

## **Juridical Analysis of Judges Decisions Regarding Termination of Employment Due to Presumed Absenteeism (Case Study of Supreme Court Decision Number 1242 K/PDT.SUS-PHI/2020)**

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### **Abstract**

Yohanes Mansri Oncok as a former CV worker. Vita Permai who has worked for approximately 12 years, 5 months, 12 days. Yohanes Mansri Oncok was terminated by CV. Vita Permai. Due to the reason for applying for annual leave to CV. Vita Permai did not receive confirmation or response. The dispute occurred because Yohanes Mansri Oncok was considered absent by CV. Vita Permai and no compensation was given to Yohanes Mansri Oncok. There is also evidence that CV. Vita Permai does not regulate leave provisions in company regulations. As a legal step, Yohanes Mansri Oncok filed a lawsuit with PHI. In his considerations, the judge stated that Yohanes Mansri Oncok's lawsuit was rejected because he was declared absent, so it was rejected in its entirety. Yohanes Mansri Oncok submitted a cassation request to the Supreme Court and part of Yohanes Mansri Oncok's lawsuit was granted through Supreme Court dismissal Number 1242 K/Pdt.Sus-PHI/2020. This research aims to determine the legal relationship between Yohanes Mansri Oncok and CV. Vita Permai, as well as to find out the basis for the judge's consideration of not granting Yohanes Mansri Oncok's lawsuit request with CV. Vita Permai to get severance pay. The research method used is the legal relationship between Yohanes Mansri Oncok and CV. Vita Permai is a normative juridical type of legal research, on the basis that there is consideration of the starting point for research and analysis of legal regulations. Regarding Yohanes Mansri Oncok's status, he changed from being a worker who resigned due to absenteeism, becoming a worker who was laid off by CV. Vita Permai.

Keywords: Absenteeism, Leave, Termination of Employment

### **INTRODUCTION**

Workers play an important role as actors and development goals in the implementation of labor development. This quite important role is very necessary for labor changes to improve quality, contribute to development and increase protection for workers and their families in line with human dignity (hindayani and munthe 2018). the purpose of worker protection is to ensure equal treatment and protection from discrimination. this is done to ensure the welfare of workers and their families while still paying attention to the development of the company.

The position of workers and employers is basically unequal. when viewed from a juridical point of view, workers are workers who are free from slavery, servitude and slavery. From a sociological point of view, workers can be interpreted as laborers who are not free, but only have energy as the main capital for work, so they are forced to work for others. (Rahayu, Munir, and Azizah 2021). In running a company, here workers have a position that can be said to be very influential. This is because it is the workers who run the company at the behest of the employer. Workers here are only one aspect of the resources in the company Workers here can be said to be living organisms, meaning that humans are included in a living organism whose personality will be formed influenced by the

environment directly which indicates the functioning of an organization or company. (Hidayani and Munthe 2018).

In order for workers to function in a company well, special attention is needed by the company by forming a comfortable work environment. Apart from calculating profits and losses for the business, every company has a social obligation, which is to care and uphold the company's moral standards for the welfare of society. In fact, there are still many businesses that do not want to take responsibility for the rights of their workers, causing many conflicts between employers and workers. The emergence of disputes is a natural thing, it has become human nature. The important thing is to reduce the possibility of disputes and reconcile the two parties to the dispute, even if the legal subjects, legal entities and parties involved in it already know each other. The extent of incidents or disputes will increase due to the many lifestyles that exist in society, one of which is the industrial world, where debates about industrial relations occur between employers and workers.

