

Mediated Dispute Resolution in The Distribution of Outsourced Labor in The Gili Tramena Area

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Abstract

This research aims to find out how to resolve disputes through mediation of the distribution of outsourced labor in the Gili Tramena tourist area (Trawangan, Meno and Air), as well as the factors that influence whether or not the mediation of dispute resolution through the distribution of outsourced labor is effective. The legal position of workers/laborers and employers in an employment relationship is said to be the same, but empirically this juridical fact is difficult to find. In employment relations, the position of the Employer is often "considered" to have a higher position than the Workers/Labourers, thus often giving rise to inequality/misunderstanding. The problem that will be discussed in this research is how to resolve disputes through mediation in the distribution of outsourced workers in the Gili Tramena tourist area and the factors that influence the mediated dispute resolution in the distribution of outsourced workers in the Gili Tramena tourist area. It is hoped that this research will provide positive benefits for the development of teaching materials for Labor Law courses at the Faculty of Law, Mataram University, including adding literature or references to the courses concerned. Practically, the results of this research are expected to provide input to the parties involved in how to resolve disputes through mediation in the distribution of outsourced workers.

Keywords: Mediation, Outsourcing, Gili Tramena

INTRODUCTION

Previously, Covid-19 disturbed the public in the health sector, but this situation has also had an impact on all sectors which have been affected by this outbreak. These include the economic sector, trade, shipping and the tourism sector. The existence of an appeal from the government to implement health protocols such as maintaining distance (social distancing), using masks, self-quarantine and an appeal to work from home, even implementing PSBB (Large-Scale Social Restrictions) and PKM (Restrictions on Community Activities) in various provinces of course affects production. as well as sales to various companies. For example, in the Banten area, the tourism sector in the area was affected by the PSBB. Beach and zoo tourism, which is a favorite in the area, has experienced a drastic decline in the number of visitors.¹Based on information obtained through mass media, namely Kompas, published on April 8 2020, there are 1,226 hotels in Indonesia affected by the pandemic, causing the temporary closure of these hotels.²

In a climate of increasingly tight business competition, companies are trying to make production costs efficient (cost of production). One solution is the Outsourcing system. With the rapid progress of industry in Indonesia, nowadays there is the term outsourced workers or better known as outsourcing. Where the term outsourcing is not a term used in the law. Outsourced workers are often used by advanced companies to make costs and processes more efficient. Outsourcing is even a common thing that has been implemented in company strategies.³

Outsourced workers themselves are associated with employment relationships not regulated in Law no. 13 of 2003 concerning employment, however in Article 64 of the Employment Law it is stated that "Companies can hand over part of the work implementation to other companies through contracts for contracting work or providing work services which are made in writing". In carrying out work, it cannot be denied that disputes can occur in work relationships. In resolving disputes, before entering the industrial relations court, legal issues related to industrial relations must first be resolved outside the court, namely in a bipartite and tripartite manner. Where the Tripartite itself consists of 3 (three) methods of settlement, namely mediation, conciliation and arbitration.

The legal position of workers/laborers and employers in an employment relationship is said to be the same, but empirically this juridical fact is difficult to find. In employment relations, the position of the Employer is often "considered" to have a higher position than the Workers/Labourers, thus often giving rise to inequality/misunderstanding.

Industrial Relations Dispute consists of 2 (two) coined words, namely "Dispute" and "Industrial Relations". The word dispute comes from the basic word "difference" which has the prefix "per" and the suffix "an" while the word "industrial relations" was originally a consequence of the replacement of the term "work relations". In principle, this employment relationship is a relationship between an Employer and a Worker/Labourer based on an agreement which has the elements of employment, wages and orders (Article 1 point 15 of Law No. 13 of 2003 concerning Employment.

Then the word "difference" etymologically means "different", while "dispute" means: conflict, debate, quarrel. The term dispute is often also called "case" or "dispute" or dispute which also means "contradictory"⁴

¹Listania Felia Kartika Candra and Agnira Rekha,"The Effects of Pandemic Era to Tourism Industry in Tangerang," *Journal of Indonesia Tourism, Hospitality and Recreation* 3, no.2, 2020, 169-75.

