The Enforcement of Disciplinary Sanctions Against Civil Servants Based On Law Number 20 Of 2023

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Abstract

The concept of applying disciplinary consequences against Civil Servants (PNS) in accordance with Law Number 20 of 2023 is discussed in this article. In this article, a review of this statute is used to investigate essential aspects of the enforcement of disciplinary sanctions against civil officials. These features include the procedures that must be executed. subsequently, the categories of infractions that may be subject to disciplinary sanctions, as well as the sanctions that may be applied during the course of the violation. In order to maintain discipline and integrity in the work environment of civil servants, as well as to enforce applicable legal restrictions, it is essential to have the notion of implementing disciplinary consequences. Within the context of this discussion, this article also addresses the difficulties that may be encountered when enforcing disciplinary sanctions, as well as the efforts that are being made to improve the efficiency of the system that is used to enforce disciplinary sanctions. In the hopes of achieving a more professional, transparent, and accountable working environment among public officials, it is believed that a more in-depth understanding of the notion of imposing disciplinary sanctions would be attained.
I. Introduction

Civil servants, as the primary component of state apparatus resources, play a crucial role in determining the effectiveness of government administration and development. Civil servants who possess the necessary qualifications for this position are those who demonstrate exceptional discipline, exemplary performance, attitudes and behavior characterized by loyalty and obedience to the State, possess strong moral values and mentality, and are fully aware of their responsibilities as public servants (Rauzi 2023; Arumajaya, Mawuntu, and Setiabudhi 2023; Rampengan 2023). Competent, skilled, and capable of fostering national cohesion and integrity. Law Number 20 of 2023, based on Article 4 Paragraph 2.b, states that State Civil Apparatus must carry out their duties honestly, responsibly, carefully, with discipline, and with high integrity. This means that Civil Servants are required to follow disciplinary rules, and government agencies must enforce discipline among Civil Servants. Efforts to improve discipline should also be made. Civil servants who violate disciplinary rules will face disciplinary punishment. Additional provisions regarding discipline can be found in Government Regulation Number 53 of 2010, which defines civil servant discipline as the ability to adhere to legal and official obligations while avoiding prohibited actions. Any violation will result in disciplinary consequences. The aforementioned civil servant disciplinary standards pertain to the enforcement of penalties, restrictions, and responsibilities. If civil servants fail to fulfill or breach their commitments.

Discipline is a crucial factor that can enable people, groups, and even nations to attain their desired objectives. Discipline is a crucial component in achieving optimal performance. According to Hasibuan, discipline refers to an individual's consciousness and readiness to adhere to all workplace rules and relevant societal standards. The level of a person’s accountability for the responsibilities allocated to them is demonstrated by their adherence to good discipline (Adnansyah et al. 2020; Rahayu 2023; Tahir 2023). This will foster a sense of motivation, dedication, and the achievement of organizational objectives. This principle also extends to Civil Servants. According to Article 1 number 3 of Law Number 20 of 2023 on State Civil Apparatus (ASN), Civil Servants, also known as Civil Servants, are Indonesian individuals who fulfill specific criteria and are appointed as permanent State Civil Servants by supervisory officials. Employment in government roles.

A Civil Servant is an individual who has met the criteria specified by legal laws, is appointed by an authorized official, and is assigned certain responsibilities and tasks in line with established rules (Maryono 2022; Jakubiak and Chodkiewicz 2022; Miladinovic and Spasojevic 2015). Civil workers have a pivotal role as the achievement of government objectives hinges on their performance. Civil servants are government officials responsible for the execution of administrative functions and shaping the principles of the nation. The major, decisive, and vital duty of Civil
Servants is caused by this. The matter of discipline, particularly among Civil Servants, is increasingly becoming a matter of public concern. Instances documented in digital and physical media show that civil servants depart from their employment without obtaining consent from their superiors. Employees who undergo disciplinary enforcement raids may face various consequences. Lacking obedience or discipline. These issues pose hindrances and impediments to the functioning of government services due to the presence of civil officials who fail to fulfill their responsibilities adequately. Civil servants play a significant role as government officials responsible for administering the state and fostering a thriving society. They strive to establish a harmonious equilibrium between the spiritual and physical aspects of society, in accordance with Pancasila, under the Unitary State of the Republic of Indonesia. The successful implementation of national development and governance relies on the efficiency and effectiveness of the state apparatus, as well as the proficiency of the state civil machinery (Marbun, 2015).

