

Legal Protection of the Parking Attendants for the Issuance of the Assignment Letter from the Transportation Department of Communication and Informatics Related to Employment Rights and Obligations in Bengkulu City

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ABSTRACT

Assignment Letter (*SPT*) is issued to the parking attendants after they meet the requirements set by *Dishubkominfo* (the Transportation Department of Communication and Informatics). The *SPT* contains only the duties and obligations of a parking attendant ordered by *Dishubkominfo*. The position of *Dishubkominfo* is higher, which is as the task provider for the parking attendant. Although these parking attendants play a role in Bengkulu City, they do not get protection. This could be seen in the *SPT* between *Dishubkominfo* and the parking attendants, which does not regulate protection for parking attendants at all. Thus, there is no legal certainty or protection for the parking attendants. The problems in this research were: What was the legal aspect of the position of the assignment letter from the Transportation Department of Communication and Informatics to the parking attendants in labor law in Bengkulu City? And what was the form of legal protection for parking attendants in the assignment letter from the Transportation Department of Communication and Informatics of Bengkulu City? The type of research used in this research was empirical juridical research. The results of this research were: Parking management in terms of collecting parking fees on the side of public roads in Bengkulu City was legally the duty and authority of *Dishubkominfo*. In its implementation, to collect parking fees, *Dishubkominfo* of Bengkulu City assigned the parking attendants based on the assignment letter (*SPT*). Legally, both parties have an employer and worker relationship as regulated in the Labour Laws where both parties have their respective rights and responsibilities. Thus, both parties also apply the provisions relating to Employment as regulated in the Labour Laws even though this is not regulated in the assignment letter (*SPT*) issued by *Dishubkominfo* of Bengkulu City. Legal protection of the parking attendants' rights relating to working hours, rest periods, occupational safety and health, wages, and social security has not been obtained by the parking attendants as it should have been determined by the Labour Laws and the Law on Social Security.

Keywords: Legal Protection, Parking Attendants, Bengkulu City.

INTRODUCTION

Research Background

Work is one of the rights of every person in accordance with Article 28 D verse (2) of the 1945 Constitution of the Republic of

Indonesia, which stipulates that "Everyone has the right to work and to receive fair and proper compensation and treatment in an employment relationship. ". A person who works is called a worker, in this case, the workforce is any

person who is capable of doing work to produce goods and/or services either to fulfill their own needs or for the community as regulated in Article 1 number 2 of Law Number 13 of 2003 concerning Employment.¹

One thing that must be considered for workers is the problem of wages. Wages are a very crucial problem in the field of employment and even if they are not professional in handling wages, it often becomes a potential dispute and leads to strikes and/or demonstrations. Handling of wages does not only concern technical and economic aspects, but also legal aspects that underlie how matters relating to wages are carried out safely and correctly based on the prevailing laws and regulations.²

In choosing a job, a worker has many choices or types of employment. Likewise, in Bengkulu City, there are various types of jobs that are chosen by workers, one of which is in the service sector, namely parking. Parking referred to in this case is parking on the side of a public road or often called parking on the road. This parking attendant on the side of the public road plays a role in increasing the Regional Original Income of Bengkulu City.

¹ Abdul Khakim, *Dasar-Dasar Hukum Ketenagakerjaan Indonesia*, Cetakan Ke-4 Edisi Revisi, PT. Citra Aditya Bakti, Jakarta, 2014, Pg. 2

² Abdul Khakim, *Seri Hukum Ketenagakerjaan, Aspek Hukum Pengupahan Berdasarkan Undang-Undang Nomor 13 Tahun 2003*, PT. Citra Aditya Bakti, Jakarta, 2006, Pg. 1

The number of parking attendants in Bengkulu City is 532 people with 12 zonings. This parking attendant has a working relationship with the Transformation Department of Communication and Informatics (*Dishubkominfo*) of Bengkulu City based on the assignment letter (*SPT*).

