



Insight

Decision of the Constitutional Court No. 132/PUU-XXIII/2025: Fairness in Employment Termination Claims

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Introduction

Pursuant to the provisions of Article 82 of Law No. 2 of 2004 concerning the Settlement of Industrial Relations Disputes (“Law No. 2/2004”), a lawsuit filed by a worker/laborer against a termination of employment may only be submitted within a period of one (1) year from the date the decision of termination is received or notified by the employer.

This provision, however, has been perceived by workers/labourers as failing to embody the principle of justice, thereby prompting a private employee, Mr. Domuli Sentudes, to file a petition for judicial review before the Constitutional Court of the Republic of Indonesia. The petition seeks to examine the constitutionality of Article 82 of Law No. 2 of 2004, as most recently interpreted in Constitutional Court Decision No. 94/PUU-XXI/2023, in relation to Article 28D paragraph (1) and Article paragraph (2) of the 1945 Constitution of the Republic Indonesia. The petition is grounded upon the following considerations.

The stipulation under Article 82 of Law No. 2/2004, as most recently interpreted in Decision No. 94/PUU-XXI/2023, which restricts the filing of an employment termination lawsuit to within one (1) year from the date the termination decision is received or notified by the employer, in practice, may constitute a substantial impediment to the constitutional right of workers/labourers to obtain substantive justice.

In practice, many workers/labourers are subjected to structural pressures which prevent them from promptly initiating legal action within such a short time frame. They often lack timely access to legal information or assistance following termination, owing to socioeconomic constraints, limited legal literacy, or dependence on the employer. The imposition of an absolute one-year limitation period fails to consider circumstances such as force majeure, emergency situations, or procedural irregularities in the termination process, which frequently occur in non-written, concealed, or manipulative forms. Consequently, the rigid enforcement of such limitation period leads to legal inequity, disregarding the inherently unequal nature of industrial relations.

Under Law No. 2/2004, the filing of an industrial relations dispute claim (Perselisihan Hubungan Industrial or PHI) may only proceed after the completion of bipartite negotiations, mediation or conciliation facilitated by the Manpower Office (Dinas Tenaga Kerja), and the issuance of a written recommendation by the mediator as a procedural prerequisite for submission to the court. However, in practice, numerous employers act uncooperatively by delaying meetings, failing to respond to bipartite invitations, or refusing to issue minutes of negotiation. Without such minutes, a worker cannot register the dispute with the Manpower Office for mediation. These circumstances often consume several months merely at the preliminary stage. Moreover, the mediation process at the Manpower Office typically takes an additional three to six months to conclude.

As a result, workers/labourers lose a substantial portion of the one-year statutory limitation period before they can even file a lawsuit, thereby effectively depriving them of their substantive rights, not due to negligence, but owing to procedural impediments and delaying tactics employed by the employer.

For above reasons, Mr. Domuli Sentudes, as the petitioner, requests that the Constitutional Court extend the limitation period for filing an employment termination lawsuit from one (1) year to three (3) years, to ensure a more equitable protection of workers' constitutional rights.

Considerations of the Constitutional Court

In response to the petition, the Constitutional Court expressed its understanding of the concrete concerns faced by workers/laborers in resolving issues relating to termination of employment, particularly the lengthy procedures that must be undertaken and the limited timeframe prescribed by law. Nevertheless, the Court is of the opinion that, concerning the series of stages or procedures that must be exhausted by workers/laborers prior to submitting a claim for termination of employment before the Industrial Relations Court, such procedural requirements must be duly observed and cannot be disregarded, as they constitute a mandatory legal obligation.

Furthermore, in relation to the limitation period provided by law, namely one (1) year, the Constitutional Court noted that although it has previously held in Decision No. 94/PUU-XXI/2023 that a claim by a worker/laborer concerning termination of employment may only be filed within one (1) year from the date the termination decision is received or notified by the employer, the Court now considers that, in practice, the time required to complete the mandatory preliminary stages is often insufficient. Therefore, to afford workers adequate time to submit a claim before the Industrial Relations Court when mediation or conciliation fails to reach an agreement, the Court finds it equitable that the one-year limitation period be calculated from the date on which the mediation or conciliation process fails to achieve a settlement.

With respect to the petitioner's request to extend the limitation period to three (3) years, the Court finds that such request cannot be granted. A limitation period of three (3) years for workers/laborers to bring a claim before the Industrial Relations Court concerning termination of employment would result in undue delay and legal uncertainty for both parties. For the workers, this would prolong uncertainty regarding the realization of their rights arising from termination, whereas for the employers, it would hinder the attainment of a stable and legally certain business climate. The Court emphasized that such legal certainty is essential for ensuring a conducive and predictable environment for conducting business activities.

Accordingly, based on the foregoing considerations, the Court holds that the one-year limitation period for workers/laborers to file a claim concerning termination of employment before the Industrial Relations Court, calculated from the date on which mediation or conciliation fails to reach an agreement, constitutes a limitation period that adequately upholds the workers' constitutional rights to a decent livelihood, freedom from discrimination, and legal certainty.

Conclusion

Therefore, it can be concluded that the Constitutional Court recognizes and justifies the real and practical difficulties encountered by workers/laborers in bringing claims concerning termination of employment before the Industrial Relations Court, particularly with respect to the lengthy procedural stages and the limited timeframe provided by statute.

Nevertheless, the Court is of the view that the procedural stages required of workers/laborers are unavoidable, as they represent a mandatory legal process. However, regarding the one-year limitation period that commences upon receipt or notification of the termination decision by the employer, the Court deems it necessary to revise the point of commencement of such period to ensure fairness and legal certainty for both parties.

Accordingly, the Court determines that the calculation of the limitation period shall begin from the date on which the mediation or conciliation process fails to achieve a settlement, thereby ensuring a more equitable and legally certain framework for the protection of workers' rights.

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