

The Importance of Mediators' Recommendations After the Failure of Fair Industrial Relations Dispute Mediation, in Realizing the Resolution of Industrial Relations Disputes Quickly, Precisely, Fairly and Cheaply

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<i>Article Info</i>	<i>Abstract</i>
<i>Received: 2025-01-10</i> <i>Revised: 2025-02-20</i> <i>Accepted: 2025-05-20</i> Keywords: <i>Recommendation;</i> <i>Mediator; Industrial;</i> <i>Dispute; Alternative</i> <i>Dispute.</i>	<i>This study discusses the importance of mediator recommendations after the failure of fair industrial relations dispute mediation, in realizing a quick, appropriate, fair and inexpensive resolution. Mediation of industrial relations disputes led by an industrial relations mediator is one of the alternative options for resolving industrial relations disputes after the failure of bipartite negotiations, which is regulated in Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes. However, in practice, the recommendations of industrial relations mediators are not always effective and are often ignored by the disputing parties. This has raised debate regarding the role and effectiveness of mediators in encouraging settlement through non-litigation channels before going to the Industrial Relations Court. This study uses a juridical-normative approach by analyzing laws and regulations related to mediation and settlement of industrial relations disputes. In addition, this study also explores the written recommendations of mediators in carrying out their functions, as well as the responses of the parties involved in the dispute to the written recommendations provided by the industrial relations mediator. The results of the study show that although the mediator's recommendations are non-binding, the mediator's role remains important in the initial resolution process. It is necessary to strengthen regulations and the role of mediators to increase compliance of the disputing parties, in order to reduce the burden of cases in industrial relations courts and encourage fast, appropriate, fair and inexpensive conflict resolution.</i>

I. Introduction

This study discusses the recommendations of mediators after the failure of mediation of industrial relations disputes. This discussion is needed to explain the importance of the recommendation of a fair mediator after the failure of industrial relations dispute mediation, as one of the opportunities to resolve industrial relations disputes quickly, precisely, fairly and cheaply for the parties to the dispute.

The dynamics of the development of industrial relations in the Indonesian nation are increasingly rapidly developing, both in the business sector. Over time, the rapid development of industrial relations certainly has the potential to increase industrial relations disputes that occur between employers and workers or between labor unions/labor unions in Indonesia.

The word industrial relations originally came from the word *industrial relations*, which is a transformation of the word labor *relations or labor management relations*.¹ The word labor relations seems to have a very narrow meaning, as if it is only related to the relationship between the employer and the worker/laborer in the established employment relationship. In fact, industrial relations in reality include socio-cultural aspects, psychological aspects, economic aspects, political aspects, legal aspects, defense and national security aspects.

Industrial relations in Indonesia involves the role of government and society in a broader sense. Therefore, the use of the word industrial relations feels more appropriate than using the word labor relations².

The state of Indonesia is a country that has Pancasila as the state ideology, which has the meaning of Pancasila not only as the basis of the State of Indonesia, but also as a view of life, philosophy, and ideology that binds all Indonesian people in the life of the nation and state. Pancasila is also known as an open ideology, which means that it is able to adapt to the development of the times and the dynamics of society, especially aspects of state life, starting from the political, economic, social, cultural, and legal systems.

The ideology of the Indonesian state, which is based on Pancasila, encourages the industrial relations that apply in Indonesia is the industrial relations of Pancasila, which is based on the values of all the precepts of Pancasila and based on the Constitution of the Republic of Indonesia of 1945 (Constitution 45) in the implementation of industrial relations.³

The implementation of industrial relations based on the values of Pancasila must be in line with the concept and direction of the national development policy that has been set by the Indonesian government. The reality is that the implementation of industrial relations in Indonesia is inseparable from the differences of opinion between stakeholders, namely employers, workers/laborers, and labor unions/labor unions in Indonesia.

Differences of opinion between employers, workers/laborers, and labor unions in Indonesia cause disputes called industrial relations disputes. Industrial relations disputes in Indonesia are divided into 4 types, namely rights disputes, conflicts of interest, disputes over termination of employment, and disputes between trade unions/labor unions.

