

# Disparity Analysis of Court Decisions on the Determination of Labor Inspectors Regarding Underpayment of Overtime Work Wages (Case Study of State Administrative Court Decisions)

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## ABSTRACT

In labor practice, discrepancies often arise between workers and employers regarding the calculation of overtime wages that should be received. These differences can create uncertainty for workers, who, for a quicker resolution, tend to refer the matter to labor inspectors. The labor inspector will then conduct an examination of the implementation of overtime wage payments and issue a determination regarding the amount that should be paid. If either party objects to the determination, they may pursue legal action before the State Administrative Court. The judge in that court may issue a ruling either granting the claim or declaring it inadmissible. Interestingly, in cases concerning labor inspectors' determinations in disputes over unpaid overtime wages, differing court rulings may occur. The purpose of this study is to analyze the legal standing of labor inspectors' determinations in disputes over unpaid overtime wages as state administrative decisions and to examine the status of labor inspectors' determinations in Decision No. 115/G/2020/PTUN-JKT and Decision No. 231/G/2021/PTUN-JKT.

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## 1. INTRODUCTION

Work is a fundamental aspect of human life that plays a role in fulfilling social and economic needs, both for themselves, others, and both (Antonacopoulou & Georgiadou, 2021). In the context of labor law, Law Number 13 of 2003 concerning Manpower has regulated the concept of employment as everything related to labor, including the period before, during, and after the working period (Desmet & Fokkinga, 2020). Labor has an important role in providing the power or services needed to produce goods and services. Therefore, labor must be rewarded commensurate with its contribution in order to meet the needs of their lives and their families properly. To achieve this, a wage system that is fair and in accordance with the contribution of workers is needed.

Wages are the basic right of workers/laborers as a form of compensation for the services they provide to the employer (Winchenbach et al., 2021). In addition, wages also serve as motivation for workers to improve performance and productivity. Therefore, the wage system must be determined fairly, transparently, and in accordance with applicable legal provisions. In labor law, labor protection is a major concern. The imbalance of bargaining power between employers and workers often puts

workers in a weaker position. Therefore, the state has an important role in providing a legal protection mechanism that can guarantee the welfare of workers (Liukkunen, 2021).

The right to wages is one of the fundamental rights for workers/laborers regulated in Article 1 paragraph 3 of Law Number 13 Year 2003 on Manpower. The article states that workers/laborers are entitled to receive wages and/or compensation in other forms as remuneration for work performed. In this definition, there are two main elements, namely individuals who perform work and obtain wages or other forms of compensation as a form of appreciation for the labor and services that have been provided (Silalahi & Walsh, 2023).

As a basic right, the wages of workers/laborers must be protected by both the state and employers (Lukito, 2023). One of the basic rights of workers is to receive wages that are in accordance with the work and responsibilities that have been carried out. Therefore, employers have an obligation to pay wages in a timely, fair, and in accordance with applicable legal provisions. To support this principle, the government issued various wage policies, including provisions regarding overtime work. Overtime work wages are regulated in Government Regulation No. 35 of 2021 as compensation given to workers/laborers who work outside normal working hours (Wijaya et al., 2023). This regulation limits overtime work to a maximum of 4 hours per day and 18 hours per week. In addition to paying overtime wages, companies are also required to provide adequate rest opportunities and provide food and drinks of at least 1,400 kilo calories if overtime work lasts for 4 hours or more (Santjoko & Suroso, 2024).

Government Regulation Number 35 of 2021 has regulated the mechanism for calculating overtime pay on normal working days. Based on this regulation, the way to calculate overtime pay is as follows: for the first hour of overtime work, the wage given is 1.5 times the hourly wage, while for each subsequent hour of overtime work, the wage given is 2 times the hourly wage. However, in practice, differences in interpretation in the calculation of overtime pay often occur between employers and workers/laborers (Isnaini et al., 2024). This often leads to disputes that require further resolution. To resolve disputes regarding the amount of overtime pay, there are two mechanisms that can be taken. The first is through the industrial relations dispute resolution mechanism as stipulated in Law No. 2/2004 on Industrial Relations Dispute Resolution, while the second is through a determination by the labor inspector (Will, 2022).