In the provisions of the law, the name Civil Servant is used. Based on Law no. 20 of 2023, which is a new law on civil service, as a process of realizing national goals, Civil Servants are required to carry out public services, government duties and develop certain tasks in serving the community by using goods or services as well as administrative services available to them (Masengi, Lumingkewas, and Supit 2023; Suparno 2023). Furthermore, according to Government Regulation Number 94 of 2021 Article 3, there are regulations regarding the obligations of Civil Servants, namely; 1) Be completely loyal and obedient to Pancasila, the 1945 Constitution, the Constitution of the Republic of Indonesia, the Unitary State of the Republic of Indonesia, and the Government, 2) Maintain the unity and integrity of the nation, 3) Implement policies determined by authorized government officials, 4) Comply with regulatory provisions legislation, 5) Carry out official duties with full dedication, honesty, awareness and responsibility, 6) Demonstrate integrity and exemplary attitudes, behavior, words and actions to everyone, both inside and outside the official office, 7) Maintain confidentiality office and can only disclose office secrets in accordance with statutory provisions; And 8) Willing to be placed throughout the territory of the Unitary State of the Republic of Indonesia.

The aim of this research is to analyze and explain the enforcement of disciplinary sanctions against Civil Servants based on Law Number 20 of 2023. In addition, this research also aims to analyze and explain the implications of enforcing disciplinary sanctions against Civil Servants based on Law Number 20 of 2023.

II. Research Methods

In the field of legal study, methods are exceptionally important. In the context of the legal issues that are being investigated, this technique functions as a
path or guide to the scientific truth in the subject of law. Normative juridical legal research is the strategy that is utilized in the process of conducting legal research. Both the conceptual method and the statutory approach were applied in order to provide solutions to the legal challenges that were discussed earlier (Johnny Ibrahim 2005; Syahrum 2022). In order to put the legislative approach into action, it is necessary to examine all of the statutory rules that are significantly pertinent to the legal issues that are discussed in this paper. In the meantime, the conceptual method is achieved through the process of doing research, locating, and assessing various perspectives and theories in the field of legal science. Primary legal materials and secondary legal materials are the two categories of legal resources that are utilized. The method that is utilized in the process of gathering primary and secondary legal documents is the strategy of taking an inventory of positive law and research that is related to the issue that is being researched. This inventory is then arranged and categorized according to the problem definition that was presented before. For this study, scholars employed a sociological methodology. This research is characterized by its descriptive and analytical nature, specifically focusing on providing a comprehensive overview and analyzing the implementation of disciplinary punishments against Civil Servants in compliance with the stipulations outlined in Law No. 20 of 2023.

III. Result and Discussion

Benchmarks are defined terminologically as elements that serve as a foundation for the purposes of measurement, assessment, and benchmarking (Rauzi 2022). As used in common parlance, the term "parameter" refers to a standard, reference, or guideline that is employed to assess the appropriateness of a given entity. The benchmark for sentencing mentioned here is a metric, reference, or guideline that is employed to evaluate the degree of error committed by the examinee. Its purpose is to serve as a point of reference for government officials when they exercise their authority to issue decisions and/or carry out their responsibilities in delivering assessments. In the absence of measurements, references, or guidelines, uncertainty prevails; it is highly probable that such an absence will foster arbitrary behavior, potentially infringing upon the rights of residents, citizens, or government officials. Therefore, in order to determine whether the penalty imposed is appropriate or not, an instrument or tool is required to determine whether the error is accurate.

Regarding discipline, Santoso further asserted that the theory of disciplinary enforcement can be categorized into two types—preventive discipline enforcement and repressive discipline enforcement—according to the specific circumstances within each organization. Discipline is the mental disposition of an individual or group that consistently aspires to adhere to or conform to established decisions. It is incumbent upon a leader to endeavor to establish a constructive form of
discipline, thus circumventing the implementation of detrimental methods. Positive discipline is an outcome of an individual's education, established customs, or familial practices that enable them to adjust to new situations. Conversely, negative discipline stems from compliant conduct motivated by apprehension of retribution. As per Wirjo, an indicator of employee discipline is observance of the following criteria: punctuality and regular attendance; appropriate attire and attire for work; careful utilization of materials and equipment; adherence to the quantity and methodology of work assigned by the organization or office; timely completion of assigned tasks. The following serves as a benchmark for comprehending employee work discipline in accordance with the definition above:

a) Adherence to required working hours.
b) Adherence to directives issued by higher-ranking individuals, in addition to relevant regulations and policies.
c) Attend work smartly attired and donning agency identification.
d) Employ and uphold office equipment and materials with caution.
e) Operate in accordance with pre-established protocols during labor.