Industrial relations disputes occur due to differences of opinion between workers/laborers and companies. Industrial relations are inseparable from labor law and are implemented by three main actors: the government, employers, and workers. A dispute that often occurs is regarding termination of employment (hereinafter referred to as PHK). Termination of employment can be characterized as a type of termination of employment, due to certain causes or reasons that can result in the end of the rights and obligations of workers/laborers and employers. (Podungge et al. 2021). In principle, dismissal can also be interpreted as a form of cutting off the source of livelihood for workers/laborers and their families. PHK in principle can also be said to be a way to eliminate the source of income of workers and their families. According to Article 1 point 25 of Law Number 13 of 2003 concerning Manpower (hereinafter referred to as the Manpower Law) which reads "Termination of employment is the termination of employment relations due to a certain matter which results in the end of rights and obligations between workers / laborers and employers". In the definition contained in Article 1 point 4 of Law Number 2 of 2004 concerning Industrial Relations Dispute Resolution, it reads "a dispute over termination of employment is a dispute that arises because there is no agreement of opinion regarding the termination of employment by one of the parties". From the sound of the two articles, it can be concluded that layoffs occur due to discrepancies experienced by both parties, namely workers and employers, which result in the end of the rights and obligations of both. PHK also has legal consequences, for example the provision of severance pay, compensation for length of service, and replacement of rights. Workers, when viewed from a sociological point of view, are still always on the side of the weak, not the same as employers, therefore labor is often rejected when faced with the interests of the company. Layoffs seem to always be a problem that must be discussed until now, such as the layoff of Yohanes Mansri Oncok by CV. Vita Permai, which was caused by permit issues related to leave rights that workers should get. CV. Vita Permai is a company engaged in the field of cosmetic distributors located on Jln. Yos Sudarso RT. 028, RW. 007, Namosain Village, Alak District, Kupang City. The beginning of the problem that occurred between Yohanes Mansri Oncok and CV Vita Permai was regarding the annual leave application made by Yohanes Mansri Oncok to CV Vita Permai for family interests outside the city/island which was not permitted by CV Vita Permai on the grounds that annual leave can only be carried out at the end of the year along with the Christmas and New Year holidays. Yohanes Mansri Oncok continued to take leave despite no further confirmation or direction from CV Vita Permai regarding the annual leave request. Because CV. Vita Permai never authorized the leave, CV. Vita Permai considered Yohanes Mansri Oncok to be absent and for this reason CV. Vita Permai sent a Summons to Yohanes Mansri Oncok 2 (two) times for Yohanes Mansri Oncok to attend and carry out his duties. Furthermore, because the Second

Summons was not fulfilled by Yohanes Mansri Oncok, CV. Vita Permai gave a letter of termination to Yohanes Mansri Oncok on the grounds that the qualifications resigned.

All evidence revealed in the trial stated that CV Vita Permai did not have a Company Regulation (hereinafter referred to as PP) which regulates that workers' leave can only be taken and implemented during Christmas and New Year leave, witness testimony was also contradictory during the trial between one another regarding the existence of PP. CV Vita Permai should have submitted letter evidence related to the PP in court because it is very easy for CV Vita Permai if it really has a PP. That Yohanes Mansri Oncok/Case Petitioner was dismissed because it was considered that Yohanes Mansri Oncok violated work discipline and discipline, namely exercising his right to leave work before obtaining approval from CV. Vita Permai, so that the termination of Yohanes Mansri Oncok was entitled to compensation for termination of the relationship. Based on the explanation above, this Industrial Relations Dispute is interesting to study and there are differences Based on the previous arguments, there are gaps and this industrial relations dispute is worthy of research and there is an inequality in the verdict at the first level which decides that the worker is disqualified because he is absent for 5 days and is considered to have resigned, while in the cassation judge's decision he is considered to be terminated because there is no PP explaining the provisions for leave carried out during Christmas and New Year leave, so the company is obliged to pay severance pay. On the basis of these problems, the researcher then designed a study with the title "Juridical Analysis of Judges Decisions Regarding Termination of Employment Due to Workers Considered Absent, Case Study of Supreme Court Decision Number 1242 K/Pdt.Sus-PHI/2020".

## **RESEARCH METHOD**

This research method is one of the systems or ways of working that must be followed when conducting research with diligence and using applicable rules and is used to prove the scientific truth of the research conducted. This research uses normative juridical type legal research methods. On the basis that there is a consideration of the starting point of the research and the researcher's analysis of the laws and regulations that are used as the basis for considering the judge's decision number 1242 K / Pdt.Sus-PHI / 2020 regarding termination of employment due to absenteeism committed by workers. The legal materials used by the author in this research consist of primary, secondary, and tertiary legal materials. In collecting the data needed for this research, the researcher uses data collection techniques, namely literature study. This literature study is a data collection technique by reading, understanding, and quoting reliable data sources in the form of primary legal materials that contain laws and regulations. From the data that has been collected by the researcher, then the researcher analyzes the data qualitatively, namely focusing on the general principles that underlie the embodiment of all data obtained, summarized, researched, and studied as a whole so as to produce accurate data.