The Assignment Letters (*SPT*) are issued to parking attendants after they meet the requirements set by *Dishubkominfo*. *SPT* is issued on the basis of:

1. Government Regulation Number 38 of 2007 concerning the Division of Government Affairs: the Government, Provincial Governments and Regency/City Governments;
2. Regional Regulation of Bengkulu City Number 7 of 2011 concerning Parking Service Charges on the Side of Public Roads.

The procedure for obtaining an *SPT* can be carried out by a parking attendant by submitting a parking management application to *Dishubkominfo*, and if it meets the requirements submitted by *Dishubkominfo*, then this parking attendant will get an *SPT*. This *SPT* is a unilateral legal action carried out by *Dishubkominfo* based on a special authority, namely government regulation Number 38 of 2007 concerning the division of government affairs: between the government,

Provincial Government, and Regency/City Regional Government and Bengkulu City regional regulation Number 7 of 2011 concerning Retribution. parking services on the side of a public road. Although these parking attendants play a role in Bengkulu City, they do not get protection. This can be seen in the *SPT* between *Dishubkominfo* and the parking attendants, which does not regulate protection for parking attendants at all. So that there is no legal certainty or protection for the parking attendants.

Based on the description stated above, the authors were interested in conducting research with the title: "Legal Protection of Parking Attendants for the Issuance of the Assignment Letter from the Transportation Department of Communication and Informatics Related to Employment Rights and Obligations in Bengkulu City".

Problem Identification

Based on the background of the problems stated previously, the problem formulations that became the focus of this research were:

1. What was the legal aspect of the position of the assignment letter from the Transportation Department of Communication and Informatics to the parking attendant in labor laws in Bengkulu City?

2. What was the form of legal protection for the parking attendants in the assignment letter from the Transportation Department of Communication and Informatics of Bengkulu City?

RESEARCH METHODOLOGY

Type of Research

The type of research used in this research was juridical empirical research, or what is called field research, which examines the applicable legal provisions and what happens in reality in society.

Research Area

Research on legal protection for the parking attendants on the issuance of the assignment letter from the Transportation Department of Communication and Informatics Related to Employment Rights and Obligations conducted in Bengkulu City.

Research Population

The population in the research on legal protection for the parking attendants for the issuance of the assignment letter from the Transportation Department of Communication and Informatics related to employment rights and obligations conducted in Bengkulu City was the parking attendants.

Research Sample

The sample in the study was several parking attendants and related officials at the

Transportation Department of Communication and Informatics of Bengkulu City.

Data Collection Techniques

In this study, the type of data collected was divided into two types of data, namely primary data and secondary data with data collection techniques, namely: Interviews and Documentation Studies.

Data Analysis Techniques

The data that has been collected through data collection activities have not given any meaning to the purpose of a study. The research has not been able to draw conclusions for the purpose of research, because the data was still raw data and it still took the effort to process it. The process was carried out by examining, examining the data that has been obtained to ensure whether the data could be accounted for in accordance with reality. After the data was processed and deemed sufficient, it was then presented in narrative form and in tabular form. After the data has been collected completely and has been processed using narration or tables, then it was analyzed qualitatively.

RESULTS AND DISCUSSION

Legal Aspects of the Assignment Letter Position from the Transportation Department of Communication and Informatics of Bengkulu City.

The Authority of the Transportation Department of Communication and Informatics of Bengkulu City (*Dishubkominfo*) Issued the Assignment Letter (*SPT*)

The matter of parking is a concurrent government affair that is left to the regions which become the basis for the implementation of regional autonomy. Regional government affairs in the attachment to the Regional Government Law mention that parking matters are the affairs of regency/city government in the transportation sector, namely in terms of issuing permits to operate and construct parking facilities.