²N Zukhri and E Rosalina,"Acceleration for Tourism Industry Recovery Based on Environmentt post COVID-19," in *IOP Conference series Earth and Environmental Science*, Vol. 599 (IOP Publishing, 2020), 12090

³Saefuloh, Asep A."Outsourcing Policy in Indonesia; Developments and Problems" *Journal of Economics & Public Policy* Vol.2, no.1 June 2011, Research Center. DPR RI Jakarta Expertise Body. 2011.p.1

⁴Badudu and Zain, *General Indonesian Dictionary*, Pustaka Sinar Harapan – Jakarta, 1994, p. 233

In English, the words dispute, quarrel, conflict are the same as "conflict" or "disagreement" or "dispute"⁵. The word conflict in English was then absorbed into Indonesian to become "conflict"

Ronny Hanitijo Soemitro (in H. Zaeni Asyhadie and Rahmawati Kusuma, 2018 :1), writes that what is meant by conflict is: "a situation (circumstance) where two or more people fight for their respective goals which cannot be united and where each party tries to convince the other party of the correctness of its own goals."⁶

With the emergence of this conflict, naturally everyone, including people involved in a company (both entrepreneurs and workers/laborers) must understand that this conflict is very detrimental, and believe that harmonious cooperation is the main factor that supports the development of the company in particular, and supports economic development in general. However, in reality, in employment relations, the relationship between employers and workers/laborers often arises various problems which ultimately lead to conflict. This conflict generally arises because of different attitudes between entrepreneurs and workers/laborers. Entrepreneurs who see themselves as financiers emphasize themselves too much as opening job opportunities so that they emphasize their power and desires. In such circumstances, workers/laborers need to be given legal protection that leads to equality and the interests of the parties involved in the employment relationship.

According to the provisions of Article 1 number 22 of the Law. No. 13 of 2003 jo. Article 1 number 1 of the Law. No. 2 of 2004), Industrial relations disputes are, "differences of opinion that result in conflict between employers or combinations of employers and workers/laborers or trade/labor unions due to disputes regarding rights, disputes over interests, and disputes over termination of employment as well as disputes between trade unions. /labor union only in one company".

Thus, according to Law. No. 13 of 2003 jo. Act. No. 2 of 2004, it is known that there are 4 (four) types of Industrial Relations disputes, namely:

1. Rights disputes; is a dispute that arises due to non-fulfillment of rights, due to differences in implementation or interpretation of the provisions of laws and regulations, work agreements, company regulations, or collective work agreements.
2. A dispute of interest is a dispute that arises in a work relationship due to a lack of agreement regarding the creation of, and/or changes to, work conditions stipulated in a work agreement, company regulations, or collective work agreement.
3. Employment Termination Dispute is a dispute that arises due to a lack of agreement regarding the termination of an employment relationship by one of the parties.
4. Disputes between trade unions/labor unions in just one company are disputes between trade unions/labor unions and other trade unions/labor unions in just one company, because there is no agreement regarding membership, implementation of rights and obligations of trade unions.

Every dispute, whatever the type or form, certainly requires dispute efforts. Meanwhile, the efforts, system or process or pattern of resolving industrial relations disputes in law. No. 2 of 2004 concerning Settlement of Industrial Relations Disputes, there are several ways of resolving them, including mediation through a mediator at the local labor office, which then if the dispute cannot be resolved by the mediator, it is continued to the Industrial Relations Court.

Based on temporary observations, so far many industrial relations disputes have reached the Mataram Industrial Relations Court, resulting in problems arising regarding the effectiveness of resolving industrial relations disputes through mediation by the North Lombok Labor Service in particular.

⁵John M. Echols and Hasan Shadily, English-Indonesian dictionary, Gramedia Nusantara – Jakarta, 1996, p. 138)

⁶Ronny Hanitijo in H. Zaeni Asyhadie, and Rachmawati Kusuma, Legal Aspects of Industrial Relations Justice, CV. Sanabil – Mataram, 2018, p. 53

RESEARCH METHODS

The type of research carried out in this research is empirical legal research, namely empirical legal research is a type of legal research that analyzes and examines the operation of law in society.⁷ Empirical legal research is research that examines law as a norm in legislation and analyzes the effectiveness of the application of law, which arises in people's lives, legal principles which are applied as rules or norms which are benchmarks for humans to behave appropriately, by examining applicable legal provisions.