## **RESULTS AND DISCUSSION**

### **Case Position**

The dispute case that occurred to Yohanes Mansri Oncok with CV. Vita Permai. Yohanes Mansri Oncok as a former employee of CV. Vita Permai who has worked since January 5, 2007 until he was laid off on June 17, 2019 with a position as a PKWTT / Permanent Worker who has worked for approximately 12 years, 5 months, 12 days. CV. Vita Permai is a company engaged in the field of cosmetic distributors. On May 28, 2019 Yohanes Mansri Oncok applied for annual leave to CV. Vita Permai for family interests outside the city / island but did not get confirmation or response from CV. Vita Permai on the grounds that annual leave can only be carried out at the end of the year along with the Christmas and New Year holidays. Yohanes Mansri Oncok continued to take leave because

there was no further confirmation and direction from CV. Vita Permai regarding the annual leave request. Therefore CV. Vita Permai never allowed the leave, so Yohanes Mansri Oncok was considered a defaulter and for this reason CV. Vita Permai sent a summons to Yohanes Mansri Oncok 2 (two) times because he was absent for more than 5 days, so CV. Vita Permai issued a letter of termination against Yohanes Mansri Oncok with the qualification of resignation. At the PHI trial the judge granted the defendant's exception because it was proven that the plaintiff had gone on leave without permission and was then considered absent by the defendant. The defendant was considered absent because he did not respond to the two summonses from the defendant and there was no good faith. During the cassation hearing, it was found that all of the evidence revealed during the trial stated that CV Vita Permai did not have a regulation stating that workers' leave could only be taken at the end of December and the end of the year holiday. The testimonies of the witnesses contradicted each other regarding the existence of the PP.

The Panel of Judges of the Industrial Relations Court in their consideration stated that the lawsuit of Yohanes Mansri Oncok was rejected because he was absent for more than 5 days and did not fulfill the summons twice, therefore Yohanes Mansri Oncok was qualified to resign and was not entitled to compensation from CV. Vita Permai. Article 168 paragraph (1) of the Labor Law reads "Workers / laborers who are absent for 5 (five) or more consecutive working days without a written explanation accompanied by valid evidence and have been summoned by the employer 2 (two) times properly and in writing may have their employment terminated because they are classified as resigned."

Yohanes Mansri Oncok said that his rights as a worker were not fairly upheld in the Industrial Relations Court Decision Number 1/Pdt.Sus-PHI/2020/PN.Kpg. Then Yohanes Mansri Oncok in the same lawsuit filed an appeal to the Supreme Court to provide severance pay, long service pay, and compensation pay that Yohanes Mansri Oncok should have received in accordance with Article 156 paragraph (2), (3), and (4) of the Manpower Law. Without proof of the PP which regulates that leave must be taken during leave and the new year, the dismissal of Yohanes Mansri Oncok at the cassation hearing was considered by the Supreme Court Judge to have violated the rules of discipline and work discipline, namely exercising the right to leave work before obtaining approval from the CV. Vita Permai, so after being terminated Yohanes Mansri Oncok is entitled to compensation for termination.

The judges of the Supreme Court in their consideration stated that the *Judex Facti* misapplied the law in deciding this case. With the evidence revealed in the trial, it has been clearly proven that CV. Vita Permai does not have a PP which regulates that workers' leave can only be taken and carried out at the end of each year in December and the year-end collective holiday. Then Yohanes Mansri Oncok is entitled to compensation for termination of employment in accordance with Article 161 paragraph (3) of the Labor Law, namely severance pay amounting to 1 X the provisions of Article 156 paragraph (2), (3), and (4).

## **Discussion**

### **1. Analysis Related to Workers Who Apply for Leave Without Permission from Employers Can be Categorized as Absent in Judge's Decision Number 1242 K / Pdt.Sus-PHI / 2020 Regarding Termination of Work of Yohanes Mansri Oncok by CV. Vita Permai.**

Layoffs are something that is difficult to avoid, but must be done with clear reasons. Layoffs without a clear basis can be considered a unilateral action by the employer. The rules regarding valid reasons for layoffs are regulated in Government Regulation No. 35 of 2021. In this case, there is a difference in the verdict at the first

level which decided that the worker was considered absent for 5 days and was considered to have resigned. Workers who resign on their own accord are not entitled to severance pay and long service pay, while the cassation judge's decision states that workers are considered terminated because there is no PP that explains this, so the company is obliged to pay severance pay and long service pay.