To run the wheels of government, especially in terms of parking, the authority is delegated to the *Dishubkominfo* of Bengkulu City. This is based on the Regulation of the Mayor of Bengkulu Number 11 of 2014 concerning the Organization of the Technical Implementation Unit of the Parking Service at the Transportation Department of Communication and Informatics of Bengkulu City (*Perwal OUPTDP Dishubkominfo*). *UPTD* Parking is an element implementing the operational service in the field.

From the description above, the *Dishubkominfo* of Bengkulu City has the authority to manage parking matters, but the authority to issue *SPT* for the parking

attendants has not been clearly regulated in any statutory regulations.

The Position of Legal Actions the Transportation Department of Communication and Informatics (*Dishubkominfo*) of Bengkulu City in Issuance of the Assignment Letter (*SPT*)

Article 55 verse (4) of Presidential Decree Number 4 of 2015 concerning the Fourth Amendment to Presidential Regulation Number 54 of 2010 concerning the Procurement of Government Service Goods (hereinafter referred to as the Fourth Amendment of the President Decree of *PBJP*) stated that the *SPK* as referred to in verse (1) letter c, used for the procurement of goods/construction work/other services up to Rp. 200,000,000.00 (two hundred million rupiah) and for consulting services with a value of up to Rp. 50,000,000.00 (fifty million rupiah). Since this parking attendant has an obligation to deposit Rp. 500,000.00 (five hundred thousand rupiah) - Rp. 2,000,000.00 (two million rupiah) and it is not more than Rp. 200,000,000.00 (two hundred million rupiah) then in the case of proof of this agreement it is more appropriate to use *SPK*.

Regarding the provision of parking fees on the side of public roads that occur in Bengkulu, this has not followed the Presidential Decree of *PBJP*. If all this time

issuing an *SPT* based on Perda No.7 of 2011 concerning Service Levies at the Side of Public Roads was not correct because the Regional Regulation only regulates the procedures for collecting parking fees, not the parking fees. Then according to the above description, the provision of parking retribution services is an act of two-sided Government law, which is the legal actions regulated by special law, namely public law regulations, so that the regulation is not found in private law, therefore these actions are subject to the Presidential Decree of *PBJP* and the Fourth Amendment of it. The Presidential Decree regulates the existence of agreements between the government and individuals. The method of direct appointment that has this stipulation and agreement is a private act that merges with public law. Therefore, there needs to be rights and obligations for the parking attendant. To get their rights, it is necessary to know the legal position of the parking attendants

The Legal Position of the Parking Attendants Against the Assignment Letter (*SPT*) issued by the Transportation Department of Communication and Informatics (*Dishubkominfo*) of Bengkulu City

The working relationship between *Dishubkominfo* and the parking attendants is a

civil law relationship because there is an agreement that is a single procurement contract. In this case, *Dishubkominfo* as a public legal entity carries out civil action by making an agreement, so that the single agreement can qualify as a work agreement. In this employment relationship, it is stated that this relationship is based on a work agreement. A work agreement is contained in Article 1 point 14 of the Labour Laws which states that a work agreement is an agreement between a worker and an employer or employer that contains the working conditions, rights, and obligations of the parties.

Dishubkominfo as a public legal entity can enter into work agreements because the categories of work agreements in Article 1 point 4 of the Labour Laws are individuals, entrepreneurs, legal entities, or other entities that employ workers by paying wages or other forms of remuneration. The type of work agreement made by *Dishubkominfo* with the parking attendant is a work agreement for a certain time as stated in Article 59 verse (1) concerning Labour Laws, which is a work agreement for a certain period of time that can only be made for certain jobs which according to the type and nature of activities of the work will be completed in a certain time

Forms of Legal Protection for The Parking Attendants in Carrying Out the Assignment

Letter From the Transportation Department of Communication and Informatics of Bengkulu City

Legal Protection of the Parking Attendants toward Working Time in Bengkulu City

Dishubkominfo divides the working time of parking attendants in Bengkulu City into three parts, namely morning-afternoon, afternoon-evening, and evening-morning with different parking attendants. 1 (one) parking location is divided into 3 (three) parking attendants with different working hours. The parking attendant's working time is determined based on the operating time of the parking lot, as for the parking attendant's working time in Bengkulu City, namely:

- a. 08.00-17.00 WIB
- b. 17.00-23.00 WIB
- c. 23.00-08.00 WIB

Calculation of working time in 1 (one) day is 08.00-17.00 WIB or 9 hours/day, 17.00-23.00 WIB is the same as 6 hours/day and 23.00-08.00 WIB is equal to 9 hours/day. Therefore, based on Article 77 of the Labour Laws, there are several parking attendants on duty at 08.00-17.00 and 23.00-08.00 WIB, the working hours have exceeded as stipulated in the provisions of the Article. This is because the working time of the parking attendants in Bengkulu City has exceeded the working time specified by the Labour Laws, which is 8

hours/day. Thus, at this time regarding working hours, the parking attendants in Bengkulu City have not been given legal protection as stipulated in the applicable regulations.

Legal Protection of the Parking Time and Break Time in Bengkulu City

Based on the provisions of Article 79 of Law Number 13 of 2003 Concerning Employment, every employee has the right to rest between working hours in a day, at least 1/2 hour after working 4 (four) continuously, and the rest period does not include working hours. As well as the weekly rest period is 1 (one) day for 6 (six) working days/week or 2 (two) days for 5 (five) working days/week. In addition, employers are required to provide sufficient time for their employees to perform worship. However, the *SPT* that has been issued by the *Dishubkominfo* of Bengkulu City to all parking attendants in Bengkulu City does not regulate rest periods for parking attendants either daily rest time after 4 (four) hours of work or weekly or monthly breaks and annual rest periods.

Legal Protection of Occupational Safety and Health of the Parking Attendants in Bengkulu City

Based on the results of the research, it was known that there was absolutely no work safety and health effort made by

Dishubkominfo for parking attendants. *Dishubkominfo* did not make efforts to prevent accidents, countermeasures, or work health and accidents for the parking attendants so that the parking attendants must make their own workplace safety and health efforts when carrying out their work. In fact, based on the Work Safety and Health Security Act, it is intended for all workers who work in all workplaces, whether on land, on the ground, on the surface of the water, in water or in the air, who are within the jurisdiction of the Republic of Indonesia. Every worker in Indonesia has the right to work safely and with health guarantees.

Occupational Health and Safety has been regulated in Law Number 1 of 1970 concerning Work Safety. Every worker has the right to receive protection for his/her safety in carrying out his work for the sake of welfare and increasing productivity. In macro terms, it relates to *JAMSOSTEK* (Social Security for Workers) because every company is required to have *K3* (Occupational Health and Safety). Whereas the *K3* (Occupational Safety and Health) system, which is a safe production tool, must use personal protective equipment for the workforce concerned, fire extinguishers/emergency ladders, medicines and medical facilities, production machines must be suitable.

Legal Protection Against Wage Parking Attendants in Bengkulu City

Based on research, each parking attendant received a different income every day. The range of income was earned by the parking attendant is between Rp. 30,000-Rp. 70,000/day. Based on the determination of the Provincial Minimum Wage (*UMP*) in 2019, it is known that the *UMP* for Bengkulu Province workers is Rp. 2,040,406 (two million forty thousand four hundred and six rupiah). If you take the highest income obtained by the parking attendant is Rp. 70,000/day means that in a month the income is Rp. 70,000 x 30 days = Rp. 2,100,000. If the amount of deposit that must be submitted to *Dishubkominfo* is Rp. 1,200,000, the parking attendant's net income is Rp. 900,000 per month. Meanwhile, based on the Decree of the Governor of Bengkulu Number: H.480 of 2019 of Ministry of Manpower and Transmigration concerning the Minimum Wage of Bengkulu Province in 2020 is Rp. 2,213,604 (Two Million Two Hundred Thirteen Thousand Six Hundred Four Rupiah). Therefore, of course, the income received by the parking attendants in Bengkulu City is still far from the Minimum Wage (*UMP*) set by the Governor of Bengkulu.

