



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 132/PUU-XXIII/2025**

Concerning

One-Year Deadline for Filing Claims Following Termination of Employment

- Petitioner** : **Domuli Sentudes**
- 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 law of Article 82 of Law 2/2004 as last interpreted by the Constitutional Court Decision Number 94/PUU-XXI/2023 is contrary to Article 28D paragraph (1) and Article 28H paragraph (2) of the 1945 Constitution
- Verdict** : 1. To grant 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) as last interpreted by the Constitutional Court Decision Number 94/PUU-XXI/2023 is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force if it is not interpreted as "A lawsuit by a worker/laborer concerning termination of employment may only be filed within a period of 1 (one) year from the date the parties fail to reach an agreement through mediation or conciliation."
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** : Wednesday, August 17, 2025
- Overview of Decision** :

The Petitioner is an Indonesian citizen who was terminated from a private company in Jakarta on October 31, 2023 based on the Notice of Termination of Employment Number SJS-HRD/001-1014/X/2023 dated October 18, 2023, and has constitutional rights to legal guarantee and certainty granted by Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia and constitutional rights to special treatment to obtain the opportunity to achieve justice granted by Article 28H paragraph (2) of the 1945 Constitution of the Republic of Indonesia.

With respect to the Court's authority, because Petitioner petitions for a judicial review, *in casu*, Article 82 of Law 2/2004, as last interpreted by the Constitutional Court Decision Number 94/PUU-XXI/2023 against the 1945 Constitution of the Republic of Indonesia, the Court has the authority to hear the petition *a quo*.

With respect to the Petitioner's legal standing, the Petitioner argues that he does not have sufficient time to file a lawsuit with the Industrial Relations Court if he is given only 1 (one) year from the date the notice of termination of employment is received or delivered. In the context of the petition *a quo*, the Petitioner states that the enactment of Article 82 of Law 2/2004, as last interpreted by the Constitutional Court Decision Number 94/PUU-XXI/2023, has violated the Petitioner's constitutional rights as guaranteed by Article 28D paragraph (1) and Article 28H paragraph (2) of the 1945 Constitution of the Republic of Indonesia. Therefore, if the petition *a quo* is granted, the assumed loss of constitutional rights, as argued by the Petitioner, will no longer occur. Therefore, regardless of whether or not the argument of the Petitioner, which states that the norm of Article 82 of Law 2/2004, as last interpreted by the Constitutional Court Decision Number 94/PUU-XXI/2023, is unconstitutional, is proven, the Court is of the opinion that the Petitioner has the legal standing to act as a Petitioner in the petition *a quo*.

Whereas since the petition *a quo* is clear, the Court is of the opinion that there is no urgency and relevance in hearing the statements of the parties as intended in Article 54 of the Constitutional Court Law.

Whereas the provisions for the settlement of industrial relations disputes have been regulated in a number of regulations, including Law Number 13 of 2003 concerning Manpower (Law 13/2003), Law 2/2004 and Law Number 6 of 2023 concerning the Enactment of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation (Law 6/2023). In these Laws, one of the causes of industrial relations disputes is the existence of disputes over termination of employment. Philosophically, regulations concerning labor, both in Law 13/2003 and Law 6/2023, require employers, workers/laborers, trade unions/labor unions, and the government to make every effort to prevent the termination of employment. Therefore, if, even with the best efforts of all parties, employment disputes still arise, the employers, workers, trade unions, and the government must continue seeking the most appropriate resolution, particularly in industrial disputes involving termination of employment. So, termination of employment should be treated as a last resort, applied only when all attempts at rescue or settlement have failed to produce an agreement.

Whereas the Court has issued a decision which essentially states that Article 158 and Article 159 of Law 13/2003 are contrary to the 1945 Constitution and they have no binding legal force. These legal considerations were then strengthened by the Constitutional Court Decision Number 114/PUU-XII/2015 which reviewed Article 82 of Law 2/2004 which regulates Article 159 of Law 13/2003 where the norm also regulates Article 158 of Law 13/2003 which in essence states that the legal considerations in the Constitutional Court Decision Number 012/PUU-I/2003 also apply to the review of Article 82 of Law 2/2004 [*vide* Paragraph **[3.13]** of the Constitutional Court Decision Number 114/PUU-XII/2015]. In addition to Article 158 and Article 159 of Law 13/2003, which have been declared contrary to the 1945 Constitution and therefore they have no binding legal force by the Constitutional Court Decision Number 012/PUU-I/2003, the enactment of Law 6/2023 has superseded Article 158 and Article 159 of Law 13/2003 [*vide* Article 81 number 50 and number 51 of Law 6/2023].

Whereas furthermore with regard to Article 82 of Law 2/2004, Article 171 of Law 13/2003, which serves as the reference, states "Workers/laborers who are terminated without a decision from the authorized industrial relations dispute resolution agency as referred to in Article 158 paragraph (1), Article 160 paragraph (3), and Article 162, and who do not accept the termination, may file a lawsuit with the industrial relations dispute resolution agency within no later than 1 (one) year from the date of termination." The repeal of Article 171 of Law 13/2003 within Article 81 number 63 of Law 6/2023 confirms that there are no longer any provisions on expiration in the two (2) laws, namely Law 13/2003 and Law 2/2004. Therefore,

the repeal of Article 81 number 63 of Law 6/2023 has automatically repealed Article 171 of Law 13/2003 because its substance also regulates the expiration of the period for filing a lawsuit, namely, "... workers/laborers may file a lawsuit the industrial relations dispute resolution agency within no later than 1 (one) year from the date of termination of their employment." Due to the repeal of Article 171 of Law 13/2003, the only provision regulating the expiration of the period for filing a lawsuit concerning termination of employment disputes with the Industrial Relations Court are the one contained in Article 82 of Law 2/2004. Thus, it is clear and unequivocal that the repeal of Article 171 of Law 13/2003 by repealing Law 6/2023 is not intended to abolish the deadline requiring workers affected by a termination of employment to file a lawsuit with the Industrial Relations Court within a maximum of 1 (one) year from the date of termination of employment. Because, the deletion of Article 171 of Law 13/2003 in Law 6/2023 is actually intended so that the only provision regulating the deadline for workers to file a lawsuit concerning a termination of employment dispute with the Industrial Relations Court is Article 82 of Law 2/2004 [*vide* the additional statement of the President in Petition 94/PUU-XXI/2023 page 55].