Supreme Court Judge Decision Number 1242 K/Pdt.Sus-PHI/2020 with the consideration that Yohanes Mansri Oncok has violated the rules of discipline and work discipline, namely exercising his right to leave work before obtaining approval from CV. Vita Permai. The author agrees with the Supreme Court Judge's Decision rather than the PHI Judge's decision stating that Yohanes Mansri Oncok was disqualified for absenteeism because absenteeism in the Manpower Law Article 168 paragraph (1) says that "Workers or laborers who are absent for 5 (five) or more consecutive working days without written information accompanied by valid evidence and have been summoned by the employer 2 (two) times properly and in writing can have their employment terminated because they are disqualified from resigning" Even though the worker has submitted a leave application before the leave is taken, there is no response or confirmation from the company. The worker here continues to take leave regarding no response from the company. In addition, the PP also does not regulate the leave that must be taken during Christmas and New Year leave.

According to the author, workers who have applied for leave cannot be considered absent because it is in accordance with the leave procedure where leave is the right of every worker to take a vacation permit to temporarily not attend work. In this problem CV. Vita Permai does not make a clear PP stating that leave is taken during Christmas and New Year leave. Workers when applying for leave, the company has the right to refuse and delay workers' leave because the company must consider operational needs, leave schedules, the number of employees on leave and the reasons for their workers' leave, but employers also have an obligation to provide leave to their workers. The company's position in applying for leave is as a licensor who must also consider the company's interests, namely managing the leave application process properly so that the company can maintain a balance between business needs and worker welfare where worker welfare is very important as a form of legal protection for workers.

In the author's opinion, annual leave is the right of every worker and an obligation for companies where companies have an obligation to provide leave to workers in accordance with the Manpower Law. Providing leave rights to workers in agencies or companies is an obligation that must be fulfilled, and companies must provide the leave rights without reducing or cutting employee salaries (Pambudi and Najicha 2022). The purpose of the obligation to grant leave without deduction or deduction of salary for workers is to protect the welfare of workers, by providing leave workers can rest or carry out personal obligations without losing their income. It also aims to maintain workers' productivity, health, and motivation, as well as creating a fair and balanced working relationship between companies and workers. The author argues that companies also need to pay attention to workers who apply for such leave, such as :

- a. Workers who submit a request for leave to HRD or supervisor with a sufficient period of time or not suddenly. The worker's reason must also include the reason and purpose of the leave with evidence if needed.
- b. Refusal and approval should be given by the company to the employee's leave request by providing a clear and objective response, because the company needs to consider after giving leave approval to the worker, such as:

- 1) Operational Needs: The company will evaluate whether the work left by the worker on leave can be immediately taken over by other coworkers or whether it will disrupt the smooth running of the project.
  - 2) Leave Schedule: The company will see if the leave schedule proposed by the worker is in accordance with company policy and does not clash with busy periods or important projects.
  - 3) Number of Workers on Leave: The company will consider the number of workers who are or will be applying for leave in the same period. If too many workers are on leave at the same time, it may disrupt the team's performance.
  - 4) Reason for Leave: The company will usually ask for the reason for the leave request to ensure that the reason is valid and in accordance with company policy.
- c. Workers who apply for leave must have completed their work and responsibilities before going on leave. In addition, the worker must also ensure that the work assigned to the replacement worker can be continued properly by the replacement..

Article 79 paragraph (1) explains that “Employers are obliged to provide rest and leave time to workers/laborers” with leave workers can take a short break or for other purposes. Article 79 paragraph (2) letter c explains more clearly that “annual leave, at least 12 (twelve) working days after the worker/labor concerned has worked for 12 (twelve) months continuously”. Yohanes Mansri Oncok in this case applied for annual leave against the company for family interests outside the city/island, where Yohanes Mansri Oncok is entitled to annual leave in accordance with Article 79 paragraph (2) letter c because Yohanes Mansri Oncok was a Permanent Worker of Permai from January 5, 2007 until he was laid off on June 17, 2019 for approximately 12 (Twelve) years, 5 (Five) months, 12 (Twelve) days. The fact is that the company in this matter did not provide a response or confirmation to the leave application submitted by the worker. The lack of response can be considered as administrative negligence on the part of the company, which should have provided clarification.