Legal Protection of Parking Attendants Social Security in Bengkulu City

Referring to the provisions of the laws and regulations regarding employment and social security, the actions taken by the *Dishubkominfo* of Bengkulu City by not giving social services to parking attendants in Bengkulu City who have received *SPT* to become the parking attendants are actions that are against the law and have violated the rights of the parking attendant as an abused party. An example of the absence of legal protection for parking attendants was the case of a parking attendant who had a work accident while carrying out his job as a parking attendant, who was grazed by a motorcycle in the Pasar Panorama parking area so that he suffered a bruise on his leg. But with this incident, there was no guarantee of safety and health for the parking attendant, so the parking attendant had to seek treatment himself and paid his own expenses for his treatment.

CLOSING

Conclusion

Parking management in terms of collecting parking fees on the side of public roads in Bengkulu City is legally the duty and authority of *Dishubkominfo*. In its implementation, to collect parking fees, *Dishubkominfo* of Bengkulu City assigned the parking attendants based on the Assignment Letter (*SPT*). Legally, both parties have an employer and worker relationship as regulated in the Labour

Laws, where both parties have their respective rights and responsibilities. Thus, both parties also apply the provisions relating to Employment as regulated in the Labour Laws even though this is not regulated in the Assignment Letter (*SPT*) issued by *Dishubkominfo* of Bengkulu City. Legal protection of parking attendants' rights relating to working hours, rest periods, occupational safety and health, wages, and social security has not been obtained by parking attendants as it should have been determined by the Labour Laws and the Law on Social Security.

REFERENCES

Books

- Abdul Khakim, 2006. *Seri Hukum Ketenagakerjaan, Aspek Hukum Pengupahan Berdasarkan Undang-Undang Nomor 13 Tahun 2003*, PT. Citra Aditya Bakti, Jakarta.
- Abdul Khakim, 2014. *Dasar-Dasar Hukum Ketenagakerjaan Indonesia*, Cetakan Ke-4 Edisi Revisi, PT. Citra Aditya Bakti, Jakarta.
- Abdul Rachman Budiono, 1999. *Hukum Perburuhan di Indonesia*. PT. RajaGrafindo Persada, Jakarta.
- Aminuddin Ilmar, 2014. *Hukum Tata Pemerintahan*, Prenadamedia Group, Jakarta.
- Amirizal, 2004. *Hukum Pajak dan Perpajakan*, Perpustakaan UNIB Press, Bengkulu.
- Asri Wijayanti, 2009. *Hukum Ketenagakerjaan Pasca Reformasi*, Sinar Grafika, Jakarta.
- C.S.T. Kansil dan Christine, S.T. 2005. *Kansil, Hukum Administrasi Negara*, Pradnya Paramita, Jakarta.
- Chairil Anwar Pohan, 2017. *Pembahasan Komprehensif Pengantar Perpajakan Teori dan Konsep Hukum Pajak*, Mitra Wacana Media, Jakarta.
- Djumadi, 1992. *Hukum Perburuhan Perjanjian Kerja*. PT. RajaGrafindo Persada, Jakarta.
- Djumaldji, 2005. *Perjanjian Kerja*, Sinar Grafika, Jakarta
- Eko Wahyudi, et. Al., 2016. *Hukum Ketenagakerjaan*. Sinar Grafika, Jakarta.
- Imam Soepomo, 2003. *Pengantar Hukum Perburuhan*. Djambatan, Jakarta.
- Lalu Husni, 2000. *Pengantar Hukum Ketenagakerjaan Indonesia Edisi Revisi*, PT. Raja Grafindo Persada, Jakarta.
- Marihot Pahala Siahaan, 2016. *Pajak Daerah dan Retribusi Daerah Berdasarkan Undang-Undang Nomor 28 Tahun 2009 tentang Pajak Daerah dan Retribusi Daerah*, Rajawali Pers, Jakarta.
- Melania Kiswandari, 2014. *Kesehatan dan Keselamatan Kerja*. Dalam, Aloysius Uwiyono dkk. *Asas-asas Hukum Perburuhan*. Rajawali Pers, Jakarta.
- Moh. Fadli, 2011. *Peraturan Delegasi di Indonesia*, UB Press, Malang.