Whereas furthermore, regarding the one-year expiration period from the receipt or delivery of the notice of termination of employment issued by the employer, this has been considered by the Court in Constitutional Court Decision Number 61/PUU-VIII/2010 which is also reaffirmed in Constitutional Court Decision Number 114/PUU-XIII/2015.

Whereas Law 2/2004 stipulates that the Industrial Relations Court is a special court within the general court system, and that the applicable procedural law is the civil procedural law used in general courts, unless otherwise specifically regulated in Law 2/2004 [*vide* Article 55 and Article 57 of Law 2/2004]. However, in termination of employment disputes, before a worker/laborer files a lawsuit with the Industrial Relations Court, the worker/laborer and the employer must first go through the following stages:

- a. Bipartite Negotiations [*vide* Article 6 and Article 7 of Law 2/2004];
- b. Tripartite Negotiations, including Mediation and Conciliation at the Manpower Office [*vide* Article 8 to Article 28 of Law 2/2004];
- c. The worker/laborer and the employer must obtain written recommendation from the mediator/conciliator as a condition for filing a lawsuit [*vide* Article 13 paragraph (2) and Article 23 paragraph (2) of Law 2/2004].

Regarding the pre-litigation stages regulated in Law 2/2004 above, this is a procedure that must be carried out by the workers and employers if they wish to file a lawsuit concerning a termination of employment dispute with the Industrial Relations Court. Therefore, the Court is of the opinion that, without intending to assess the specific circumstances experienced by the Petitioner, it can nonetheless understand the concerns of certain parties regarding the length of time required at each stage, namely the bipartite and tripartite processes, including mediation and conciliation at the Manpower Office. However, because this is a mandatory requirement that must be fulfilled before filing a termination of employment dispute with the Industrial Relations Court, all of the stages must be undertaken and cannot be bypassed. Thus, the next issue the Court must consider is how these mandatory stages can be completed without impairing the constitutional rights of workers/laborers, ensuring that they still have a sufficient period to file a dispute lawsuit with the Industrial Relations Court. In this regard, although the Court has previously stated that a worker's lawsuit concerning termination of employment may only be filed within 1 (one) year from the time the employer's notice is received or delivered, the Court notes that the stages that must be completed beforehand require a considerable amount of time, therefore, to ensure that workers have sufficient opportunity to file a lawsuit with the Industrial Relations Court when mediation or conciliation fails to reach an agreement, the Court finds it fair that the one-year expiration period be calculated from the date on which the mediation/conciliation stage does not result in an agreement.

Whereas the Court's decision to adopt this stance is based on the consideration that the filing of a lawsuit remains necessary to maintain a balance between the interests of employers and workers. A deadline for filing a lawsuit is also required, given that both workers and employers need fair legal certainty so that their disputes do not drag on. This ensures that workers can promptly receive their rights in the event of termination of employment, and employers can operate in an atmosphere of legal certainty, made possible by the existence of a clear and definite timeframe for resolving disputes. However, after examining the developments and legal facts that have occurred, the Court, as an institution that safeguards human rights, including the rights of both workers and employers, cannot fully grant the Petitioner's petition to amend the expiration period for filing a lawsuit at the Industrial Relations Court to 3 (three) years from the date of receipt or notification of the termination of employment. A deadline of 3 (three)-year for submitting such disputes to the Industrial Relations Court would result in an excessively long delay for both workers and employers in obtaining legal certainty. For workers, this concerns the prompt realization of their rights arising from termination of employment, and for employers, it concerns the need for immediate certainty to maintain a conducive business climate, an element of legal certainty that is essential in business operations, as previously discussed in the Court's legal considerations. Therefore, pursuant to the legal considerations above, and within the bounds of reasonable reasoning, the Court is of the opinion that the expiration period of 1 (one) year, calculated from the date the parties fail to reach an agreement through mediation or conciliation, for workers affected by termination of employment to file a dispute lawsuit at the Industrial Relations Court constitutes a period that adequately upholds workers' rights to a decent living and freedom from discrimination, while also ensuring fair legal certainty as argued by the Petitioner, in accordance with the provisions of Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Thus, the norm of Article 82 of Law 2/2004, as last interpreted by the Constitutional Court Decision Number 94/PUU-XXI/2023, must be reinterpreted in full as contained in the decision *a quo*.

Pursuant to the legal considerations above, the Petitioner's argument regarding the constitutionality of the norm of Article 82 of Law 2/2004 as last interpreted by the Constitutional Court Decision Number 94/PUU-XXI/2023 is legally justifiable. However, because the interpretation provided by Court is different from the one petitioned by the Petitioner, the said argument of the Petitioner is legally justifiable in part.

Accordingly, the Court passes down a decision which verdict states:

1. To grant 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) as last interpreted by the Constitutional Court Decision Number 94/PUU-XXI/2023 is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force if it is not interpreted as "A lawsuit by a worker/laborer concerning termination of employment may only be filed within a period of 1 (one) year from the date the parties fail to reach an agreement through mediation or conciliation."
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