In practice, workers are more likely to apply for a determination to the labor inspectorate compared to the industrial relations dispute settlement mechanism. This is because the mechanism of determination by labor inspectors is more profitable in terms of cost and time, so it is considered more efficient than settlement through the Industrial Relations Court. If workers complain about differences in the calculation of overtime work wages to the labor inspectorate, the labor inspectorate will conduct an examination of the implementation of overtime work wage payments made by employers. After the examination, the labor inspector will issue a determination that determines the amount of overtime work wages that should be received by workers. If there is an objection from either party, either the employer or the worker, they can submit a request for a re-determination to the labor inspector at the Ministry of Manpower. This redetermination is final and binding (Mustchin & Martínez Lucio, 2020).

However, although the determination of the labor inspector is final, employers can still file a lawsuit to the State Administrative Court (PTUN) to cancel the determination (Harahap & Tarigan, 2024). In a lawsuit filed with the Administrative Court, the court will examine two main aspects, namely whether the determination of the labor inspector can be categorized as a state administrative decision and whether the dispute between the plaintiff (employer) and the defendant (labor inspector) falls into the category of state administrative disputes that fall under the authority of the Administrative Court. In judicial practice, there are two different decisions regarding the determination of labor inspectors related to overtime work. In Jakarta State Administrative Court Decision Number 115/G/2020/PTUN-JKT, the panel of judges stated that the State Administrative Court did not have absolute authority to examine and hear the case. The panel of judges was of the opinion that the main dispute in this case was related to the amount and procedure of wage payment, which according to Law No. 13/2003 and Law No. 2/2004 is part of a rights dispute in industrial relations. Therefore, the resolution of this dispute is the authority of the Industrial Relations Court under the jurisdiction of the District Court, not the PTUN. On this basis, the panel of judges declared the employer's claim inadmissible or *Niet Ontvankelijk Verklaard* (NO) (Justisi et al., 2024).

In contrast, in Jakarta State Administrative Court Decision Number 231/G/2021/PTUN-JKT, the panel of judges decided to grant the employer's claim and cancel the re-determination issued by the labor inspector (Putrijanti, 2021). In this decision, the panel of judges considered that the PTUN had the authority to hear the case because the labor inspector's determination was considered a state administrative decision. Thus, this dispute falls within the realm of state administrative disputes that fall under the jurisdiction of the PTUN. The difference in decisions in these two cases creates legal uncertainty regarding the authority of the State Administrative Court in adjudicating disputes related to the determination of labor inspectors regarding overtime pay. In fact, in the principles of state administrative law, for the same object of dispute, uniform legal provisions should apply. This difference in decisions has the potential to cause legal uncertainty for employers and workers, and can cause injustice in labor practices. Therefore, it is important to conduct further analysis regarding the interpretation of state administrative decisions and state administrative disputes in the context of the determination of labor inspectors so that there is uniformity in the application of the law (Rahman et al., 2023).

Although there are differences in decisions, this reflects the independence of judicial power, which is a key prerequisite in upholding law and justice. Judicial independence is a fundamental element in ensuring that every legal dispute is resolved fairly and based on objective juridical considerations. Without judicial independence, it is difficult to achieve legal certainty and substantive justice for the parties involved in labor disputes (Wibawa & Putrijanti, 2021). Based on this background, the researcher formulates the research objectives, first, to analyze how the position of the labor inspector's determination in the dispute over the underpayment of overtime work wages as a state administrative decision, second, to analyze how the position of the labor inspector's determination regarding the dispute over the underpayment of overtime work wages in decision number: 115/G/2020/PTUN-JKT and decision number: 231/G/2021/PTUN-JKT (Cantiqa & Gettari, 2023).

## 2. METHOD

This research is normative juridical research, namely research by examining and analyzing the substance of laws and court decisions that are closely related to the subject matter or legal issues under study (Budianto, 2020). The research uses a legal science angle approach so that this research can provide a comprehensive picture of the problems in this study. The data collection method is through document studies or library materials which are library research (Connaway & Radford, 2021).