RESULT AND DISCUSSION

A. Mediated Dispute Resolution in the Distribution of Outsourced Labor in the Gili Tramen Tourist Area

Basically, dispute resolution can and is usually done using two methods, namely dispute resolution through litigation institutions (through court) and dispute resolution through non-litigation (outside court). In the statutory regulations there is nothing that provides a definition of litigation, but it can be seen in Article 6 paragraph 1 of Law 30/1999 concerning Arbitration which essentially states that disputes in the civil sector can be resolved by the parties through alternative dispute resolution based on good faith, setting aside litigation settlement in the District Court.⁸ So it can be concluded that litigation is a process of resolving legal disputes in court where each party to the dispute has the same rights and obligations to both file a lawsuit and dispute the lawsuit through an answer.⁹ Dispute resolution can also be resolved through non-litigation (outside of court), which is usually called Alternative Dispute Resolution (ADR) in America, in Indonesia it is usually called Alternative Dispute Resolution (hereinafter referred to as APS).¹⁰ Resolving disputes outside of court (in Indonesia known as APS) has a legal basis regulated in Law 30/1999. Although in practice resolving disputes outside of court is a cultural value, habit or tradition of Indonesian society and this is in line with the ideals of Indonesian society as stated in the 1945 Constitution. The method of resolution is by deliberation and consensus to make decisions. . In development and implementation, especially in Indonesia, there are 6 (six) APS, namely Consultation, Negotiation, Mediation, Conciliation, Expert Assessment and Arbitration.

In resolving disputes through mediation in the distribution of expert power workers in the Gili Tramen tourist area (Gili Trawangan, Meno and Air), where the mediation referred to is according to Article 1 number (1) of Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court (hereinafter called PERMA 1/2016) that mediation is a way of resolving disputes through a negotiation process to obtain agreement between the Parties with the assistance of a Mediator.¹¹ Mediation can also be interpreted as an effort to resolve disputes between parties by mutual agreement through a mediator who is neutral and does not make decisions or conclusions for the parties but supports as a facilitator the implementation of dialogue between parties in an atmosphere of openness, honesty and exchange of opinions to reach consensus.

⁷Ishaq, Legal Research Methods and Theses, Theses and Dissertations, Afabeta, Bandung, 2017, p.70

⁸Article 6 paragraph (1) reads, "Civil disputes or differences of opinion can be resolved by the parties through alternative dispute resolution based on good faith by excluding dispute resolution through litigation in the District Court.

⁹Yessi Nadia, Litigation and Non-Litigation Dispute Resolution (Review of Mediation in Court as an Alternative to Out-of-Court Dispute Resolution, https://www.academia.edu/29831296/Penyelesaian_Sengketa_Litigasi_dan_NonLitigation_Review_of_Mediation_in_Pad_as_Alternative, accessed 26 February 2019.

¹⁰Rachmadi Usmani. 2012. Mediation in Court: In Theory and Practice. Jakarta. Publisher: Sinar Graphics. p. 8.

¹¹Article 1 number (1) Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court.

Gili Tramena is located in Gili Indah Village, Selamat District, North Lombok Regency (KLU) West Nusa Tenggara with all the beauty it has. Domestic and foreign tourist visits to Gili Tramena experienced a decline in 2020 to 2021 due to the COVID-19 outbreak and in 2018 KLU was affected by an earthquake. In 2020, the hotel business sector in the Gili Tramena area was not yet fully operational due to the low number of domestic and foreign tourist visits, especially in budget hotels or non-star hotels. However, in the last year, precisely from the beginning of 2022 until now 2023, there has been an increase in local and foreign tourist visits, which has resulted in Gili Tramena becoming increasingly crowded.