The problem between CV. Vita Permai and Yohanes Mansri Oncok can use an analogy to State Administrative Law, namely concepts related to Positive Fiction and Negative Fiction. Positive Fictitious is a request that is considered legally granted if government agencies and/or officials do not make a decision and/or take action within a predetermined period of time, in a series of administrative sciences (Norra 2021). By law, the government or agency must answer public requests for certain judgments or actions. The public has the right to take the matter to court if there is no response within the specified time period. Furthermore, Negative Fictitious is when a government agency or official does not issue a decision even though it has the authority and obligation to do so, even though a request for a decision has been made and the time period specified by laws and regulations has passed, the agency or official is deemed to have rejected the decision (Yuliani 2020). The attitude of not responding to a request for a decision made by a State Administrative Body or Official is included in Negative Fiktif, but if the State Administrative Body or Official has previously had a request to issue a decision, then the silence of the State Administrative Body or Official is considered a rejection of the request..

It can be seen from these two concepts that the attitude taken by CV. Vita Permai to Yohanes Mansri Oncok regarding the issue of the proposed leave permit includes Negative Fiction. This is because CV Vita Permai did not provide a response or confirmation to the leave application by Yohanes Mansri Oncok, so with this the company is considered a rejection of the application. The company does not allow leave applications submitted by workers on the grounds that annual leave can only be carried out at the end of the year along with the Christmas and New Year holidays.

Considering that the company's production process must continue and workers' leave requests must not be hampered, the rejection must be seen from the

requirements contained in the work agreement, PP, and PKB which is a collective agreement between the company and workers. Article 79 paragraph (3) explains “The implementation of annual rest periods as referred to in paragraph (2) letter c is regulated in work agreements, company regulations, or collective labor agreements” From this article, the author understands that the implementation of sudden requests for annual leave depends on the work agreement, PP, or PKB where the worker concerned works. In this case, it has been agreed that the request for leave must be submitted with at least one week's notice or related to the provisions of how long the employer must respond to the request for leave with a note that as long as it does not conflict with the laws and regulations, according to the author, the PP and PKB at the place where the worker concerned determines when annual leave can be taken. In this case, it has been decided that leave requests must be submitted with at least one week's notice, or that employers must reply to leave requests with at least one week's notice, provided that this does not violate any laws. In fact, the Labor Agreement, PP, and PKB that have been agreed upon do not state that annual leave can only be taken at the end of the year in conjunction with the Christmas and New Year holidays. Yohanes Mansri Oncok as the worker in this case cannot be considered absent because in fact the company's reason is not stated in the PP so that workers can still take annual leave even though it is not on Christmas and New Year holidays. The author disagrees with the workers who were considered absent by the company because during the cassation trial, it was found that all the evidence revealed in the trial stated that CV. Vita Permai did not have a PP which regulated that workers' leave could only be taken and carried out on every Christmas and New Year's holiday, CV. Vita Permai only brought a witness to prove the leave but also contradicted the witness of Yohanes Mansri Oncok regarding the existence of the PP and in the end CV Vita Permai still could not prove the PP directly. It is clear that the workers here are entitled to get their rights to be terminated, not disqualified for being absent because there is no PP that regulates the leave.

The company in granting leave to workers is mandatory and if the company refuses to grant leave then the company clearly commits an offense as stipulated in Article 187 paragraph (1) of the Manpower Law which reads “Anyone who violates the provisions referred to in Article 37 paragraph (2), Article 44 paragraph (1), Article 45 paragraph (1), Article 67 paragraph (1), Article 71 paragraph (2), Article 76, Article 78 paragraph (2), Article 79 paragraph (1), and paragraph (2), Article 85 paragraph (3), and Article 144, shall be subject to criminal sanctions of imprisonment for a minimum of 1 (one) month and a maximum of 12 (twelve) months and/or a fine of at least Rp 10. 000,000.00 (ten million rupiah) and a maximum of Rp 100,000,000.00 (one hundred million rupiah).” The article is for the enforcement of legal provisions firmly, the existence of confinement sanctions and fines clearly serves as a deterrent to violations in order to comply with applicable laws.