## 3. RESULTS AND DISCUSSION

### 3.1. The Position of the Stipulation of the Labor Inspector in the Dispute over the Underpayment of Overtime Work Wages as a State Administrative Decision

Labor Inspection is one of the state functions in enforcing labor law, the implementation of which is carried out by labor inspectors. This function is a real manifestation of the state's presence in protecting all its citizens, especially in the aspect of employment. The government's involvement in labor law aims to realize a fair and balanced working relationship between workers and employers. This is very important considering that there are significant differences between workers and employers in social and economic aspects. If the relationship between the two is left without clear regulation, then justice in employment is difficult to achieve, because the party in a stronger position tends to dominate the weaker party. Therefore, the government needs to be present in the form of regulation and supervision to ensure equitable employment relations (Situmorang, 2010). In this study, the stipulation issued by the labor inspectorate became the object of dispute in two cases, namely Case No. 115/G/2020/PTUN-JKT filed by PT Indah Logistik and Case No. 231/G/2021/PTUN-JKT filed by PT Pelayaran Nasional Ekalya Purnamasari. The two companies filed a lawsuit on the grounds that the determination issued by the labor inspectorate was contrary to the applicable laws and regulations and the general principles of good governance. To determine whether the re-determination of the labor inspector in the two cases can be categorized as a State Administrative Decision (KTUN), it is necessary to analyze the suitability of the determination with

the elements of KTUN as stipulated in Article 1 point 9 of Law Number 51 of 2009 and Article 87 of Law Number 30 of 2004. Equations should be placed at the center of the line and provided consecutively with equation numbers in parentheses flushed to the right margin, as in (1). The use of Microsoft Equation Editor or MathType is preferred.

Written Determination. The stipulations issued by labor inspectors in these two cases are in the form of written stipulations, as determined by the format and form in the Minister of Manpower Regulation (Permenaker) Number 1 of 2020. In this regulation, it is explicitly stipulated that every Determination of the Labor Inspector must follow the format specified in the attachment to the Permenaker. This shows that the stipulations issued in these two cases have fulfilled the written element in accordance with the applicable legal provisions.

Issued by a State Administrative Agency or Official. The stipulation that is the object of dispute in these two cases was issued by the Labor Inspector at the Directorate General of Labor Inspection Development and Occupational Safety and Health, Ministry of Manpower. This institution has the authority as a state administrative body or official authorized to issue administrative decisions in the field of labor. Therefore, the stipulation fulfills the element that the decision comes from a state administrative body or official.

Contains state administrative legal actions based on applicable laws and regulations. The stipulation issued by the labor inspector is a state administrative legal act in the field of labor. The contents are related to the calculation and determination of overtime work wages based on statutory regulations. In this case, the stipulation refers to Article 28 of Minister of Manpower Regulation Number 1 of 2020, which gives an obligation to labor inspectors to conduct an inspection and, if a shortage is found in the payment of overtime wages, the inspector is obliged to calculate and determine the amount that should be received by workers.

Concrete, individual and final. Both determinations are concrete because the determination made by the labor inspector is not abstract but tangible and certain, in the form of a determination letter and it is clear what must be done, namely containing an order and addressed to PT Indah Logistik and PT Ekalya Purnamasari National Shipping. Second, the determination is individual because the determination made by the Labor Inspector is not aimed at the community/general but is clearly aimed at a person or civil legal entity. In this research, the determination is specifically addressed to PT Indah Logistik and PT Ekalya Purnamasari National Shipping. The stipulation is final. Both determinations do not require approval by higher officials, the determination is definitive and no longer requires approval from other institutions or parties, as stipulated in Article 28 of Permenaker Number 1 of 2020 which confirms that the calculation and redetermination of labor inspectors at the central government is final and must be implemented.

Causing legal consequences for a person or civil legal entity. The stipulation issued by the labor inspector has a real legal impact on PT Indah Logistik and PT Pelayaran Nasional Ekalya Purnamasari. Both companies are required to pay the shortage of overtime wages to their workers in accordance with the stipulations that have been issued. This shows that decisions taken by labor inspectors have direct legal consequences for the intended parties.

