

ABSTRAK

YULI MEGA ANGGRAENI, NIM. 2410622063. KEPASTIAN HUKUM BANDING ADMINISTRATIF ATAS PEMBERHENTIAN PEGAWAI NEGERI SIPIL PASCA MENJALANI PIDANA (Studi Keputusan Badan Pertimbangan Aparatur Sipil Negara). Dibimbing oleh Taufiqurrohman Syahuri dan Irwan Triadi.

Penelitian ini bertujuan untuk menganalisis keputusan Badan Pertimbangan Aparatur Sipil Negara (BPASN) apakah sudah sesuai dengan kepastian hukum serta merumuskan dan menjelaskan model putusan yang ideal terhadap pemberhentian PNS pasca menjalani pidana.

Penelitian ini masuk dalam penelitian yuridis normatif. Pendekatan yang digunakan pendekatan normatif, pendekatan peraturan perundang-undangan dan pendekatan kasus.

Penelitian menemukan bahwa pembatalan Keputusan Bupati atas pemberhentian Pegawai Negeri Sipil (PNS) oleh BPASN mencerminkan penerapan prinsip kepastian hukum yang menempatkan fakta material sebagai dasar pengambilan keputusan, sehingga mekanisme banding administratif berfungsi sebagai instrumen perlindungan hukum terhadap keputusan pemberhentian yang tidak tepat.

Hasil penelitian juga menunjukkan bahwa model putusan yang ideal terhadap pemberhentian PNS pasca menjalani pidana harus didasarkan pada pemeriksaan menyeluruh terhadap fakta material, penerapan prinsip proporsionalitas dan pertimbangan hukum yang jelas. Putusan pidana yang telah berkekuatan hukum tetap dan telah dijalani oleh PNS seharusnya menjadi faktor evaluatif dengan tujuan pembinaan ASN, bukan otomatisasi sanksi administratif terberat. Pasal 44 Peraturan BKN Nomor 3 Tahun 2020 Tentang Petunjuk Teknis Pemberhentian PNS mewajibkan PNS yang telah selesai menjalani pidana penjara untuk mengajukan pengaktifan kembali dan apabila tidak dipenuhi, PNS tersebut dapat diberhentikan dengan hormat. Terhadap pemberhentian tersebut, PNS yang bersangkutan dapat menempuh upaya hukum berupa Banding Administratif.

Kata Kunci: Pemberhentian, Pidana, Banding Administratif.

ABSTRACT

YULI MEGA ANGGRAENI, NIM. 2410622063. **LEGAL CERTAINTY OF ADMINISTRATIVE APPEALS REGARDING DISMISSAL OF CIVIL SERVANTS AFTER SERVING A CRIMINAL SENTENCE** (A Study of the Decision of the State Civil Service Advisory Board). Supervised by Taufiqurrohman Syahuri and Irwan Triadi.

This research aims to analyze whether the decisions of the State Civil Apparatus Advisory Board (BPASN) are consistent with the principle of legal certainty, as well as to formulate and elaborate an ideal decision-making model concerning the dismissal of Civil Servants (PNS) following the completion of criminal sentences.

This research constitutes normative juridical research. The approaches employed include the normative approach, the statutory approach, and the case approach.

The research finds that the annulment by the Civil State Apparatus Advisory Board (BPASN) of the Regent's Decree concerning the dismissal of a Civil Servant (Pegawai Negeri Sipil/PNS) reflects the application of the principle of legal certainty, which places material facts as the basis for decision-making, such that the administrative appeal mechanism functions as an instrument of legal protection against improper dismissal decisions..

The research further demonstrates that the ideal decision-making model with respect to the dismissal of a Civil Servant following the serving of a criminal sentence must be grounded in a thorough examination of material facts, the application of the principle of proportionality, and clear legal reasoning. A criminal judgment that has obtained permanent legal force (inkracht van gewijsde) and has been served by the Civil Servant concerned ought to be treated as an evaluative factor oriented toward the purposes of State Civil Apparatus (ASN) development and guidance, rather than as a trigger for the automatic imposition of the most severe administrative sanction. Article 44 of National Civil Service Agency (BKN) Regulation Number 3 of 2020 concerning Technical Guidelines for the Dismissal of Civil Servants requires civil servants who have completed their term of imprisonment to apply for reactivation of their employment status. Failure to fulfill this requirement may result in dismissal with honor. In response to such dismissal, the concerned civil servant may pursue legal remedies through an Administrative Appeal.

Keywords: Dismissal, Criminal Sanction, Administrative Appeal.