## **2. Legal consequences of Supreme Court Decision Number 1242 K/Pdt.Sus- PHI/2020 regarding the termination of Yohanes Mansri Oncok's employment by CV. Vita Permai.**

In essence, the holding of a process before the court aims to obtain a judge's decision. Sudikno Mertokusumo provides a definition of a judge's decision as a statement by a judge, as an official given that authority, pronounced in court and aimed at ending or resolving a case or a dispute between the parties (Mertokusumo). This definition Sudikno tries to emphasize that what is meant by the judge's decision is pronounced in front of the trial. According to Harahap in his book, in terms of its nature, “this judge's decision can be divided into 3 (three) types, namely:

- 1) Declaratory Judgment is a decision rendered by a judge with a ruling that states or confirms a situation or position that is valid according to law alone. For example, about the position as a legitimate child, the position as an heir, or about the appointment of a child..
- 2) Constitutief verdict is a verdict rendered by a judge whose ruling creates a new legal situation, either negating a legal situation or creating a new legal situation.
- 3) Condemnatoir decisions are decisions made by judges with punitive rulings” (Harahap 2005).

In the opinion of the author, the Supreme Court judge in handing down a decision on the issue between Yohanes Mansri Oncok and CV. Vita Permai can be categorized as a condemnatoir decision. It can be seen from the ruling given by the panel of judges in the form of punishing the defendant to pay the rights of Yohanes Mansri Oncok as a worker after being laid off. Supreme Court Decision Number 1242 K/Pdt.Sus-PHI/2020 stated that the defendant was guilty of declaring Yohanes Mansri Oncok to be absent which resulted in Yohanes Mansri Oncok being disqualified because it was proven that he did not have a PP which regulates that workers' leave can only be taken and implemented during Christmas and New Year leave

The existence of legal acts and legal events will lead to legal consequences. “Legal consequences are the result of an action taken to obtain an effect desired by the perpetrator and regulated by law” (Harahap 2005) The form of legal consequences can be::

1. The birth, change or disappearance of a legal situation.
2. The birth, change or disappearance of a legal relationship, between two or more legal subjects, in which the rights and obligations of one party face the rights and obligations of the other party.
3. The birth of sanctions if an unlawful act is committed.

Based on the analysis that has been carried out by the author, the author's analysis regarding the legal consequences arising from Supreme Court Decision Number 1242 K/Pdt.Sus-Phi/2020 is as follows:

1. Canceling the Decision of the Kupang District Court Number 1/Pdt.Sus-PHI/2020/PN.Kpg on June 18, 2020
2. The employment relationship between Yohanes Mansri Oncok and CV Vita Permai is declared to have been terminated since June 18, 2020.
3. CV. Vita Permai is obliged to pay the rights of Yohanes Mansri Oncok with the following details:
  - a. Severance pay 1 time (1x) Article 156 paragraph (2) letter (i) of the Labor Law with 9 (Nine) months of wages Rp. 1,950,000 x 9 = Rp. 17,550,000, -
  - b. Long Service Award according to Article 156 paragraph (3) letter (d) of the Labor Law with 5 (Five) months of wages = 5 x Rp. 1,950,000 = Rp. 9,750,000.
  - c. Right Replacement Money in accordance with Article 156 paragraph (4) letter (c) of the Labor Law, namely 15% x Rp. 27,300,000, - = Rp. 4,095,000,-

Thus CV. Vita Permai has an obligation to pay Yohanes Mansri Oncok's rights (Severance Pay + Long Service Award + Right Replacement Money):  
Rp. 17,550,000, - + Rp. 9,750,000, - + Rp. 4,095,000, - = Rp. 31,395,000,-

Based on the description above, in the author's opinion, based on the judge's decision, the legal consequences arising after the issuance of Supreme Court Decision Number 1242 K/Pdt.Sus-Phi/2020 for Yohanes Mansri Oncok are to annul the Kupang District Court Decision Number 1/Pdt.Sus-PHI/2020/PN.Kpg on June 18, 2020. This changes the status of Yohanes Mansri Oncok, who was originally a worker who resigned due to absenteeism which is regulated in Article 168 paragraph (1) of the Manpower

Law which reads “Workers / laborers who are absent for 5 (five) or more consecutive working days without information in writing which is equipped with valid evidence and has been summoned by the employer 2 (two) times properly and in writing may have their employment terminated because they are qualified to resign.”. Yohanes Mansri Oncok in this case denied being considered absent by the company because he did not take annual leave on Christmas and New Year leave, explained in Article 79 paragraph (3) of the Manpower Law which reads “The implementation of annual leave as referred to in paragraph (2) letter c is regulated in a Work Agreement, Company Regulation, or Collective Labor Agreement”. In fact, there is no PP that regulates that annual leave must be taken on Christmas and New Year's leave, so Yohanes Mansri Oncok is categorized as a worker who was terminated by CV. Vita Permai.

