CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA

SUMMARY OF DECISION
FOR CASE NUMBER 94/PUU-XXI/2023

Concerning

Expiration of Lawsuit for Termination of Employment to the Industrial Relations Court and Down Payment of Court Expenses

Petitioner	:	**Muhammad Hafidz**
Type of Case	:	Judicial Review of Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes (Law 2/2004) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
Subject Matter	:	Judicial Review of Article 82 and Article 97 against Article 28D paragraph (1) of the 1945 Constitution
Verdict	:	1. To dismiss the Petitioner's petition in part. 2. To declare that Article 82 of Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes (State Gazette of the Republic of Indonesia of 2004 Number 6, Supplement to State Gazette of the Republic of Indonesia Number 4356) is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force to the extent that it is not interpreted as "A lawsuit by a worker/laborer for termination of employment may only be filed within a period of 1 (one) year from the receipt or notification of the decision from the employer." 3. To order this decision to be published in the State Gazette of the Republic of Indonesia as appropriate. 4. To dismiss the remainder of the Petitioner’s petition.
Date of Decision	:	Thursday, February 29, 2024
Overview of Decision	:	

Whereas the Petitioner is an individual Indonesian citizen who is currently still actively working at a company and he believes that he is injured by the enactment of Article 82 and Article 97 of Law 2/2004.

Whereas the Petitioner petitions for a review of the constitutionality of statutory norms, *in casu* Article 82 and Article 97 of Law 2/2004 against the 1945 Constitution, therefore the Court has the authority to hear the *a quo* petition.

Whereas regarding the Petitioner's legal standing, the Petitioner is an individual Indonesian citizen who is a worker and he believes that his constitutional rights as guaranteed in Article 28D paragraph (1) of the 1945 Constitution have been impaired by the enactment of Article 82 and Article 97 of Law 2/2004. The Petitioner believes, an Indonesian citizen who is a worker will experience an injury in the form of legal uncertainty due to unclear and multiple interpretations of the lawsuit of termination of employment and also because it is unclear which party should be responsible for the court expenses if the Industrial Relations Court grants a part or all of the industrial relations dispute lawsuit with a value of at least IDR150,000,000.00 (one hundred and fifty million rupiah) or more. Therefore, the Court is of the opinion that Petitioner has the legal standing to submit the *a quo* petition.

Whereas the Petitioner argues that Article 82 and Article 97 of Law 2/2004 are contrary to the 1945 Constitution. Regarding this matter, the Court considers the following:

Whereas Article 82 of Law 2/2004 regulates the expiration of lawsuit by worker/laborer arising from termination of employment as referred to in Article 159 and Article 171 of Law 13/2003, namely 1 (one) year from the time the decision of termination is notified by the employer to the worker or the notification of termination of employment is received by the worker. This means that the reference to the expiration of the lawsuit as regulated in Article 82 of Law 2/2004 is linked to the provisions regulated in Article 159 and Article 171 of Law 13/2003. In this regard, Article 159 of Law 13/2003 states, "If the worker/laborer does not receive termination of employment as referred to in Article 158 paragraph (1), the relevant worker/laborer may file a lawsuit to the industrial relations dispute resolution institution." By looking closely at the norm of Article 159 of Law 13/2003, it refers to the norm of Article 158 of Law 13/2003 which determines that the decision of termination of employment may be filed to the Industrial Relations Dispute Court only if such termination of employment is caused by or determined on the grounds that worker has committed serious errors. Regarding the norms of Article 158 of Law 13/2003, in the Decision of the Constitutional Court Number 012/PUU-I/2003, the Court has stated in its verdict that Article 158 of Law 13/2003 is contrary to the 1945 Constitution. In addition to Article 158 and Article 159 of Law 13/2003 which have been declared contrary to the 1945 Constitution and therefore has no binding legal force through the Decision of the Constitutional Court Number 012/PUU-I/2003, the enactment of Law 6/2023 has superseded Article 158 and Article 159 of Law 13/2003. Therefore, Article 158 and Article 159 of Law 13/2003 are no longer in force.

Regarding Article 171 of Law 13/2003, this Article refers to Article 158 paragraph (1) and also refers to Article 160 paragraph (3), and Article 162 of Law 13/2003. Because Article 158 is no longer in force in accordance with the legal considerations above, the Court will further consider the establishment of Article 160 paragraph (3) and Article 162 of Law 13/2003. Regarding the norms of Article 160 paragraph (3) and Article 162 of Law 13/2003, the Court has provided its legal considerations in the Decision of the Constitutional Court Number 61/PUU-VIII/2010, Decision of the Constitutional Court Number 69/PUU-XI/2013, and the Court stated that in principle these two articles are not contrary to the 1945 Constitution. Therefore, Article 160 paragraph (3) and Article 162 in Article 171 of Law 13/2003 remain valid provided that they are not superseded or amended by other statutory regulations.