There are many problems faced by Gili Tramena, especially during the earthquake in 2018 and followed by the Covid-19 outbreak from the end of 2019 to the end of 2021 which resulted in several workers being forced to lay off temporarily and even having to be laid off (termination of employment).) permanently due to lack of income by company owners in the Gili Tramena area. And this raises several issues regarding workers' rights.

When the author collected data on August 2 2023, the author received information from Kadarusna, SH., Head of the Employment Division for North Lombok Regency. There are unilateral layoffs in Gili Tramena (Sea) and the KLU area in particular (land), but for Gili Tramena there is no specific data regarding the cases that have been handled, but only received complaints from workers who were affected by unilateral layoffs on Gili Tramena. This happens because there are no official regulations from the government for employers on Gili Tramena regarding the regulations for outsourcing workers. The regulations in question will come into force in September 2023. Employers are expected to register the outsourcing workers they use with the KLU government so that they can then be recorded and become information for the KLU government itself. According to information provided by the Head of the KLU Employment Division, currently outsourced workers have been registered in several government offices such as the Regent's Office, KLU Regional Hospital, Specific Time Work Agreements (PKWT) and Banks.

Below the author displays Dispute data from 2020 to 2022 from Sea to Land¹²:

¹²North Lombok Regency Manpower Office data from 2020 to 2022

Table 1. Industrial Relations Dispute Data 2020

	DATE OF THE YEAR	WORKER NAME	COMPANY NAME	TYPE OF COMPLAINT	SOLUTION	DIFFERENT NUMBER OF EMPLOYEES	INFORMATION
	01/07/2020	Hamdan Wadi, et al	DPM Diving, Gili Trawangan	Rights Disputes	PB	3	Demanding Rights
	01/21/2020	I Gde Kardane Anggriawan, et al	PT. Beautiful Ocean Diving, Gili Trawangan	Rights Disputes	Handed over to the Provincial Manpower Office. NTB	40	Demanding Rights
	01/23/2020	Putu Yudana	Ko Ko Mo Resort	Rights Disputes	PB	1	Demanding Rights
	02/26/2020	Aswadi Minal Fajri, et al	Gili Beah Resort Lagoon,	Layoffs	PB	5	Layoffs
	02/10/2020	Ari Rahman	Anema Resort, Sire	Layoffs	PB	1	Layoffs
	03/16/2020	Mukti	Casa Vintage, Gili Trawangan	Rights Disputes	PB	1	Demanding Rights
	03/17/2020	Supriyadi	Avia Villa, Gili Meno	Rights Disputes	PB	1	Demanding Rights
	05/13/2020	Badrun	Café Gili	Layoffs	PB	1	Layoffs
	05/20/2020	Aditya Pranata, et al	Mina Tanjung Hotel	Rights Disputes	Handed over to the Provincial Manpower Office. NTB	15	Demanding Rights
	05/21/2020	Loyal Wirawan	Kelapa Villas	Rights Disputes	PB	1	Demanding Rights
	05/04/2020	Meyfia Natalesia	Meleston Pacific Hotel Group	Layoffs	Handed over to the Provincial Manpower Office. NTB	1	Layoffs
	06/30/2020	Suriyanto Fendi Lalu Andika, et al	Mina Tanjung Hotel	Rights Disputes	Handed over to the Provincial Manpower Office. NTB on July 6 2020	15	Demanding Rights
	07/06/2020	Educat Rudiyanto	Pondok Santi Hotel, Gili Trawangan	Layoffs	Handed over to the Provincial Manpower Office. NTB on July 30 2020	1	Layoffs
	07/13/2020	Suarno	PT. Gili Air Honeymoon	Layoffs	PB	1	Layoffs
	07/06/2020	Umar Bukram	Pearl of Trawangan, Gili Trawangan	Layoffs	PB	1	Layoffs
	07/28/2020	Sahabuddin Andi Zul et al	PT. Blue Marlin, Gili Trawangan	Layoffs	PB	86	Layoffs
	06/08/2020	Jumaidi Sukarti Sandi Ahyadi Wayan Sukarti	PT, Usah Setia Mandiri (Winning Gas Station)	Rights Disputes	PB	4	Demanding Rights
	12/08/2020	Wawan Mashuri	PT. the color of Bunga Timur (Avia Resort), Gili Meno	Rights Disputes	Handed over to the NTB Provincial Manpower Office on September 16 2020	1	Demanding Rights
	08/13/2020	Fikri Saleh	Gili Air Lagon Hotel	Layoffs	Handed over to the NTB Provincial Manpower Office on September 16 2020	1	Layoffs

