practice is the best alternative, but in practice it is unilateral, detrimental to workers and hampers their well-being.

RESEARCH METHODS

The research method used in this study is a normative juridical method, namely research that uses secondary data sources as the main data source based on positive law in the field of employment (Soekanto: 1986). The specification of this legal research is descriptive analytical research, namely research that describes cases of deductions from wages. Companies are analyzed systematically and accurately based on existing facts. The data sources used are primary, secondary and tertiary legal documents, where the main legal documents are located. Law Number 13 of 2003 concerning Manpower, Law Number 11 of 2020 concerning Job Creation and Decree of the Minister of Manpower Number 104 of 2021 concerning Guidelines for Implementing Employment Relations During the Covid-19 Pandemic.

RESEARCH RESULTS AND DISCUSSION

Analysis of Unilateral Wage Cuts During the Covid-10 Pandemic at PT.Y Bandung City

Many companies cut the wages of their employees/employees to reduce production and business costs, although they are allowed to cut wages, they must be in accordance with the conditions and limits set out in the law so that the company cannot decide unilaterally on the deductions from these employees. wages. / Worker. In the Circular of the Minister of Manpower of the Republic of Indonesia No. M/3/HK.04/III/2020 concerning Worker/Employee Protection and Business Continuity.

In the framework of preventing and controlling Covid-19 it is stated that companies are limiting their business activities due to government policies in their respective regions for the prevention and control of Covid-19 which require all or some of their workers/employees to leave their jobs, taking into account business continuity, changes the amount and method of workers' wages is carried out based on an agreement between the employer and the worker/employee to have a circular letter with the ministry of companies not being allowed to deduct wages unilaterally.

According to the Bandung City Manpower Service, "there are around 4,904 workers/laborers did not receive wages during the Covid-19 pandemic. in general, several companies that cut wages for workers/labourers often use the excuse of Covid-19. The implication of the increasing cases of wage deductions in the city of Bandung during the Covid-19 pandemic, this occurred at one of the Bandung City PT.X which illustrates that the company did not fulfill what had been agreed between the company and workers/laborers and also the company had made deductions wages unilaterally. With this amount, of course this must be a concern for the Bandung City Manpower Office in realizing protection for wage rights and also regarding the wage deduction mechanism that must be carried out in accordance with statutory regulations.

The efforts made by the company certainly vary so that the business does not continue to lose money and result in the closure of the business as an example of the efficiency of the company to minimize the impact of the Covid 19 pandemic, namely by cutting wages unilaterally. With regard to wages, this right should be obligatory for employers towards workers/laborers to enter into an agreement or communicate between the two parties, bearing in mind that the Covid-19 pandemic is very detrimental to both parties.

Policies related to deductions from wages must be carried out in accordance with work agreements, company regulations, collective labor agreements and must also be carried out based on written agreements or written agreements. Agreements related to wage deductions that occur between employers and workers must be in accordance with the provisions of the applicable law because the law has been regulated in such a way as to create justice for the employers and the workers themselves. Law No. 13 of 2003 concerning Manpower provides an explanation regarding the protection of workers as follows:

1. Wages are not paid if the worker/laborer does not work;
2. The provisions referred to in paragraph (1) do not apply, and employers are obliged to pay wages if:
 - a. Workers/labor are sick so they cannot do work;
 - b. Female workers/labor who are sick during their first and second menstrual periods so they don't do work;
 - c. The worker/ laborer is absent from work because the worker/ laborer is married, married, circumcised, has his child baptized, his wife gives birth or has a miscarriage, the husband or wife of a child or in-laws or parents or in-laws or family members in the same house dies;

- d. The worker/laborer cannot do his job because he is carrying out his obligations to the state;
- e. The worker/laborer cannot carry out his work because he is carrying out his religious duties ordered by his religion;
- f. The worker/laborer is willing to do the work that has been agreed upon but the entrepreneur does not employ him, either because of his own mistakes or because of an obstacle that the entrepreneur should have avoided;
- g. Workers/laborers exercise the right to rest
- h. Workers/laborers carry out trade/labor union tasks with the approval of the employer;
- i. Workers/laborers carry out educational tasks from the company."

Analysis of Legal Protection from the Government Regarding Unilateral Wages Deductions Due to the Covid-19 Pandemic at PT. Y City of Bandung

Legal protection is the protection of human rights to be violated by other people and this protection is available to the public so that they can enjoy all the rights granted by law. Laws are created in social life with the aim of synthesizing and coordinating the interests that exist in society. Since the emergence of cases related to the impact of the Covid-19 pandemic, one of them is the company's unilateral salary cuts in an effort to increase business efficiency. Of course with this the government as a defender of people's rights must provide legal protection regarding this case. Legal protection legally obtained by workers is regulated by labor law. Legal protection of workers according to labor/employee laws for the actions of employers before work (pre-employment), during work (during-employment) and during after work (post-employment).