The disciplinary regulations governing civil servants, as outlined in Chapter II Article (2) of Law No. 43 of 1999, stipulate the following obligations:

a) Adhere to all relevant legislation and authoritative protocols, in addition to performing official directives issued by duly authorized superiors.
b) Efficiently performing responsibilities and delivering high-quality community service in alignment with their designated area of expertise.
c) Maintain and operate official property with the utmost care.
d) Conduct oneself in a courteous manner with respect to the general public, fellow civil servants, and superiors.

Therefore, employees literally implement disciplinary measures in accordance with the policies and procedures of the organization. In this particular scenario, discipline encompasses not solely compliance but also the obligations imposed by the institution. On this foundation, it is anticipated that the efficacy of enforcing employee discipline will be enhanced, leading to a continued demonstration of disciplined conduct.

The civil servants who engage in conduct that violates local regulations, fails to comply with relevant policies, or breaches disciplinary protocols will undoubtedly be subject to disciplinary action. Regarding the development of discipline among state civil servants, Law No. 20 of 2023 stipulates that in order to maintain order during the execution of their responsibilities, state civil servants must abide by the discipline of state civil servants. According to Article 7 of Government Regulations No. 94 of 2021, civil servants who fail to adhere to
the stipulations delineated in Articles 3 through 5 shall face disciplinary action. Light disciplinary punishment, moderate disciplinary punishment, and severe disciplinary punishment are the levels and types of punishment specified in Article 8. Light disciplinary punishments, as defined in paragraph (1) letter a, include written or verbal admonitions; written expressions of discontentment; or both.

a. Minor disciplinary sanctions

Light disciplinary punishments are typically administered to civil servants for infractions that are deemed to be minor in nature and lack significant gravity. Instances of transgressions that could potentially incur light disciplinary sanctions encompass tardiness to work without a valid justification, disregard for unimportant administrative duties, use of impolite language directed at superiors or colleagues, failure to maintain workplace cleanliness and safety, and rule-breaking minor regulations within an organization or agency. Light disciplinary punishments typically consist of non-disciplinary sanctions, such as salary cap reductions or promotion delays, or written or verbal admonitions. The objective is to issue civil servants a warning in an effort to better their conduct, without resorting to severe penalties that could have a substantial negative impact on their professional development.

1) A reprimand in words

The decision letter of the sanctioning official specifies an oral caution as a form of light punishment. The sanctioning official verbally communicates the word "oral warning" to the civil servant who violates the disciplinary guidelines.

2) Warning in Writing

A written warning, which is issued and conveyed in writing by an authorized official with the power to penalize civil servants for disciplinary infractions, functions as a form of light punishment.

3) Documentation of Discontentment

A form of mild punishment, a written statement of dissatisfaction is issued and delivered by an authorized official to penalize civil servants who violate disciplinary policies.

b. Moderate Forms of Disciplinary Sanction

Moderate Disciplinary Penalties for Civil Servants (PNS) are sanctions levied against transgressions that merit more severe consequences in comparison to those carrying mild sanctions. The following are examples of infractions that could potentially lead to moderate disciplinary sanctions: 1) Noncompliance with the established code of ethics or conduct guidelines intended for public officials. 2) Negligence in critical responsibilities or the infliction of losses on the organization or society. 3) Behavior that is detrimental to the state or other entities' interests. 4) Non-compliance with contractual obligations that are
relevant to the work environment. 5. Additional disciplinary infractions considered severe enough to justify more severe penalties than those imposed for minor disciplinary infractions (Pattarani et al., 2023).

In most cases, moderate disciplinary measures include more severe penalties, such as a temporary salary reduction, promotion postponement, or reassignment. In some instances, moderate disciplinary sanctions may also encompass revocation of specific rights or transient suspension, contingent upon the agency-specific policies and procedures.