NOTE: from the table it can be explained that Number of Cases = 24, TK = 256, Layoff Cases = 10 (TK= 99), Rights Dispute Cases= 14 (TK= 157), PB= 14, and Delegated= 10

Table 1 is a data table for Industrial Relations disputes in 2020, there are at least 256 workers involved in Industrial Relations dispute cases, where the majority of workers are demanding rights from their employers which are then facilitated by the KLU Manpower Office to be able to obtain protection or resolution of the cases they are facing. by workers. From table 4.1 it can be seen that the majority of case settlements are carried out by collective agreement or abbreviated as PB. This happens because the resolution of Industrial Relations disputes cannot be carried out through mediation because at the KLU Manpower Office there is no Mediator as a Third Party to resolve problems, because settlement through mediation requires a Mediator.

Tabel 2. Industrial Relations Dispute Data 2021

NO	DATE OF THE YEAR	WORKER NAME	COMPANY NAME	TYPE OF COMPLAINT	SOLUTION	DIFFERENT NUMBER OF EMPLOYEES	INFORMATION
1	01/06/2021	Noor Ain Bint Hussin	PT. Gili Sands Resort	Rights Disputes	Delegated to the Provincial Manpower Office, NTB on January 20 2021	1	Demanding Rights
2	01/15/2021	Ari Daniel	Villa Grasia, Gili Trawangan	Layoffs	Delegated to the Provincial Manpower Office, NTB	1	Layoffs
3	03/08/2021	Suharni	Wonderful Mulia Jaya	Layoffs	PB	1	Layoffs
4	03/24/2021	Diana	PT. Samudra Indah Diving, Gili Trawangan	Layoffs	PB	1	Layoffs
5	04/29/2021	L Heru Fernando	PT. Anema Villas, Sira Tanjung	Layoffs	Delegated to the Provincial Manpower Office, NTB	1	Layoffs
6	04/30/2021	Umi Rohmawati	PT. Jiwa Sejahtera, Medana Tanjung	Rights Disputes	PB	1	Demanding Rights
7	05/03/2021	Adenan	Villa Nerro, Gili Trawangan	Layoffs	Delegated to the Provincial Manpower Office, NTB	1	Layoffs
8	06/22/2021	John	Villa Nerro, Gili Trawangan	Layoffs	PB	1	Layoffs
9	08/25/2021	Hidman	Lasvillas Ottalia Resort	Rights Disputes	PB	1	Demanding Rights

INFORMATION: Number of Cases = 9, TK = 9, Layoff Cases = 6 (TK= 6), Rights Dispute Cases= 3 (TK= 3), PB= 5, and Delegated= 4

From Table 2, there are 9 cases that were resolved by means of a joint agreement, of which some cases were transferred to the NTB Provincial Manpower Office.

Table 4.3. Industrial Relations Dispute Data for 2022

NO	DATE OF THE YEAR	WORKER NAME	COMPANY NAME	TYPE OF COMPLAINT	SOLUTION	DIFFERENT NUMBER OF EMPLOYEES	INFORMATION
1	Friday 25/02/2022	1. Lalu Wiratmaji 2. Sarmiati 3. Kamiludin et al	Ombak Villa Hotel	Rights Disputes	Bipartite	137	Workers are being called back in stages
2	Monday, 06 June 2022	Desy Sagita	Hotel Tugu Lombok (PT. Toegoe Respati)	Layoffs	PB	1	Layoffs
3	Monday, 06 June 2022	Abror et al 8 Outsourced Workers	Hotel Amarsvati Outsourcing PT. Rajawali Buana Agung	Rights Disputes	Bipartite	8	
4	Monday, July 18 2022	Hamdun et al	Amasvati Hotel (PT. Duta Megah Laksana)	Rights Disputes	Bipartite	13	Workers are made contracts according to workers' requests
5	Monday, 01 August 2022	Edi Kurniawan et al	Manta Dive (PT. Manta Resort Depelopment)	Rights Disputes	Bipartite	4	The worker will be called back
6	Kamia, August 11, 2022	Sarmiati and Harwini	Ombak Villa Hotel	Layoffs	PB	2	Layoffs