¹ Asri Wijayanti, *Post-Reform Manpower Law* (Jakarta: Sinar Graphics (2009), p.56.

² Sentanoe Kertonegoro, *Industrial Relations, Relations Between Employers and Workers and the Government*, (Jakarta: YTKI 1999), p.14.

One of the alternative stages of industrial relations dispute resolution after the failure of bipartite negotiations is mediation by an industrial relations mediator with an office at the city/district labor office.

The mediator of industrial relations is an extension of the Government of Indonesia in maintaining harmonious industrial relations. In accordance with the mandate of the Regulation of the Minister of State Apparatus Empowerment and Bureaucratic Reform of the Republic of Indonesia Number 83 of 2020 concerning the Functional Position of Industrial Relations Mediator (PERMENPAN RB 83/2020), industrial relations mediators play a role, among other things, in developing, coaching, and mediating industrial relations disputes ⁴.

Industrial relations mediators are authorized to mediate 4 types of industrial relations disputes, namely rights disputes, conflicts of interest, termination of employment disputes, and disputes between labor unions/labor unions.

Mediation by industrial relations mediators does not always result in an agreement between the parties to the industrial relations dispute, so that after the failure to reach an agreement in the mediation of the industrial relations dispute, the mediator has the obligation to issue written recommendations.

The written recommendation issued by the industrial relations mediator after the failure of the mediation of industrial relations disputes in accordance with the period mandated by Law No.2 of 2004 concerning the Settlement of Industrial Relations Disputes, is an opportunity for the parties to consider the consideration of the industrial relations mediator listed in the recommendation within a period of ten days, before rejecting the recommendation and proceeding the industrial relations dispute to the Court Local Industrial Relations.

The written recommendation from the industrial relations mediator is expected to be a consideration for the parties to resolve industrial relations disputes familiarly, without having to continue industrial relations disputes to the local Industrial Relations Court, which of course the settlement of industrial relations disputes is expected to end quickly, precisely, fairly, and cheaply.

2. Research Method

The type of research in this study is Normative Juridical using a statutory *approach* and qualitative data analysis ⁵. Research focused on examining the application of rules or norms in positive law. ²¹ The data sources used are secondary data sources such as laws and regulations, books, the internet and others. All data obtained will then be analyzed using qualitative normative methods. Normative because this research is the starting point of the existing legal regulations so that it is a positive legal norm.

3. Results and Discussion

The dynamics of industrial relations in Indonesia do not always go well, it is not uncommon for differences of opinion between stakeholders, namely employers, workers/laborers and trade

⁴ Mulyana , " Permenpan Functional Position of Industrial Relations Mediator", <https://www.ainamulyana.com/2021/11/permenpan-rb-nomor-83-tahun-2020.html#> (Sunday, September 15, 2024. 14.39).

⁵ The Suharsimi Arikunto , 2012, *Research Procedures of a Practical Approach* (Jakarta: Rineka Create th .), p. 126.

unions/labor unions to cause disputes that result in the uncondusive nature of existing industrial relations.

Industrial relations disputes that always start from differences of opinion related to the running of industrial relations, if not resolved quickly, will certainly cause prolonged disputes and have the potential to cause resentment between employers, workers/laborers and labor unions/labor unions.

The relationship between employers and workers/laborers who have elements of work, elements of wages and orders ⁶, as well as relationships between labor unions/trade unions, often occur tug-of-war interests that cause differences of opinion about the rights or obligations of the parties.

Article 1 number 1 of Law No. 2 concerning the Settlement of Industrial Relations Disputes, formulates industrial relations disputes are differences of opinion that result in conflicts between employers or associations of employers and workers/laborers or trade unions/trade unions, due to disputes regarding rights, conflicts of interest, disputes of termination of employment, and disputes between trade unions/ labor unions in one company ⁷. Based on the provisions of Article 2 of Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes , the types of industrial relations disputes in Indonesia include:

1. A dispute of rights is a dispute that arises due to the non-fulfillment of rights, due to differences in the implementation or interpretation of the provisions of laws and regulations, employment agreements, company regulations, or collective labor agreements.
2. A dispute of interest is a dispute that arises in an employment relationship due to the absence of agreement regarding the making, and/or change of the working conditions specified in the employment agreement, or company regulations, or collective bargaining agreements.
3. A dispute over termination of employment is a dispute that arises due to the lack of agreement regarding the termination of an employment relationship carried out by one of the parties.
4. Disputes between trade unions/trade unions only in one company are disputes between trade unions/trade unions and other trade unions/trade unions in only one company, because there is no agreement on the membership, implementation of rights, and obligations of trade unions.⁸

The color of the conflict that underlies the philosophy or process of industrial relations disputes basically arises because of the determination of each party to absolutely achieve interests. This attitude is clearly contrary to the philosophy of Pancasila which requires the integrity and balance,

⁶ Marbun , *Introduction to Industrial Relations in Indonesia* , p. 4.

⁷ Aris Priyo Agus Santoso, Erna Chotidjah Suhatmi , *Labor Law and Industrial Relations Dispute Resolution* (Yogyakarta: Nuta Media Yogyakarta 2021), p.94.

⁸ Danang Sunyoto , *Rights and Obligations for Workers and Employers* (Yogyakarta: Pustaka Yustisia Publisher

awareness, and harmony of every industrial relations actor.⁹

The stages of settlement of industrial relations disputes in Indonesia have been regulated in the Law. Number 2 of 2004 concerning Completion Dispute Industrial Relations . Constitution Number 2 of 2004 concerning Completion Dispute Industrial Relations regulates the stages of resolving industrial relations disputes, namely through bipartite negotiations, tripartite negotiations, and through the local industrial relations court.

Bipartite negotiation is a stage of resolving industrial relations disputes through negotiations between employers and workers or between trade unions/labor unions, without the presence of a third party or external party. Bipartite negotiations are expected to be a forum for the parties to deliberate on the dispute, and a solution that can be agreed upon by the parties.

The failure of bipartite negotiations or the failure of the parties to agree on a solution to resolve industrial relations disputes through the bipartite negotiation stage within a period of thirty days, provides an opportunity for the parties to proceed to the next stage, namely tripartite dispute negotiations.

After the failure of bipartite negotiations to resolve industrial relations disputes, the parties experiencing industrial relations disputes can choose one of three alternatives for resolving industrial relations disputes, namely mediation or conciliation or arbitration. One of the three alternatives for resolving industrial relations disputes can be chosen by the parties experiencing industrial relations disputes, as a forum for deliberation assisted by a neutral party to resolve industrial relations disputes.

Mediation of industrial relations disputes by industrial relations mediators is an alternative option often chosen by parties experiencing industrial relations disputes, after bipartite negotiations fail to reach a solution to the industrial relations dispute that occurs between the parties.

Mediation of industrial relations disputes is led by one or more industrial relations mediators who have the status of state civil servants at the local city/district manpower office where the industrial relations dispute occurs. The Parties or one of the disputing parties can register the industrial relations dispute with the local manpower office, so that it can be followed up by the head of the local manpower office to appoint an industrial relations mediator who is tasked with mediating the industrial relations dispute.

Mediation is one of the stages of resolving industrial relations disputes which is one of the means of Pancasila industrial relations. Mediation has been known since ancient times, historians predict that mediation was used in Babylon, then developed in ancient Greece, then practiced by Rome.¹⁰

Observing background behind mediation can it is said is matter Which very ideal in realizing the principles of justice that is fast, simple and low cost if succeed applied. The Supreme Court of

⁹ Bahder Johan Nasution , *Labor Law "Freedom of Association for Workers"* (Jakarta: Mandar Maju Surabaya 2018), p.6.

the Republic of Indonesia also requires the parties to undergo mediation before the case was decided by a judge through the Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2003. 2016 on mediation procedures in court, so that the mediation process is expected can overcome the number of cases piling up. Second, mediation is seen as a faster and cheaper way to resolve disputes than the legal process litigation. Third, the implementation of mediation is expected to expand access for party For to obtain justice. Fourth, institutionalization the mediation process can strengthen and maximize the function institution courts in the resolution of disputes in a just manner.¹¹

After the parties or one of the parties have recorded the dispute to local employment agency. Furthermore local employment office will determine the mediation schedule and call the parties to follow the stages of the mediation process as an alternative to resolving industrial relations disputes ¹².