### **3.2. The Position of the Determination of the Labor Supervisor Regarding the Dispute over the Underpayment of Overtime Wages in Decision Number: 115/G/2020/PTUN-JKT and Decision Number: 231/G/2021/PTUN-JKT**

Disputes over underpayment of overtime wages are one of the main issues in industrial relations in Indonesia. In principle, overtime work is a worker's right that has been regulated in legislation, so it must be fulfilled by employers in accordance with applicable regulations. However, in practice, there are often disagreements between workers and employers regarding the amount of overtime wages that should be paid. Differences in calculation or interpretation of the rules are the main causes of this dispute. Therefore, the settlement mechanism used must be able to reflect justice and legal certainty for both parties.

Consistent application of the law in resolving these disputes is very important. Legal consistency will not only provide protection for workers who feel their rights have not been fulfilled, but also provide certainty for employers in carrying out their obligations. With legal certainty, employers can avoid the risk of administrative sanctions or lawsuits from workers, while workers have the assurance that their rights are recognized and enforceable through available legal mechanisms. In this study, the settlement of disputes regarding underpayment of overtime work wages was resolved through the labor inspection mechanism which ultimately led to the decision of the State Administrative Court

(PTUN). Based on the research conducted, so far there are two types of PTUN decisions in similar cases, namely the decision not to accept (*Niet Ontvankelijk Verklaard*) and the decision to grant. Two examples of decisions that are the object of this research are Decision Number 115/G/2020/PTUN-JKT and Decision Number 231/G/2021/PTUN-JKT.

In Case Number 115/G/2020/PTUN-JKT, the panel of judges determined that the decision was not accepted on the grounds that it was not the absolute authority of the State Administrative Court. The judge's consideration was influenced by the plaintiff's postulation which emphasized more on the dispute of rights between the parties to the dispute. In his legal reasoning, the judge briefly explained that although the Plaintiff's lawsuit was filed with a request that the State Administrative Court declare invalid or void the calculation and re-determination of the rights of workers/laborers in the form of overtime wages issued by the Defendant, however, because the subject matter concerns a dispute over rights between the Plaintiff and Br. Haerudin, et al (16 people) Workers/Laborers of PT. Indah Logistik Makassar Branch for the Period of 2017 - 2018 related to lack of wages which based on Law Number 13 of 2003 concerning Manpower and Law Number 2004 concerning Industrial Relations Dispute Resolution is a dispute of rights as one type of industrial relations dispute, then the Panel is of the opinion that it is the authority to adjudicate the Industrial Relations Court as a special court at the District Court. The Tribunal is of the opinion that this view is in line with several decisions that have been legally binding, namely Cassation Decision Number 281 K/TUN/2019 dated June 27, 2019 and Decision of the Jakarta State Administrative Court Number 129/G/2018/PTUN-JKT dated November 1, 2018 in the case between PT Guna Bangun Jaya and the Labor Supervisor at the West Jakarta Administrative City Manpower and Transmigration Sub-Department which has been legally binding. Both decisions state that the lawsuit against the determination of the labor inspector is declared inadmissible because the subject matter of the lawsuit underlying the Plaintiff's lawsuit concerns a dispute over wages or a dispute over rights which is a legal issue that falls under the realm of labor law and/or industrial relations, therefore it is not the absolute authority of the State Administrative Court.

Therefore, in case No. 115/G/2020/PTUN-JKT, the Panel is also of the opinion that because the subject matter of the lawsuit as the basis of the Plaintiff's claim is a legal dispute under the realm of labor law and/or industrial relations so that based on the principle of *lex specialist derogate lege generali* or special law overrides general law, then the dispute between the Plaintiff and the Defendant which is a legal dispute in the realm of labor law/industrial relations cannot be submitted to the State Administrative Court, but must be submitted to the Industrial Relations Court which is a special court within the District Court, so the Panel of Judges stated that the Jakarta State Administrative Court has no absolute authority to examine and hear the case.

