

Efektifitas lembaga arbitrase dalam penyelesaian perselisihan hubungan industrial = The effectiveness of the institute of arbitration in the industrial dispute settlement

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Abstrak

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Penyelesaian perselisihan hubungan industrial melalui luar pengadilan memberikan kebebasan bagi kedua belah pihak untuk menentukan lembaga penyelesaiannya. Lembaga penyelesaian perselisihan hubungan industrial di luar pengadilan yaitu bipartit, konsiliasi, arbitrase dan mediasi. Salah satu lembaga yang mempunyai kekuatan mengikat adalah Arbitrase yang dapat menyelesaikan perselisihan kepentingan dan perselisihan antar serikat pekerja/serikat buruh dalam satu perusahaan. Adapun yang menjadi permasalahan dalam penelitian ini adalah untuk mengetahui dan menganalisis tentang lembaga arbitrase yang dianggap kurang efektif dalam penyelesaian perselisihan hubungan industrial dan upaya yang harus dilakukan untuk meningkatkan efektifitas lembaga arbitrase dalam penyelesaian perselisihan hubungan industrial. Penelitian ini dapat memberikan pengetahuan secara teoritis dan praktis dalam perselisihan hubungan industrial. Metode penelitian yang digunakan oleh penulis yaitu berdasarkan penelitian empiris atau penelitian lapangan. Penelitian lapangan dilakukan oleh penulis yaitu kepada Kementerian Tenaga Kerja Indonesia, Dinas Tenaga Kerja Kabupaten Tangerang, PT Hokiku Utama Sakti dan Serikat Buruh Kasbi.

Hasil penelitian menyatakan bahwa penggunaan arbitrase dalam pelaksanaan penyelesaian perselisihan hubungan industrial masih kurang efektif. Hal ini dikarenakan masih kurangnya pemahaman tentang arbitrase itu sendiri, terbatasnya kewenangan yang diberikan terhadap arbitrase, kekhawatiran terhadap hasil putusan arbitrase yang mengikat para pihak, jalur mediasi mekanisme wajib dan kemampuan para arbiter yang menyelesaikan perselisihan tidak sesuai dengan harapan pekerja dan pengusaha. Untuk meningkatkan efektifitas arbitrase maka ditempuh dengan pelaksanaan sosialisasi yang diberikan oleh Kementerian TenagaKerja, adanya penambahan wewenang yang diberikan bagi Arbitrase, ketentuan dalam hal biaya dan ada suatu jaminan kerahasiaan dalam perselisihan antara para pihak.

Penyelesaian melalui arbitrase harus melalui kesepakatan tertulis dari para pihak yang berselisih untuk menyerahkan penyelesaian perselisihan kepada arbiter yang putusannya mengikat para pihak dan bersifat final. Peran dari arbitrase hubungan industrial yang sangat penting dalam penyelesaian perselisihan hubungan industrial memerlukan adanya peningkatan efektifitas dalam menyelesaikan perselisihan antara tenaga kerja dan perusahaan. Saran yang diberikan yaitu sebaiknya Kementerian Tenaga Kerja memberikan sosialisasi tentang arbitrase dan diperlukan perubahan dalam peraturan Undang-undang Penyelesaian Perselisihan Hubungan Industrial mengenai arbitrase.

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ABSTRACT

Alternative settlement of industrial disputes outside of court room provides freedom for both parties to determine the institution for the settlement. Institutions available for the alternative settlement of industrial

disputes outside of court are bipartite, conciliation, arbitration and mediation. One of the institutions that has a binding power is arbitration, which seek store solve the conflict of interests and the conflict between labor unions in a company. The issue within this research is to study and to analyze arbitration institutions considered less effective in the resolution of industrial disputes and the efforts necessary to improve the effectiveness of arbitration institutions in the settlement of industrial disputes. This research can provide the theoretical and practical knowledge in industrial relations disputes. The method used by the authors is based on empirical research or field research. The field research is conducted by the author on the Indonesian Ministry of Labor, the Department of Labor of Tangerang Regency, PT Hokiku Utama Sakti and Kasbi Labor Union.

The study states that the application of arbitration on the settlement of industrial disputes is still not effective. This is due to the lack of understanding of the arbitration itself, the limited authority given to the arbitration institution, the concerns over the results of the arbitration decision binding on the parties, the compulsory mediation mechanisms and the ability of the arbiters in resolving disputes that do not meet the expectations of both workers and employers. To increase the effectiveness of arbitration, education is provided by the Ministry of Labor, the addition of the authority is given to the arbitration, provisions in terms of cost, and confidentiality in dispute between the parties is guaranteed.

Settlement through arbitration must be done through a written agreement between the parties to a dispute to submit the settlement of disputes to the arbiter whose decision binds the parties and shall be final. The role of industrial relations arbitration that is so vital in the resolution of industrial disputes demands an increase in effectiveness in resolving any conflict between workers and the company. The recommendations here are for the Ministry of Labor to provide the necessary education of arbitration and for some regulatory amendments in the Law on Industrial Dispute Settlement arbitration.

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