The existence of this labor law aims to achieve justice and welfare of the parties in labor relations. The government has an important role in setting policy. Indeed, the main function of government is to regulate relations between workers and the right companies (Effendy: 2022). Law Number 13 of 2003 concerning Manpower is a form of government legal protection for workers/laborers where in the Law Article 93 explains that "the government provides protection for workers as follows (Abdul: 2016):

1. Wages are not paid if the worker/laborer does not work;
2. The provisions referred to in paragraph (1) do not apply, and employers are obliged to pay wages if:
 - a. Workers/labor are sick so they cannot do work;
 - b. Female workers/labor who are sick during their first and second menstrual periods so they don't do work;
 - c. The worker/ laborer is absent from work because the worker/ laborer is married, married, circumcised, has his child baptized, his wife gives birth or has a miscarriage, the husband or wife of a child or in-laws or parents or in-laws or family members in the same house dies;
 - d. The worker/laborer cannot do his job because he is carrying out his obligations to the state;
 - e. The worker/laborer cannot carry out his work because he is carrying out his religious duties ordered by his religion;
 - f. The worker/laborer is willing to do the work that has been agreed upon but the entrepreneur does not employ him, either because of his own mistakes or because of an obstacle that the entrepreneur should have avoided;
 - g. Workers/laborers exercise their right to rest;
 - h. Workers/laborers carry out trade/labor union tasks with the approval of the employer;
 - i. Workers/laborers carry out educational tasks from the company."

Sanctions for violations of regulations, especially Article 93 paragraph (2) of Law Number 13 of 2003 concerning Manpower, are regulated in Article 186 of Law Number 13 of 2003 concerning Manpower, that if there is a violation of the provisions of Article 93 paragraph (2) "employers can be sentenced to criminal sanctions in the form of imprisonment for a minimum of 10 years and a maximum of four years or a fine of a minimum of IDR 10,000,000 or a maximum of IDR 400,000,000." And the government protects and provides benefits for workers/laborers affected by the Covid-19 pandemic as stated in SE Menaker #3 of 2020 as follows: based on a doctor's statement not to come to work for a maximum period of 14 (fourteen) days or according to the Ministry of Health, after which full salary is paid.

For workers/employees who are suspected of having Covid-19 and are being isolated/isolated at the direction of a doctor, they will be given full salary during the isolation/isolation period. For employees/employees infected with Covid-19 who are absent from work and have a doctor's certificate proving that they are paid in accordance with statutory regulations. For companies that have restricted their business activities due to government policies in their respective regions to prevent and control Covid-19 resulting in some or all of their workers/employees being unable to work, taking into account the continuity of operations, changes in the number and method of payment of workers/employees are made in accordance with by agreement between the contractor and the worker. From these regulations, the government tries to protect workers' rights when companies limit their activities. Due to the impact of the Covid-19 Pandemic, the salary determination mechanism must be implemented based on the agreement of the parties. employers and workers/employees so that there is no conflict in determining company salaries (Djumaldi: 2008).

Another form provided by the government to protect workers/employees during the Covid-19 pandemic is the provision of Wage Subsidy Assistance (BSU) during the Covid-19 pandemic, especially during the implementation of large-scale social service restrictions (PSBB). This BSU policy is a policy that deserves appreciation because it can help Wage employees who are detained by their employers due to financial difficulties due to the implementation of the PSBB.

CONCLUSION

In the case that occurred at PT Y in the city of Bandung, the company did not respect the rules and obligations for workers/employees who cut wages unilaterally. There should have been an agreement between the company and workers/employees to reduce wages for workers/employees during the Covid-19 pandemic, but it turns out that PT Y Kota Bandung did not comply with this provision. 13 of 2020 concerning Human Resources and Circular Letter of the Minister of Human Resources Number 3 of 2020 Regarding Salary Reductions During the Covid-19 Pandemic Must Be Agreed, Along with the Work Agreement.

Basically, every worker in Indonesia must be protected by the state because the Labor Law No. 13 of 2020 is a form of government protection for workers so that workers can work optimally, maximally and optimally. Legal protection for workers during the Covid-19 pandemic that occurred at PT Y Bandung City is still not in accordance with the provisions of the Labor Law No. 13 of 2003 Jo. Circular of the Minister of Manpower No. M/3/HK.04/III/2020 Concerning Labor Protection and Business Continuity in the Prevention and Control of Covid-19.

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