An industrial relations mediator is a neutral third party in the process of mediating industrial relations disputes. The parties are expected to follow the process of mediating industrial relations disputes mediated by an industrial relations mediator, in order to get space to deliberate to reach a consensus.

The failure of bipartite negotiations often occurs because one of the disputing parties feels right or feels stronger than the other party, so with the presence of a neutral third party, namely an industrial relations mediator in the mediation of industrial relations disputes, it is hoped that negotiations can run well while still providing an equal position between the parties experiencing industrial relations disputes to achieve a just solution.

Trend the party who feels more strong For oppressive the party who feels more weak , then connection Work between giver Work with worker / laborer No Enough only set up agreement work that is of a nature private only ¹³. However , role government expected important in guard harmonious industrial relations or settlement dispute industrial relations that occur , through mix hand Government through regulations in the field employment that is enforced .¹⁴

Industrial relations mediators who have the right to mediate industrial relations disputes based on the Law Number 2 of 2004 concerning Completion Dispute Industrial Relations and Regulation of the Minister of Manpower and Transmigration of the Republic of Indonesia Number 17 of 2014 Concerning the Appointment and Dismissal of Industrial Relations Mediators and Mediation Work Procedures are required to have the status of state civil servants, unlike mediation in other fields which provide space for non-state civil servant mediators to be able to play a role in mediating existing disputes.

Industrial relations mediators who are civil servants often face obstacles in mediating

¹¹ Agus Mulya Karson et al ., Role Department of Manpower and Transmigration In Do Mediation Dispute Connection Industrial In TimePandemic , *Journal Law Program Civil : Adhaper* , Vol. 8, No. 1, January – June 2022.

¹² Juanda Pangaribuan , *Settlement Dispute Industrial Relations* . (Jakarta: PT. Bumi Intitama Sejahtera (2010), p.54.

¹³ Cst Chancellor , Christine, *Dictionary Legal Terms* , (Jakarta : Griya Media 2009), p.183.

¹⁴ Healthy Damanik , *Labor Procedure Law* (Jakarta: DSS Publishing 2004), p.7.

industrial relations disputes, considering the complexity of the business sector and the rapid development of employment relations in Indonesia in recent years. In addition, various obstacles are faced by industrial relations mediators in mediating industrial relations disputes related to facilities, benefits, culture, and understanding of the parties.

The industrial relations mediator's understanding of existing employment regulations in Indonesia and the industrial relations mediator's experience in the business sector will make it easier for the industrial relations mediator as a neutral party to mediate industrial relations disputes that occur, in order to achieve a just settlement of industrial relations disputes.

The settlement of industrial relations disputes that is fair to the parties experiencing industrial relations disputes at the mediation stage will encourage the success of mediation as an alternative for resolving industrial relations disputes or reduce the accumulation of industrial relations dispute cases in the industrial relations court at the local court.

The philosophy of resolving industrial relations disputes quickly, accurately, fairly and cheaply will certainly be achieved if industrial relations disputes do not continue to the Industrial Relations Court, considering that industrial relations disputes that continue to the Industrial Relations Court will create unpleasant feelings for the party who feels defeated in the decision of the Industrial Relations Court.

Industrial relations disputes mediated by industrial relations mediators often fail to reach an agreement on a solution to resolve industrial relations disputes between the parties experiencing industrial relations disputes. Failure to mediate within ten days of the first mediation requires the industrial relations mediator to provide written recommendations to the disputing parties, with the hope that the parties will consider the suggestions and considerations of the industrial relations mediator through written recommendations.

Article 14 point 1 of the Regulation of the Minister of Manpower and Transmigration of the Republic of Indonesia Number 17 of 2014 concerning the Appointment and Dismissal of Industrial Relations Mediators and Mediation Work Procedures states: "The written recommendation of the Mediator as referred to in Article 13 paragraph (4) contains: information from the worker/laborer or information from the workers' union/labor union, information from the employer, information from witnesses/expert witnesses if any, legal opinions and considerations and the contents of the recommendation."