According to the author, the legal considerations in the decision of Case Number 115/G/2020/PTUN-JKT are considered inappropriate for several reasons, namely: disputes related to the determination of labor inspectors are included in the category of state administrative disputes; the State Administrative Court has the authority to examine, decide and resolve disputes in the field of State Administration; and the determination of labor inspectors is not included in the State Administrative Decisions excluded by the State Administrative Justice Law. Based on Article 1 point 10 of Law No. 51/2009, state administrative disputes are disputes arising in the field of state administration between persons or civil legal entities and state administrative bodies or officials, both at the central and regional levels, as a result of the issuance of state administrative decisions, including employment disputes based on applicable laws and regulations. Furthermore, to be able to find out whether the dispute in Case Number: 115/G/2020/PTUN-JKT is included in the State Administrative Dispute as referred to in Article 1 Point 10 of Law No. 51 of 2009.

The first element is a dispute arising in the field of state administration between persons or civil legal entities and state administrative bodies or officials, both at the central and regional levels. In this case, PT Indah Logistik as the plaintiff is a civil legal entity while the defendant is the Director of Supervision of Work Norms and Labor Social Security of the Ministry of Manpower/labor inspectors as a state administrative official at the center who issued the determination. The lawsuit was filed against the re-determination of the labor inspector, where the determination is a determination arising in the field of state administration.

The second element is as a result of the issuance of a state administrative decision, including employment disputes based on applicable laws and regulations. In this case, the lawsuit arose as a

result of the re-determination of the labor inspector. The re-determination of labor inspectors is a state administrative decision as referred to in Article 1 Point 9 of Law No. 51 of 2009, which the author has described above.

Then regarding the authorized court, according to Article 4 of Law No. 9 of 2004, the State Administrative Court is one of the judicial power institutions tasked with serving the justice-seeking public in resolving State Administrative disputes. In accordance with Article 47 of Law No. 5 of 1986, the State Administrative Court has the duty and authority to examine, decide and resolve State Administrative disputes. Therefore, it is clear that dispute resolution in the field of State Administration is the responsibility of the State Administrative Court. In addition, the re-establishment of the labor inspectorate is not an exempted State Administrative Decision based on Article 2 of Law No. 9 of 2004, which only exempts: a. State Administrative Decisions that are civil legal actions; b. State Administrative Decisions that are general regulations; c. State Administrative Decisions that still require approval; d. State Administrative Decisions issued based on the provisions of Law No. 9 of 2004. State Administrative Decisions issued based on the provisions of the Criminal Code and the Criminal Procedure Code or other laws and regulations of a criminal law nature; e. State Administrative Decisions issued on the basis of the results of an examination by a judicial body based on the provisions of the applicable laws and regulations; f. State Administrative Decisions concerning the administration of the Army. State Administrative Decisions concerning the administration of the Indonesian National Army; g. Decisions of the General Election Commission both at the central and regional levels. Decisions of the General Election Commission both at the central and regional levels regarding the results of general elections.

On the other hand, in Case Number: 231/G/2021/PTUN-JKT, the panel of judges issued a verdict on the grounds that the dispute was a state administrative dispute that fell within the absolute competence of the state administrative court and the issuance of the re-determination of the labor inspector was procedurally and/or substantially contrary to the laws and regulations and general principles of good governance. In its legal reasoning, the panel of judges briefly explained that based on the provisions of Article 47 of Law Number 5 of 1986, it is stated that the Court is authorized to examine, decide and resolve state administrative disputes. One of the elements of the definition of a state administrative dispute is a dispute arising in the field of state administration, which means that the dispute is the competence of the state administrative court. In the opinion of the panel of judges, the re-determination of the labor inspector in this case has fulfilled the elements contained in a state administrative decision, and the dispute has also fulfilled the elements of a state administrative dispute. Based on these considerations, according to the Panel of Judges, the Jakarta State Administrative Court is absolutely authorized to examine, decide and resolve the case.

According to the author, the consideration of the panel of judges stating that the Jakarta State Administrative Court has the authority to examine, decide and resolve the case absolutely is correct for several reasons, namely: disputes related to the determination of labor inspectors are included in the category of State Administrative Disputes; the State Administrative Court has the authority to examine, decide and resolve disputes in the field of State Administration; and the determination of labor inspectors is not included in the State Administrative Decisions excluded by the State Administrative Justice Law. Regarding the authority of the court and excluded State Administrative Decisions, the author has explained above, therefore the author will further explain disputes related to the determination of labor inspectors which are included in the category of State Administrative Disputes.