Furthermore, in accordance with the Decision of the Constitutional Court Number 012/PUU-I/2003 and Decision of the Constitutional Court Number 114/PUU-XII/2015, the legislators enacted Article 81 number 54 of Law 6/2023 to supersede Article 162 of Law 13/2003. Article 81 number 63 of Law 6/2023 also supersedes Article 171 of Law 13/2003. Therefore, the termination of employment which may be filed to the Industrial Relations Court as regulated in Article 82 of Law 2/2004 which refers to Article 159 and in Article 171 of Law 13/2003 are no longer in force because such references have been revoked by Law 6/2023. The question is what about the norm of Article 160 paragraph (3) of Law 13/2003 which was not superseded by Law 6/2023? Whether it is also no longer in force since at the same time

of the deletion of Article 171 of Law 13/2003 in Article 81 number 63 of Law 13/2003, paragraph 3 of Article 160 of Law 13/2003 which was used as a reference in Article 171 of Law 13/2003, was actually revised and its substance was strengthened in Law 6/2023. Therefore, regarding the norm of Article 82 of Law 2/2004, the substance is still needed to accommodate the time limit to determine the expiration of lawsuit for termination of employment to the Industrial Relations Court, which is more than 1 (one) year from the receipt or notification of the decision from the employer.

The revocation of Article 171 of Law 13/2003 in Article 81 number 63 of Law 6/2023 is to eliminate the regulations of expiration date in 2 (two) laws, namely Law 13/2003 and Law 2/2004, so that the formation of Law 6/2023 in Article 81 number 63 of Law 6/2023 supersedes Article 171 of Law 13/2003 because its substance also regulates the expiration date for filing a lawsuit, whereas, "...worker/laborer may file a lawsuit to the industrial relations dispute resolution institution within a maximum period of 1 (one) year from the date of such termination." Due to the revocation of the norm of Article 171 of Law 13/2003, the only legal basis for filing a lawsuit for the decision of termination of employment to the Industrial Relations Court are those contained in the provisions of Article 82 of Law 2/2004. However, the revocation of Article 171 of Law 13/2003 does not necessarily mean that the statute of limitation for filing a lawsuit for termination of employment is completely invalid.

Whereas in connection with the time limit of 1 (one) year from the receipt or notification of the decision of termination of employment from the employer, the Court has provided its considerations in the Decision of the Constitutional Court Number 61/PUU-VIII/2010 which was then reaffirmed in the Decision of the Constitutional Court Number 114/PUU-XIII/2015, which in principal it states that the Court still maintains its stance that a time limit for filing a lawsuit is necessary in order to balance the interests of employers and workers/laborers. The time limit for filing a lawsuit is important for the sake of fair legal certainty so that any problems between employer and worker/laborer do not drag on because they may be resolved within a clear and definite time period. Therefore, to guarantee legal certainty as regulated in Article 28D paragraph (1) of the 1945 Constitution, the application of Article 82 of Law 2/2004 and by considering that there are no other provisions that regulate the time limit for filing a lawsuit for termination of employment to the Industrial Relations Court, it is important for the Court to affirm in the *a quo* decision that the norm of Article 82 of Law 2/2004 which states "A lawsuit filed by worker/laborer for termination of employment as referred to in Article 159 and Article 171 of Law Number 13 of 2003 concerning Manpower, may only be filed within a period of 1 (one) year from the receipt or notification of the decision from the employer," is contrary to the 1945 Constitution to the extent that it is not interpreted as "A lawsuit filed by a worker/laborer for termination of employment may only be filed within a period of 1 (one) year from the receipt or notification of the decision from the employer." And because Law 2/2004 is related to various laws in the field of employment, specifically Law 13/2003 and Law 6/2023 and a number of Decisions of the Constitutional Court, to harmonize the laws and to follow up on a number of Decisions of the Constitutional Court, the legislators must immediately carry out a review of Law 2/2004.

Whereas in relation to the Petitioner's argument regarding the phrase "decision of the Industrial Relations Court" in Article 97 of Law 2/2004 is contrary to the 1945 Constitution to the extent that it is not interpreted as "decision of the Industrial Relations Court, in addition to punishing the losing party to pay the court expenses, the Court must also determine the party who will receive the payment of court expenses in lieu of the down payment of court expenses that have been paid in advance," the Court considers as follows:

The issue referred to by the Petitioner is actually related to the decision of the court and it is not within the authority of the Court to review it. This is because the down payment of court expenses paid by the Plaintiff is actually used to finance the case settlement process and is not intended as a fee to be paid to the state treasury as non-tax state revenue, unless there are any remaining funds from the case settlement process which are then returned to

the Plaintiff. Therefore, there is no relevance in involving any other parties as argued by the Petitioner. Moreover, for any lawsuit that is granted, any expenses incurred by the Plaintiff will be returned from the execution proceeds paid by the Defendant to the extent that it is affirmed in the court decision and its implementation cannot be separated from the execution of the decision. Moreover, the matter argued by the Petitioner is the implementation of norms. Therefore, the Court is of the opinion that the Petitioner's argument which states that the phrase "decision of the Industrial Relations Court" in Article 97 of Law 2/2004 is unconstitutional to the extent that it is not interpreted as "decision of the Industrial Relations Court, in addition to punishing the losing party to pay the court expenses, the Court must also determine the party who will receive the payment of court expenses in lieu of the down payment of court expenses that have been paid in advance" is an argument that is legally unjustifiable.

Pursuant to the aforementioned considerations, the Court passed down a decision which verdicts are as follows:

1. To dismiss the Petitioner's petition in part.
2. To declare that Article 82 of Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes (State Gazette of the Republic of Indonesia of 2004 Number 6, Supplement to State Gazette of the Republic of Indonesia Number 4356) is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force to the extent that it is not interpreted as "A lawsuit by a worker/laborer for termination of employment may only be filed within a period of 1 (one) year from the receipt or notification of the decision from the employer."
3. To order this decision to be published in the State Gazette of the Republic of Indonesia as appropriate.
4. To dismiss the remainder of the Petitioner’s petition.