

The Problems of Law Enforcement Against Civil Service Individuals In Indonesia

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ABSTRACT

The regulations that form the basis for regulating civil servant discipline in the Republic of Indonesia are Law Number 5 of 2014 concerning State Civil Apparatus; Government Regulation Number 17 of 2020 concerning Amendments to Government Regulation Number 11 of 2017 concerning Management of Civil Servants; and Government Regulation Number 94 of 2021 concerning Civil Servant Discipline. In PP No. 94 of 2021, it explains the discipline of civil servants as a form of employee's ability to comply with obligations and avoid the prohibitions specified in the legislation and/or official regulations which, if not obeyed or violated, will be imposed. In PP No. 94 of 2021 there are 17 (seventeen) obligations and 14 (fourteen) prohibitions for civil servants, with the level of disciplinary punishment divided by level and type, each according to the nature and severity or severity of the violation committed, as well as the consequences. caused by the violation committed by the Civil Servant concerned.

Keywords: Problematics, Civil Servants, Disciplinary

INTRODUCTION

Indonesia as a welfare state has the obligation to organize public welfare and serve the public interest. This is an achievement of the national goals set out in the Preamble to the 1945 Constitution (UUD 1945), namely realizing justice, prosperity, equality, and sustainability between material and spiritual based on Pancasila in the Unitary State of the Republic of Indonesia. So that it can provide security, land and order (defense, security, and protectional function); welfare (welfare function); education (educational function); and realizing world order and welfare (world peace and human welfare). In an effort to achieve national goals, it requires healthy government administration in the sense that there are no deviations in it considering that the organizers must have virtuous, authoritative, efficient and high-quality attitudes, the achievement of these attitudes depends on improving the performance of Civil Servants (PNS).

What is happening now is that society, the media and politicians have expressed growing discontent with the public sector and with the Civil Servant (PNS) that bureaucrats and bureaucracies are expensive, slow, inefficient, and unresponsive. This is because there is an expectation from all parties that civil servants in providing public services must be of quality, and this is an important part of governance and public administration, both at the center and in the regions. This is a reflection of clean and good governance. This means that improving the quality of public services is at the forefront of the nation's image. Therefore, it is the main task of the government, including local governments in the era of decentralization to organize, provide or provide quality public services to the community. That the state is obliged to serve every citizen and resident to fulfill their basic rights and needs within the framework of public services which is the mandate of the 1945 Constitution of the Republic of Indonesia (UUD 1945); and that building public trust in public services carried out by public service providers is an activity that must be carried out in line with the expectations and demands of all citizens and residents regarding improving public services, but unfortunately the government, in this case civil servants, often abuses power and authority, causing civil servants to receive sanctions. Discipline. The Government Regulation on civil servant discipline contains obligations, prohibitions, and disciplinary penalties that can be imposed on civil servants who have been proven to have committed violations. The imposition of disciplinary penalties is intended to foster civil servants who have committed violations, so that those concerned have an attitude of regret and try not to repeat and improve themselves in the future. The report on disciplinary penalties for Civil Servants who entered BKN based on data on the

2018 BKN SAPK as many as 3,383 this proves that many civil servants take disciplinary actions even though the regulations have been made by the Government, therefore it becomes interesting for the author to conduct a juridical study related to enforcement problems. law against disciplinary civil servants in Indonesia.

To maintain originality in this study, the authors describe previous research that has a relationship with several concepts in this study, namely the concept of law enforcement, the concept of problematics, and the concept of disciplinary civil servants. There are several research titles that have similarities, but differ in subject matter even though they still have the following linkages:

First, Agung Wijaya. (2019). With the research title "Implementation of Disciplinary Punishments for State Civil Apparatuses Who Do Not Come to Work and Obey the Provisions of Working Hours through the Palembang City Personnel and Human Resources Development Agency." Master of Law Study Program, Faculty of Law, Sriwijaya University Palembang

METHOD

The research method used is normative juridical research, namely research that is focused on examining the application of rules or norms in positive law. This normative juridical research uses a statute approach which examines laws and regulations with the central theme of the study. In this case, it is the implementation of law enforcement against disciplinary civil servants. The subject of the study in this study is the law which is conceptualized as a norm or rule that applies in society and becomes a reference for everyone's behavior.

The approach method used is a normative juridical legal research method, so more than one approach can be used. First, the statutory approach is carried out to examine the laws and regulations. Second, the case approach aims to study the application of legal norms or rules in legal practice.

In this study, the type of empirical legal research is used with a descriptive research design, namely examining Civil Servants who carry out disciplinary actions. And see the implementation of the enforcement of discipline in accordance with the regulations concerning the discipline of Civil Servants currently in effect. The purpose of this descriptive research is to provide a systematic, factual and accurate description or painting of the facts and the relationship between the phenomena investigated.

RESULTS

As a State Civil Apparatus (ASN) it is obligatory to set an example for the community, by behaving in accordance with the provisions of the applicable laws and regulations. Civil Servants (PNS) are required to obey the regulations in accordance with their position as state servants. If a civil servant commits a form of violation (indiscipline), then the civil servant will be given a staffing sanction. Employment sanctions are administrative sanctions in the form of disciplinary penalties intended for civil servants who violate the disciplinary regulations of civil servants. There are several types of sanctions for civil servants, including criminal sanctions, civil sanctions, and administrative sanctions.

It aims to achieve national goals and implement them based on the 1945 Constitution and perform well, free from political intervention and have integrity and professionalism in performing as required by the community for the implementation of public services as needed by the community. Because the real order of everyday life goes hand in hand with legal regulations. Realizing good governance is certainly not easy, it must be supported by government actions adjusted to its authority. Ethics and roles in the process of state administration are important as the embodiment of good governance.