Industrial relations mediators are authorized to provide opinions, legal considerations and recommendations to parties participating in the industrial relations dispute mediation process, in accordance with Article 14 point 1 of the Regulation of the Minister of Manpower and Transmigration of the Republic of Indonesia Number 17 of 2014 concerning the Appointment and Dismissal of Industrial Relations Mediators and Mediation Work Procedures. However, written recommendations from industrial relations mediators are often not considered by parties experiencing industrial relations disputes, due to several factors, especially the content of legal considerations, which are often considered unfair.

Opinions, legal considerations and the contents of recommendations given by industrial

relations mediators to the parties through written recommendations, greatly determine the success of resolving industrial relations disputes quickly, accurately, fairly and cheaply. Given, the accuracy of the mediator in making fair written recommendations will encourage the disputing parties to follow the written recommendations and open themselves to resolving industrial relations disputes in mediation.

Problems occur in North Sumatra Province, that the understanding of the recommendation with the minutes as mandated by the Constitutional Court Decision No. 68 / PUU-XIII / 2015, has not been properly understood in the process of mediation of industrial relations disputes. The majority of industrial relations dispute cases registered at the Industrial Relations Court at the Medan District Court Class IA Special, still use written recommendations from the industrial relations mediator as a requirement attached to the lawsuit, not using the industrial relations dispute resolution minutes as a requirement.

Constitutional Court Decision No. 68/PUU-XIII/2015 has considered that a recommendation is not a formal requirement for filing a lawsuit with the Industrial Relations Court, whereas a report is a formal requirement for filing a lawsuit. On that basis, the Constitutional Court accepted the applicant's argument that the phrase "recommendation" in Article 13 paragraph (2) and Article 23 paragraph (2) of the Industrial Relations Court Law was supplemented with the phrase "as a form of a settlement report", either through mediation or conciliation. However, the Constitutional Court is aware of the importance of creating a format for a report on the settlement of industrial relations disputes.

The Constitutional Court is of the opinion that the format and substance of the minutes of mediation or conciliation settlement must at least contain the full names and addresses of the parties, the date and place of mediation or conciliation, the main issues or reasons for the dispute, the opinions of the parties, written recommendations, conclusions from the results of mediation or conclusions from the results of conciliation, and if the recommendations are not accepted by one/both parties, the person concerned may file a lawsuit with the Industrial Relations Court by attaching the minutes.

In practice, since 2015 until this research, the Constitutional Court Decision No. 68/PUU-XIII/2015, does not appear to be a reference for industrial relations mediators in carrying out their role after failing to mediate disputes regarding termination of employment between employers and workers/laborers.

Termination disputes that fail to reach an agreement at the mediation stage and must continue to the next stage, namely a dispute at the Industrial Relations Court at the Medan District Court Class IA Special, even having to continue to the cassation level at the Supreme Court of the Republic of Indonesia. The party filing the lawsuit often only attaches a written recommendation, not attaching the minutes of the mediation negotiations between the employer and the worker/laborer.

In fact, written recommendations by industrial relations mediators, after the failure of mediation between employers and workers/laborers. Often have different formats in the

city/district employment offices in North Sumatra Province.

Based on research data obtained by researchers from case information at the Industrial Relations Court at the Medan District Court Class IA Special in 2025, the registered lawsuits were:

No	Manpower Department Mediator Recommendations	Number of lawsuits to PHI Medan Year 2024
1.	North Sumatra Province	43
2.	Lab u han Regency North Stone	1
3.	Lab u han Regency rock	9
4.	to Deli Serdang Regency	33
5.	Regency Labuan South Stone	4
6.	Regency Coal	4
7.	Medan City	131
8.	Regency The Land of the Rising Sun	15
9.	Regency Central Tapanuli	1
10.	Regency Sharpening	14
11.	Regency Tapanuli middle	2
12.	Serdang Bedagai Regency	19
13.	Province area Especially for the Capital City of Jakarta	1
Total		277

Almost the majority of industrial relations dispute cases submitted to the Industrial Relations Court at the Medan District Court Class IA Special only attach recommendations from the industrial relations mediator, not attaching the industrial relations dispute resolution minutes from the mediator.