- Moh. Mahfud MD, 1999. *Pergulatan Politik dan Hukum di Indonesia*. Gama Media, Yogyakarta.
- Nomensen Sinamo, 2015. *Hukum Administrasi Negara*. Jala Permata Aksara, Jakarta.
- Philipus M Hadjon, 1983. *Perlindungan Hukum Bagi Masyarakat Indonesia*. Bina Ilmu, Surabaya.
- R. Joni Bambang, 2013. *Hukum Ketenagakerjaan*, CV. Pustaka Setia, Bandung.
- Ridwan HR, 2013. *Hukum Administrasi Negara Edisi Revisi*, Rajawali Pers, Jakarta.
- Sendjun H. Manulang, 1990. *Pokok-pokok Hukum Ketenagakerjaan Indonesia*, Rineka Cipta, Jakarta.
- Tim Visi Yustisia, 2016. *Undang-Undang Nomor 23 Tahun 2014 Tentang Pemerintahan Daerah dan Perubahannya*. PT. Visimedia Pustaka, Jakarta.
- Zaenal Asikin *et. al*, 2012. *Dasar-Dasar Hukum Perburuhan*. PT. RajaGrafindo Persada, Jakarta,
- Zaeni Asyhadie, 2007. *Hukum Kerja*. RajaGrafindo Persada, Jakarta.
- Zaeni Asyhadie, 2013. *Hukum Kerja : Hukum Ketenagakerjaan Bidang Hubungan Kerja*. PT. RajaGrafindo Persada, Jakarta.
- Zainal Asikin, 2012. *Dasar-Dasar Hukum Perburuhan*, Rajawali Pers, Jakarta.
- Zainal Asikin, *et.al.*, 1993. *Dasar-dasar Hukum Perburuhan*. Raja Grafindo Persada, Jakarta.
- Journal**
- Fenny Natalia Khoe, “*Hak pekerja yang sudah bekerja namun belum menandatangani perjanjian kerja atas upah ditinjau berdasarkan Undang-Undang nomor 13 tahun 2003 tentang ketenagakerjaan*” *Jurnal Ilmiah Mahasiswa Universitas Surabaya* Vol. 2 Nomor 1 (2013), hal 3
- Putera Astomo dan Farhanuddin, “*Politik Hukum Pajak Daerah di Kabupaten Polewali Mandar Sulawesi Barat*” *Kanun Jurnal Ilmu Hukum* Vol. 20 Nomor 3 (2018), hal 512-513.
- Regulations**
- Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.
- Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan.
- Peraturan Pemerintah Nomor 38 Tahun 2007 tentang pembagian urusan pemerintah: antara pemerintah, pemerintah Daerah Provinsi dan Pemerintah Daerah Kabupaten/Kota.
- Peraturan Menteri Dalam Negeri Nomor 55 Tahun 2010 Tentang Tata Naskah Dinas di Lingkungan Kementerian Dalam Negeri.
- Peraturan Menteri Perhubungan Republik Indonesia Nomor Pm 65 Tahun 2012 tentang Petunjuk Teknis Tata Naskah Dinas Kementerian Perhubungan.

Peraturan Daerah Kota Bengkulu Nomor 7
Tahun 2011 tentang Retribusi Pelayanan
Parkir di Tepi Jalan Umum.

Undang-undang No. 24 Tahun 2011 Tentang
Badan Penyelenggara Jaminan Sosial .

Website:

https://id.wikipedia.org/wiki/Juru_parkir,

accessed 12 Desember 2018 on 06.26
WIB.