To determine whether the dispute in Case Number: 231/G/2021/PTUN-JKT falls into the category of State Administrative Dispute as referred to in Article 1 point 10 of Law Number 51 of 2009, the author elaborates on this as follows: The first element of a State Administrative Dispute is a dispute that arises in the field of state administration, between persons/civil law entities and state administrative bodies/officials, both at the central and regional levels. In Case Number: 231/G/2021/PTUN-JKT, PT Pelayaran Nasional Ekalya Purnamasari as the plaintiff is a civil legal entity, while the defendant is the Labour Inspector of the Ministry of Manpower at the Directorate of Labour Inspection Development and K3 as the state administrative official at the centre that issued the determination. The lawsuit was filed against the re-determination of the labour inspector, where the determination is a determination arising in the field of state administration. Thus, this element has been fulfilled. The second element of a State Administrative Dispute is as a result of the issuance of a state administrative decision, including employment disputes based on applicable laws and regulations. In

this case, the lawsuit arose as a result of the re-determination of the labour inspector. The re-determination of the labour inspector is a state administrative decision as referred to in Article 1 Point 9 of Law No. 51/2009 which the author has described above. Therefore, all elements of the State Administrative Dispute have been fulfilled.

#### 4. CONCLUSION

The re-determination of the labour inspector meets the elements of a state administrative decision as referred to in Article 1 Point 9 of Law Number 51 of 2009, the determination has the main elements of a state administrative decision, namely individual, concrete, and final. The PTUN judges in the legal reasoning of decision number: 231/G/2021/PTUN-JKT, also stated that the re-determination of the labour inspector related to violations of overtime work wages is included in state administrative decisions that can be tested in court. In addition, in the legal considerations of Constitutional Court Decision Number 7/PUU-XII/2014, the panel of judges also confirmed that the written determination of the labour inspector is a State Administrative decision that has a concrete, individual and final nature and has legal consequences for a person or civil legal entity. Thus, it can be concluded that the determination of the labour inspector in the dispute over the underpayment of overtime wages not only fulfils the elements of a State Administrative decision, but also has a strong legal basis to be used as an object of dispute in the state administrative court. The panel of judges in the settlement of disputes over the underpayment of overtime wages should apply the same rules in order to produce consistent decisions. The differences in decisions in the two cases discussed in this study were caused by differences in legal considerations from the panel of judges, which were influenced by differences in the posita submitted by the plaintiff and the answers submitted by the defendant. In the unacceptable decision in case number: 115/G/2020/PTUN-JKT, the plaintiff's postulates emphasised more on the dispute of rights between the parties to the dispute. Therefore, according to the judge, this area is not included in the authority of the State Administrative Court and decided not to accept the lawsuit. In addition, the judge focused his legal considerations on previous decisions without elaborating in detail on the fulfilment of the elements of state administrative disputes and state administrative decisions. Thus, in the decision, there is no clarity in the legal considerations regarding the fulfilment of the requirements of state administrative disputes and state administrative decisions, which should be the main aspect in examining the re-establishment of the labour inspector in the context of state administration. In contrast, in the verdict in case number 231/G/2021/PTUN-JKT, the panel of judges outlined the elements of a state administrative dispute and a state administrative decision that were fulfilled. The legal considerations in this decision focus more on analysing the elements of state administrative disputes and state administrative decisions in accordance with statutory regulations. Based on the fulfilment of the elements of a state administrative dispute and also a state administrative decision, this decision confirms that the re-establishment of the labour inspectorate is valid as an object of lawsuit in the state administrative court and provides a strong legal basis for dispute resolution in the state administrative court. According to the author, the legal considerations in the decision of Case No. 115/G/2020/PTUN-JKT are considered inappropriate for several reasons, namely: disputes related to the determination of labour inspectors fall into the category of state administrative disputes; the State Administrative Court has the authority to examine, decide and resolve disputes in the field of State Administration; and the determination of labour inspectors is not included in the State Administrative Decisions excluded by the State Administrative Court Law. In line with that, according to the author, the judge's decision in Case Number: 231/G/2021/PTUN-JKT is correct and in line with the laws and regulations.

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