Based on the research data, it appears that the understanding of industrial relations mediators regarding the differences between written recommendations and minutes of industrial relations dispute resolution mandated by Constitutional Court Decision No. 68/PUU-XIII/2015 is not well understood, so that the time limit for mediation of industrial relations disputes regulated in the Law Number 2 of 2004 concerning Completion Dispute Industrial Relations and Regulation of the Minister of Manpower and Transmigration of the Republic of Indonesia Number 17 of 2014 Concerning the Appointment and Dismissal of Industrial Relations Mediators and Mediation Work Procedures also do not run well in the practice of industrial relations dispute mediation.

The incomplete regulation of the role of mediators makes the minutes of mediation negotiations and written recommendations in the Law Number 2 of 2004 concerning Completion Dispute Industrial Relations , makes no reference that must be given by the mediator to the parties after mediation fails. Thus, the industrial relations mediator concludes and is accustomed to providing a recommendation format to the parties, not providing a mediation negotiation report, if mediation fails. However, after the Constitutional Court Decision No. 68/PUU-XIII/2015, it has firmly considered that a recommendation is not a formal requirement for filing a lawsuit to the PHI, on the contrary, the negotiation report becomes a formal requirement for filing a lawsuit.

Although the Mediator's recommendations are non-binding based on the provisions in Article

13 of the Law Number 2 of 2004 concerning Completion Dispute Industrial Relations . However, the deadline for providing written recommendations, which is ten days after the first mediation, should be adhered to by the industrial relations mediator, so that the parties still have ten days to provide an answer to reject or accept the written recommendations from the industrial relations mediator within the thirty-day deadline for the industrial relations dispute mediation process.

The provision of recommendations by the industrial relations mediator after the end of the industrial relations dispute mediation does not provide time for the industrial relations mediator to encourage the parties to study the written recommendations given after the mediation failed after ten days from the first mediation.

Lack of time This Can influence compliance with the recommendations given , so that the parties feel more comfortable bring case to court industrial relations even at odds until level cassation , even though the litigation process in court usually eat time longer and more expensive .

The purpose of the Mediator's Recommendation is to provide a fair and reasonable solution for both parties based on applicable labor laws. Although not binding, the mediator's recommendation is often based on relevant rules and policies, and considers the best interests of both disputing parties, with the hope that the dispute can be resolved without the need to involve the courts. Overall, the mediator's recommendation in industrial relations disputes is an important element in the dispute resolution mechanism in Indonesia. However, because of its non-binding nature, the effectiveness of the mediator's recommendation depends on the trust and cooperation of the parties.

The recommendation of the industrial relations mediator should not only be a requirement to sue the Industrial Relations Court, but the industrial relations mediator should understand that the recommendation of the industrial relations mediator, the content of which is fair to the parties experiencing an industrial relations dispute, plays an important role in realizing a fast, precise, fair and cheap settlement of industrial relations disputes. Given that the trust of the parties in the industrial relations mediator, which currently only comes from state civil servants, begins with a written recommendation previously issued by the industrial relations mediator in a previous industrial relations dispute case that was mediated.

over termination of employment. Based on research data obtained researcher from Ministry of Manpower information Republic of Indonesia, total cases dispute industrial relations in the period month January Until December 2024, there were 7,540 cases of disputes, namely:¹⁵

Type of Settlement	Right	Interest	layoffs	Inter SP/SB
Bipartite	544	68	1,360	6
Mediation	1.105	180	3.008	19
Conciliation	-	-	-	-

¹⁵Directorate General of Industrial Relations & Social Security , Ministry of Manpower of the Republic of Indonesia, “ **Disputes Handled and Resolved by Mediators in 2024** ”, <https://satudata.kemnaker.go.id/data/kumpulan-data/2341> (

Arbitration	-	-	-	-
Not completed	384	42	824	-
Total	2.033	290	5.192	25

In general general termination connection Work is an incident that did not occur wanted by all party Because harm giver work and workers / laborers . work termination must be attempted to be avoided. However, if it cannot be prevented, all parties must try to terminate the employment relationship. is the last choice for employers and workers/laborers.¹⁶

After the mediation fails, the industrial relations mediator must provide written recommendations no later than 10 days after the first mediation. This written recommendation certainly has an important role, the parties will comply with the recommendations if they are considered fair.