The authority to determine disciplinary punishment has been stated in this regulation so that there is no arbitrary action against the stipulation of disciplinary punishment. Prior to the stipulation of disciplinary punishment, the violating employee is examined first without any coercion, in terms of the smoothness of the examination if the employee is suspected of committing a disciplinary violation which is included in the type of severe disciplinary punishment, the employee may be temporarily released from his/her duties during the examination until a Disciplinary Punishment Decision is issued. . In the event that the direct supervisor does not follow up on alleged violations against his subordinates, namely by not doing what is regulated in government regulations by summoning and examining, the immediate superior will receive a heavier penalty.

Discipline provisions for Civil Servants (PNS) are one of the elements of personnel management regulated in Law Number 5 of 2014 concerning State Civil Apparatuses (ASN) which are further outlined through Government Regulation Number 94 of 2021. Prior to the Government Regulation which is the

implementation of the provisions Article 86 paragraph (4) of the ASN Law is issued, the provisions on civil servant discipline refer to Government Regulation Number 53 of 2010. With the issuance of Government Regulation Number 94 of 2021, there are a number of changes to the provisions of civil servant discipline which were previously regulated in Government Regulation Number 53 of 2010. This means that that this latest regulation contains prohibitions, obligations, and disciplinary penalties for Civil Servants.

DISCUSSION

1. Law Enforcement Problems Against Disciplined Civil Servants

In carrying out disciplinary punishment will be closely related to the theory of authority. The theory of authority in question is the right that officials have based on applicable rules to take action. In this case, the competent authority has the right to impose disciplinary penalties for violations committed by civil servants. However, in exercising the authority to give punishment, the authorized official must carefully study the results of the examination and pay close attention to the factors that encourage or cause the ASN to commit a disciplinary violation and the impact of the disciplinary violation. Juridically, the notion of authority is the ability given by legislation to cause legal consequences. Authority has a different meaning from competence. Authority is formal power that comes from law, while authority is a specification of authority, meaning that whoever (legal subject) is given authority by law, then he is authorized to do something that is within that authority.

2. Mechanism for Imposing Disciplinary Sanctions for Civil Servants

In the theory of legal certainty, that rules of a general nature make individuals know what actions may or may not be carried out as well as a form of legal security for individuals from government arbitrariness because with the existence of general rules individuals can know what may be charged or done by the government. state to the individual. This means that power without a legal basis is arbitrary, and means that it will not be effective and effective for the interests of the general public. On the other hand, intervention in law-making and implementation does not always guarantee legal certainty, enforce community rights or guarantee justice because law-making and implementation is strongly influenced by democratic political configurations so that it will produce responsive laws while authoritarian political configurations will create repressive legal products.

In certain cases it may involve other appointed officials, but in relation to the direct supervisor of a civil servant who is suspected of committing a Discipline Violation in the violation, then the member of the inspection team is a higher level superior. The inspection team consists of direct superiors, elements of supervision, and elements of staffing. This inspection team is formed by the staffing officer or other appointed official.

The three stages of sentencing, in this stage each imposition of disciplinary penalties is determined by a decision of the official who is authorized to punish. The decision as referred to is conveyed to the civil servant who was sentenced to disciplinary action by the Punishing Authority or other appointed official. The submission of the Disciplinary Sentence Decision as referred to is carried out no later than 14 (fourteen) working days after the decision is stipulated. And in the event that a civil servant who is sentenced to a disciplinary sentence is not present at the time of submitting a decision on a disciplinary sentence, the decision is sent to the person concerned.

Fourth Stages of Documenting Disciplinary Sentences, in this stage the decisions of Disciplinary Sentences must be documented by the staffing officer in the relevant agency. used as one of the assessment materials in the development of the civil servant concerned. All documents related to Disciplinary Punishment decisions including documents under examination are uploaded into a system that is integrated with the State Civil Apparatus Information System.

CONCLUSION

Based on the description in the discussion of the problems in this thesis, it can be concluded: The regulation that forms the basis for regulating civil servant discipline in the Republic of Indonesia is Law Number 5 of 2014 concerning State Civil Apparatus; Government Regulation Number 17 of 2020 concerning Amendments to Government Regulation Number 11 of 2017 concerning Management of Civil Servants; and Government Regulation Number 94 of 2021 concerning Civil Servant Discipline. In

PP Number 94 of 2021, it explains the discipline of civil servants as a form of employee's ability to comply with obligations and avoid the prohibitions specified in the legislation and/or official regulations which if not obeyed or violated will be imposed. In PP No. 94 of 2021 there are 17 (seventeen) obligations and 14 (fourteen) prohibitions for civil servants, with the level of disciplinary punishment divided by level and type, each according to the nature and severity or severity of the violation committed, as well as the consequences. caused by the violation made by the Civil Servant concerned. Any violation (discipline) of civil servants, will be subject to disciplinary punishment by the competent authority to punish civil servants for violating the rules of discipline of civil servants. The Officials with the Authority to Punish consist of: a) the President; b) Staffing Officer; c) Head of Representative of the Republic of Indonesia; d) Middle High Executive Officer or other equivalent official; e) Primary High Executive Officer or other equivalent official; f) Administrator or other equivalent official; and g) Supervisory Officer or other equivalent official. The mechanism for imposing disciplinary sanctions on civil servants consists of four stages or procedures, namely summons and examination, imposition, and documentation in accordance with Government Regulation Number 94 of 2021 concerning Discipline of Civil Servants.

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