7	Thursday, August 25 2022	Sunarlan and Andera Efendi	My Mate's Place (PT.Windara)	Rights Disputes	PB	2	
8	Thursday, 08 September 2022	Then Maswadi et al	Gili Divers (PT. Talasa)	Rights Disputes	PB	4	
9	October 15, 2022	I Made Sumantra	Indian Villa	Rights Disputes		1	
10	October 27, 2022	Taufik Hidayat et al	PT. Grace	Gili Trawangan		2	
11	30-Nov-22	Aria Indrabayu	My Mate's Place (PT.Windara)	Layoffs	PB	1	
12	December 20, 2022	Hairil Anwar et al	Gili Teak Resort	Layoffs			
		Total TK				175	

INFORMATION: Number of Cases = 12, TK = 175, Layoff Cases = 4, Rights Dispute Cases = 171, PB = 10, and Delegated = -

From Table 4.3 there are 175 cases and most of them were resolved bipartitely and some were resolved by collective agreement (PB).

From the three tables above, namely from 2020 to 2022, it can be seen that no disputes have been resolved through mediation. Kadarusna, SH., as Head of the Manpower Office, explained that the KLU Manpower Office has not been able to implement dispute resolution through mediation because the KLU Manpower Office does not yet have a Mediator.

In the KBBI mediation means the process of involving a third party in resolving a dispute as an advisor, in this case the Mediator. Referring to Article 1 point 2 of Perma 1 of 2016, a mediator is a judge or other party who has a mediator certificate as a neutral party who helps the parties in the negotiation process to find various possible dispute resolutions without using the method of deciding or forcing a resolution.¹³ Every mediator is required to have a mediator certificate which is obtained after participating in and being declared to have passed the mediator certification training held by the Supreme Court or an institution that has obtained accreditation from the Supreme Court.¹⁴ In Article 14 of Perma 1/2016 there are several mediator functions that are very necessary in resolving industrial relations disputes, including:

1. Introduce yourself and give the parties the opportunity to introduce themselves to each other.
2. Explain the purpose, objectives and nature of mediation to the parties.
3. Explain the position and role of a mediator who is neutral and does not make decisions.
4. Create rules for implementing mediation with the parties.
5. Explains that the mediator can hold meetings with one party without the presence of the other party (caucus).
6. Arrange a mediation schedule with the parties.
7. Fill out the mediation schedule form.
8. Provide opportunities for parties to convey problems and peace proposals.
9. Inventory problems and schedule discussions based on a priority scale.
10. Facilitate and encourage parties to:
 - a. tracing and exploring the interests of the parties;
 - b. seek various settlement options that are best for the parties; And
 - c. work together to reach a solution.
11. Assist the parties in creating and formulating a peace agreement.

¹³ Accessed on, <https://www.Hukumonline.com/klinik/a/tas-mediator-cl1945/>, August 23, 2023

¹⁴ Article 13 paragraph (1) Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court ("Perma 1/2016")

12. Submit a report on the success, failure and/or inability to carry out mediation to the case examining judge;
13. Declare that one or the parties are not acting in good faith and convey this to the judge examining the case.
14. Other duties in carrying out its functions.

Thus, it can be seen that the mediator's task in the mediation process is very necessary because mediation itself cannot be carried out without a Mediator. This means that the KLU Manpower Office has not been able to implement a mediated settlement in cases from 2020 to 2023. According to Kadarusna, SH., the KLU Manpower Office was only able to implement a mediated settlement starting in early 2023, but the party has not been able to provide data for 2023 because usually the data recap can only be done at the end of the year before the new year. It is hoped that with mediated dispute resolution, workers and employers can more easily reach an agreement, without having to spend a lot of money to reach an agreement.