Advice given by the mediator in this industrial relations dispute nature No binding , meaning the parties free For accept or reject recommendation said . If one or both parties do not accept the mediator's recommendation, they have the right to bring the dispute to the Industrial Relations Court (PHI). However, although not binding, the mediator's recommendation is expected to be a rational solution and benefit both parties before entering a more formal and complex litigation process in court.

Non-compliance of the parties experiencing industrial relations disputes to accept recommendation written by this industrial relations mediator appear , because the parties consider decisions taken through court industrial relations even at odds until level cassation , more own justice . In many cases, the mediator's recommendation is only considered a formality before taking the dispute to court. Conditions This Of course cause burden addition for Industrial Relations Court , which is actually can avoided If mediation runs optimally or written recommendations from the mediator are more fair .

Based on results research , seen in the industrial relations dispute case No. Register 24/Pdt.Sus-PHI/2024/PN Mdn which was registered with the Industrial Relations Court at the Medan District Court Class IA Special by Ramses Rahman Rikardo as a worker/laborer for a dispute over termination of employment with PT. Everest Engineers. The industrial relations mediator at the Medan City Manpower Office recommended that PT. Everest Engineers pay the rights of the worker, Mr. Ramses Rahman Rikardo, namely in accordance with Article 52 paragraph (1) of Government Regulation Number 35 of 2021 concerning Fixed-Term Employment Agreements, Outsourcing, Working Hours and Rest Hours and Termination of Employment As Following :

Severance pay

0.5 x 4 x Rp. 3,370,645 = Rp. 6,741,290

Long Service Bonus

2 x Rp. 3,370,645 = Rp. 6,741,290

Total = Rp. 13,482,580

After Ramses Rahman Rikardo as a worker/laborer and PT. Everest Engineers followed every stage of the trial process for the termination of employment dispute at the Industrial

Relations Court at the Medan District Court Class IA Special, finally the Panel of Judges at the Industrial Relations Court at the Medan District Court Class IA Special in the industrial relations dispute case no.register 24/Pdt.Sus-PHI/2024/PN Mdn, finally decided:

JUDGING I:

IN EXCEPTION:

Reject Exception Defendant the ;

IN THE MAIN CASE:

1. Grant lawsuit Plaintiff For part ;
2. State connection Work between Plaintiff with Defendant separated since decision This spoken ;
3. Punish Defendant For pay right Plaintiff in the form of Compensation Money as much as 1 month wages , namely Rp. 3,120,000.00 (three million one hundred two tens thousand rupiah);
4. Reject lawsuit Plaintiff For besides and furthermore ;
5. Charge cost case to the State amounting to IDR 38,000.00 (three tens eight thousand rupiah);

At the cassation level, the Supreme Court of the Republic of Indonesia issued a ruling which reads:

TO JUDGE:

1. Rejecting the cassation application from the Cassation Applicant RAMSES RAHMAN RIKARDO, said;
2. Revise the verdict of the Industrial Relations Court at the Medan District Court Number 24/Pdt.Sus-PHI/2024/PN Mdn., dated March 28, 2024, so that the full verdict is as follows:

In Exception:

Rejecting the Defendant's exception;

In Point:

1. Granting the Plaintiff's claim in part;
2. Declaring that the employment relationship between the Plaintiff and the Defendant has been terminated since this decision was pronounced;
3. Ordering the Defendant to pay the Plaintiff's rights in the form of severance pay of IDR 3,370,645.00 (three million three hundred seventy thousand six hundred and forty-five rupiah);
4. Reject the Plaintiff's claim for other than and beyond;
5. Charging court costs to the State;

The comparison of the industrial relations mediator's recommendation on the nominal amount that PT. Everest Engineers must pay to Ramses Rahman Rikardo, is clearly not the same as the verdict of the Panel of Judges of the Industrial Relations Court at the Medan District Court

Class IA Special in the industrial relations dispute case no.register 24/Pdt.Sus-PHI/2024/PN Mdn which only amounts to a nominal amount of Rp. 3,120,000, and is also different from the Decision of the Supreme Court of the Republic of Indonesia which ordered PT. Everest Engineers to only pay Rp. 3,370,645,-