In the second legal consequence, the employment relationship between Yohanes Mansri Oncok and CV Vita Permai has been declared terminated since June 18, 2020, namely since the Supreme Court's decision was pronounced. In the author's opinion, this is a legal effect because it results in the change or disappearance of a legal relationship between two or more legal subjects, which in this case is the termination of Yohanes Mansri Oncok by CV Vita Permai. Yohanes Mansri Oncok in the end of the employment relationship cannot be considered absent because Yohanes Mansri Oncok has applied for leave according to the procedure but CV. Vita Permai did not respond, so Yohanes Mansri Oncok was declared terminated by the Supreme Court Judge. The dismissal of Yohanes Mansri Oncok because it was proven that he had violated the rules of work discipline and discipline by taking leave before obtaining approval from the CV. Vita Permai company, then with the termination of Yohanes Mansri Oncok, he is entitled to receive termination compensation in accordance with the provisions of Article 156 paragraph (2) related to the calculation of severance pay, Article 156 paragraph (3) concerning long service pay and compensation pay in accordance with the provisions of Article 156 paragraph (4).

The third legal consequence is that CV Vita Permai is obliged to pay the rights of Yohanes Mansri Oncok in accordance with the decision of the Supreme Court Judge. In the author's opinion, paying the rights of dismissed workers is a form of corporate responsibility to workers as regulated in Article 156 paragraph (1) of the Labor Law. The employment relationship between workers and companies is an agreement, if the agreement between the two parties has ended, the company has an obligation to fulfill all agreed rights, including rights arising from the end of the agreement. The rights that must be paid by the company to Yohanes Mansri Oncok in this problem are in accordance with Article 156 paragraph (2) of the Labor Law regarding the calculation of severance pay.

## **PENUTUP**

### **Conclusion**

Based on the results of research and analysis of the problems that have been carried out by the author, the following conclusions can be drawn::

1. Workers who have applied for leave cannot be considered absent because they are in accordance with the leave procedure. In this problem CV. Vita Permai does not make a regulation that clearly regulates which states that leave must be taken during Christmas and New Year leave. In this case, it can be seen that the company's attitude when workers request leave, the company is silent or does not issue any action on a request to issue a decision in the analogy to State Administration Law, this action is included in Negative Fictitious. If the company has previously issued a regulation to

issue a PP, then the company's silence is considered a rejection of the request. In this case, the company does not have a PP that regulates that leave must be taken during Christmas and New Year leave, so workers cannot be considered absent and are entitled to their rights as workers who have been terminated.

2. The legal consequences of Supreme Court Decision Number 1242 K/Pdt.Sus-PHI/2020 regarding the termination of Yohanes Mansri Oncok's employment by CV. Vita Permai Canceled the Kupang District Court Decision Number 1/Pdt.Sus-PHI/2020/PN.Kpg on June 18, 2020. This changes the status of Yohanes Mansri Oncok, who was originally a resigned worker due to Yohanes Mansri Oncok's absenteeism, to be categorized as a worker who was terminated by CV. Vita Permai, so that the company is required to pay Yohanes Mansri Oncok's rights as a worker affected by termination in accordance with Article 156 paragraph (2), (3), and (4) of the Manpower Law.

### **Suggestions**

1. To the panel of judges of the Industrial Relations Court so that judges in deciding cases always prioritize the principles of justice, transparency, and accountability, and pay more attention to the rights of workers as vulnerable parties in labor relations.
2. For workers to understand the correct leave procedures in accordance with the applicable PP, and to better understand workers' rights related to legal protection for workers
3. For companies to comply with applicable regulations and ensure the payment of compensation after termination of employment in accordance with existing provisions. This is an obligation of employers to provide workers' rights and uphold the principle of justice in labor relations, so as to create a fair and balanced work environment for all parties involved.

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