B. Factors influencing mediated dispute resolution in the distribution of outsourced labor in the Gili Tramena tourist area

Settlement through mediation is an alternative to resolving disputes outside of court. One way of resolving disputes outside the court (non-litigation) is through mediation, this stems from the idea that resolving cases in judicial institutions has not been able to resolve in accordance with community expectations. Settlement through litigation is generally slow, examinations are very formal and very technical, cases entering court are overloaded and court decisions always end with a win-lose solution.¹⁵

Regarding the scope of the dispute, mediation is classified as an alternative institution that is more special than conciliation and arbitration. Settlement of disputes through mediation is regulated in articles 8 to 16 of Law Number 2 of 2004 which is carried out through deliberations mediated by a Mediator, who is a Civil Servant (ASN) at the Agency in charge of Employment Affairs. Based on the Regulation of the Minister for Empowerment of State Apparatus Number: PER/06/M.PAN/4/2009 concerning the Functional Position of Industrial Relations Mediator and Credit Scores, the Position of Industrial Relations Mediator is included in the Law and Judicial family (provisions of Article 2). The main task of the Industrial Relations Mediator Functional Officer is to foster, develop Industrial Relations and Settle Industrial Relations Disputes outside the Court.

In carrying out their duties, the Industrial Relations Mediator must strive to reach an agreement between the conflicting parties to reach a compromise or settlement that is acceptable to both parties by presenting important reasons persuasively.

The flow of the Mediation process is as follows:

1. After receiving the delegation of dispute, the mediator is obliged to complete his duties no later than 30 (thirty) working days from receiving the delegation of dispute;
2. The mediator must conduct research on the subject matter and hold a MEDIATION hearing;
3. The mediator can call one expert witness to request and hear their testimony if necessary. The parties summoned must show and open the necessary books or documents;
4. If an agreement is reached, a Collective Agreement (PB) is drawn up which is signed by both parties and registered with the Industrial Relations Court (PHI);
5. If one of the parties breaks their promise, they can request execution from the Industrial Relations Court (PHI);

¹⁵Law Number 13 of 2003 concerning Employment

6. If an Agreement cannot be reached, the Mediator issues Written Recommendations which are delegated to both parties;
7. If the Recommendation has been accepted by both parties, a Collective Agreement is made and registered with the Industrial Relations Court (PHI).

An industrial relations dispute must be resolved first through deliberative bipartite negotiations to reach consensus. In the event that bipartite negotiations fail, one or both parties will register their dispute with the agency responsible for the local employment sector by attaching minutes of negotiations and other evidence that efforts to resolve through bipartite negotiations have been made.

The things described above are the factors why mediation is used to resolve industrial relations disputes from the beginning of 2023. Although there is no specific data provided by the Manpower Office, this is because Mediator only existed at the beginning of 2023, which means the data has not been summarized for the year 2023.

According to Kadarusna, SH., his party has handled industrial relations dispute resolution through mediation several times. Apart from that, mediation is a method that must be used by disputing parties. He also said that Mediation is widely used because of the easy process for the Defendant and Plaintiff, in this case the work recipient and employer. The hope of the disputing parties by registering their dispute with the agency responsible for the local employment sector is that the dispute can be resolved and resolved. The party who agrees or accepts the Mediator's Recommendations considers that having been handled and mediated by the Mediator and the Mediator has issued a Written Recommendation as his Final Decision, the industrial relations dispute has been resolved.

CONCLUSION

The mediator's task in the mediation process is very necessary because mediation itself cannot be carried out without a Mediator. This means that the KLU Manpower Office has not been able to implement a mediated settlement in cases from 2020 to 2023. According to Kadarusna, SH., the KLU Manpower Office was only able to implement a mediated settlement starting in early 2023, but the party has not been able to provide data for 2023 because usually the data recap can only be done at the end of the year before the new year.

The hope of the disputing parties by registering their dispute with the agency responsible for the local employment sector is that the dispute can be resolved and resolved. The party who agrees or accepts the Mediator's Recommendations considers that having been handled and mediated by the Mediator and the Mediator has issued a Written Recommendation as his Final Decision, the industrial relations dispute has been resolved.

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