1) For six months, reduce performance allowances by 25 percent.
2) Performance allowances are reduced by 25% for nine months.
3) Reduce performance allowances by 25 percent for one year.

c. Strict disciplinary sanctions

PNS (Severe Disciplinary Punishments for Civil Servants) are disciplinary actions that are enforced in response to grave infractions committed by a civil servant. Typically, this sanction is levied in cases where transgressions have the potential to cause harm to third parties, jeopardize state interests, or constitute severe breaches of the law. The following are instances of infractions that may lead to severe disciplinary sanctions: 1) Authority abuse or corrupt practices. 2) Misuse of authority or misappropriation of financial resources. 3. Legislative infractions that cause monetary detriment to the government or other entities. 4. Severe transgressions of ethics or morality, such as engaging in harassment or discrimination against peers or individuals. 5. Participation in illicit activities beyond the scope of employment that damage the reputation of public servants or the organizations they represent (Saragi, Syahputra, and Yasid 2023; Layyina and Widodo 2024; Bawinto and Maramis 2023; Suhartono, Karim, and Riza 2019). Severe disciplinary punishments typically encompass more severe sanctions, such as permanent termination or dishonorable discharge (PTDH) in the case of a public servant. Nonetheless, the imposition of stringent disciplinary sanctions must adhere to the protocols delineated in relevant legislation and regulations. This entails affording the civil servant an opportunity to present a defense or, if deemed necessary, file an appeal.

1) Twelve-month demotion to a position at a lower level. The phrase "Reduction of position to a lower level for 12 months" refers to the maneuver of lowering a high-level leadership, administrative, supervisory, or functional position by that specified amount of time to a level below its initial position.

2) Transition from current position to temporary position for a duration of 12 months. "Release from position to acting position for 12 months" refers to the termination of an individual from a prominent leadership role,
administrative role, supervisory role, or functional role, and subsequently assigning them to an executive position.

3) Involuntary termination from government service without personal request, yet maintaining a respectful approach. This form of punishment entails an honorable termination of employment, specifically as a civil servant, without the individual’s voluntary request.

IV. Conclusion

Based on the above reasoning, it may be inferred that dismissal as a civil servant entails the loss of one’s civil servant position. The punishments for infractions of civil servant discipline include verbal warnings, written warnings, expressions of displeasure, deferral of wage increases, deferral of promotions, demotions, punitive transfers, release from duties, and dismissal. According to this discussion, the issues commonly encountered in the termination of civil officials include transgressions, criminal behavior, and deceit. Disciplinary violations can be attributed to various factors, such as the ethical standards and mindset of state civil servants, inadequate human resource management, insufficient agency monitoring, and a lack of forceful action against violations. Civil servants, who serve as the state apparatus in governing the country, have the responsibility to fulfill their primary tasks and functions while also maintaining the prestige and reputation of the civil service, for the betterment of the nation and the state. Civil servants are required to adhere to the prohibitions outlined in legislation and/or official regulations. Failure to comply with these rules will result in disciplinary consequences. The prohibitions for civil servants that must not be violated include: 1) Engaging in the abuse of authority; 2) Acting as an intermediary to obtain personal benefits or utilizing the authority of others; 3) Assuming employment or work for another country or international organization without government permission; 4) Working for foreign companies, foreign consultants, or foreign non-governmental organizations; 5) Illegally possessing, selling, purchasing, pawning, renting, or lending state-owned movable or immovable property, documents, or securities; 6) Engaging in activities with superiors, colleagues, subordinates, or individuals both within and outside the workplace with the intention of personal, group, or third-party gain, which directly or indirectly harms the state. Dismissing a civil servant entails the termination of their status as a civil servant. If a civil servant is convicted and sentenced to imprisonment or confinement as a result of a court ruling that is legally binding, for committing a crime linked to their official duties or position, it is imperative that the civil servant in question be removed with dishonor, as they have betrayed the trust bestowed upon them. Being dismissed dishonorably as a civil servant will lead to the forfeiture of one of the civil servant’s job privileges, specifically pension security. In order to adhere to legal requirements, Civil Servants are advised to strictly abide by regulations, fulfill their
commitments, and refrain from engaging in any activities that are explicitly prohibited by statutory restrictions.

References


Salahudin et al: The Enforcement of Disciplinary Sanctions ......


Erlina: Implementation of Legal Protection of Geographical Indication of …..
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