Based on the comparison of the nominal amount of rights or obligations in the verdict of the panel of judges of the verdict of the Panel of Judges of the Industrial Relations Court at the Medan District Court Class IA Special and the Judge's Decision at the cassation level with the recommendation of the industrial relations mediator of the Medan City Manpower Office, it is apparent that the recommendation received at the industrial relations dispute mediation stage is not in accordance with the obligations that must be paid by PT. Everest Engineers to Ramses Rahman Rikardo as a worker/laborer, so that it is indicated to be the cause of the industrial relations dispute continuing to the courts.

The industrial relations mediator at the Medan City Manpower Office should provide written recommendations to the parties based on the laws and regulations in force in Indonesia and in accordance with the cause of the industrial relations dispute between PT. Everest Engineers to Ramses Rahman Rikardo, so that the industrial relations dispute can avoid continuing to the courts.

Based on research data obtained by researchers from the Industrial Relations Court at the Medan District Court Class IA Special, the difference between the recommendation and the court's decision such as between PT. Everest Engineers to Ramses Rahman Rikardo almost always occurs in industrial relations dispute cases registered in 2024.

The occurrence of differences between the recommendation and the court decision such as between PT. Everest Engineers to Ramses Rahman Rikardo, will give a bad impression and bad experience for the workers/laborers or employers in the future, because the trust of the parties in the recommendation of the industrial relations mediator will decrease, on the employer side will try to bring every case to the industrial relations court because they hope the amount will be lower than the recommendation. Meanwhile, on the worker/laborer side will be worried about suing the industrial relations court because they are worried about getting a lower amount than the recommendation of the industrial relations mediator, so that the workers/laborers are encouraged to make pressure efforts outside the court, such as demonstrations or company closures just to pressure employers to pay outside the industrial relations dispute resolution mechanism.

Incidents such as between PT. Everest Engineers and Ramses Rahman Rikardo, should be avoided by industrial relations mediators by providing recommendations that are always based on justice, so as not to become a bad *precedent* that could potentially cause a decrease in trust from workers/laborers or could potentially cause a decrease in trust from employers towards the stages of industrial relations dispute mediation as one of the alternatives for resolving industrial relations disputes regulated by UUPPHI in the Indonesian nation.

Problem related independence and professionalism of the mediator , the parties often feel that the mediator does not truly neutral or own conflict interests . This is can trigger distrust to mediation or written recommendations from industrial relations mediators , which ultimately make the parties more choose track litigation in court . Lack of trust this is also possible due to lack of mediator competence in handling complex cases , resulting in recommendations for industrial relations mediators being deemed unfair .

Many mediators do not have a deep understanding of employment issues or are unable to offer creative solutions that meet the needs of both parties. As a result, the recommendation written given often considered not enough adequate and inadequate under consideration with seriously by the disputing parties .

CONCLUSION

Mediation by an industrial relations mediator is an alternative option for resolving industrial relations disputes that is fast, precise, fair and cheap. If implemented in accordance with the Law Number 2 of 2004 concerning Completion Dispute Industrial Relations and Regulation of the Minister of Manpower and Transmigration of the Republic of Indonesia Number 17 of 2014 Concerning the Appointment and Dismissal of Industrial Relations Mediators and Mediation Work Procedures, so as to reduce the accumulation of industrial relations disputes in the courts.

Following the failure of industrial relations dispute mediation, written recommendations from a fair industrial relations mediator are given to the parties experiencing an industrial relations dispute within the time limit mandated by the Law. Number 2 of 2004 concerning Completion Dispute Industrial Relations and Regulation of the Minister of Manpower and Transmigration of the Republic of Indonesia Number 17 of 2014 Concerning the Appointment and Dismissal of Industrial Relations Mediators and Mediation Work Procedures, are expected to be a consideration for the parties to resolve industrial relations disputes at the mediation stage, without having to continue the industrial relations dispute to the local Industrial Relations Court, which of course the resolution of industrial relations disputes is expected to end quickly, appropriately, fairly, and cheaply.

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