



THE WORKING RELATIONSHIP BETWEEN EMPLOYERS AND WORKERS IS BASED ON A WORK AGREEMENT, ELEMENTS OF WAGES AND ELEMENTS OF ORDERS REVIEWED FROM BUSINESS LEGAL PROTECTION

¹Bambang Utoyo, ²Ramlani Lina Sinaulan, ³Marsha Angelina Utoyo Sinaulan

^{1,2}Universitas Jayabaya Jakarta Indonesia

bbg.utoyo@gmail.com; ramlani_ls@jayabaya.ac.id

³Kyungsung University, Busan,

marsha1212@kyungsung.ac.kr

Article history:	Abstract:
Received: 14 th July 2022 Accepted: 14 th July 2022 Published: 28 th September 2022	During normal conditions and the company is operating well, the interests and rights of workers can be accommodated by the company, but when the company is hit by a crisis and or financial problems that lead to bankruptcy, often the rights of workers cannot be accommodated again by the company. The working relationship between employers and workers occurs based on a work agreement, because there are elements of work, elements of wages and elements of orders. The employment relationship will end due to a certain matter which results in the termination of the rights and obligations between the worker and the entrepreneur. The termination of the employment relationship due to the fact that the company/entrepreneur is declared bankrupt or liquidated based on the applicable laws and regulations, wages owed and other rights of workers are debts whose payment takes precedence as stipulated in the labor regulations. Payment of workers' wages in arrears takes precedence over claims from separatist creditors (banks), labor claims for other wages, state bills for taxes, and other concurrent creditors' claims . Legal protection of labor rights in relation to bankruptcy will be realized , supported by the role of from k curator to avoid existence collision interest with debtor or creditor .

Keywords: Legal Protection, Labor Rights, Business Legal

INTRODUCTION

The law provides protection for workers to get their rights as priority rights. In the event that the entrepreneur is declared bankrupt or liquidated based on the applicable laws and regulations, the wages and other rights of the workers are the debts which have priority in payment. Syamsuddin (2004) . Employers can terminate the employment relationship of workers because the company is bankrupt. In accordance with Law no. 13 of 2003, concerning Manpower (hereinafter referred to as the "Manpower Law"), workers are entitled to one-time severance pay, one-time severance pay, and one-time compensation for entitlements. The labor regulations do not further stipulate the procedure for resolving labor rights in the event that the company is declared bankrupt. What is regulated is that labor rights are rights that precede other rights. Thus, the provisions on labor rights in bankruptcy shall apply based on the general provisions regulated in the Civil Code (hereinafter referred to as the Civil Code) and/or Law no. 37 of 2004, concerning Bankruptcy and Suspension of Debt Payment Obligations (hereinafter referred to as "Bankruptcy Law"). The Civil Code has by clear describe about understanding of debt, that debt is essentially is liabilities that arise from engagement where there is one entitled party on achievements (creditors) and on the other hand there are responsible party Fulfill achievement (debtor) on something performance certain . With this framework , the debt that becomes base application bankrupt including debts arising outside framework agreement borrow borrow money, for example agreement sell buy, deal contract, agreement leasing, and including the agreement work . According to the Civil Code, there are three groups of creditors, namely; creditor separatist, preference, concurrent (Agusmidah 2010).

The event of bankruptcy or the dissolution of a company will have a negative impact on the protection of the rights and future of the workers, so the interests of workers in a company that is declared bankrupt are related to the payment of wages and severance pay. In the general explanation of the Manpower Act it is stated that, "Manpower development " as integral part of development national based on Pancasila and the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution), implemented in skeleton development Indonesian people as a whole and development Indonesian society as a whole for increase honor , dignity, and price self power work as

well as realize Public prosperous , just , prosperous , and even, good material as well as spiritually Employment development must set so appearance so that fulfilled basic rights and protection for power work and labor and at the same time could realize conducive conditions for business development.

In the implementation of the bankruptcy decision, the word precedence is placed after the settlement of the rights of the state and separatist creditors referring to Book Two of Chapter XIX of the Civil Code and Article 21 of Law Number 6 of 1983 concerning Taxes, which was amended by Law Number 9 of 1994. Here the right of the state is placed as the right holder in the first position, followed by separatist creditors (holders of mortgages, pledges, fiduciaries, mortgages).

Companies that experience bankruptcy of course have impact alone specifically impact against the workers . The consequences that will caused against the workers from existence bankruptcy the is no give it right laborer in the form of wages because riches debtor bankrupt no sufficient again for pay wages laborer . law Employment no arrange by assertive about laborer as creditor holder right special position more tall than creditor holder right pawns and mortgages. This thing result in in practice , wages laborer is at the lowest level it means more other debts take precedence at the time of company experience bankrupt. Act must made according to state real law , no each other contradicting and not there is terms that can cause different interpretations . This opinion was inspired by Vina 92016) , that law aim for guard interest every man so that interest that no harassed . The Constitutional Court gave position different to wages and rights laborer other . Wages are placed in position more main of rights other .

According to Satjipto Raharjo (2000) defines protection law is give shelter to right basic humans who are harmed by others and protection the given to society so that they could enjoy all rights conferred by law .

According to Philipus M. Hadjon (1987) think that protection law is protection will dignity and worth , as well as confession to rights basic human being owned by the subject law based on provision law from arbitrariness. Meanwhile , according to Setiono (2004), protection law is action or effort for protect Public from deed arbitrarily by rulers who do not in accordance with rule law , for realize order and peace so that allow man for enjoy his dignity as human .

Meanwhile, according to Muchsin 92003) , legal protection is an activity to protect individuals by harmonizing the relationship of values or rules that are manifested in attitudes and actions in creating order in the social life between fellow human beings. Protection law is something protection provided to subject law in accordance with rule law, ok that is preventive (prevention) and in form that is repressive (coercion) , both physically written nor no written in skeleton enforce regulation law. According to Philipus M. Hadjon (2010) protection law for people cover two thing , namely ; 1) Preventive legal protection , which is a form of legal protection where the people are given the opportunity to submit objections or opinions before a government decision is received definitive form ; 2) Repressive legal protection , which is a form of legal protection which is more aimed at resolving disputes. Preventive legal protection aim for prevent happening dispute , which directs action government for behave careful in taking decision based on discretion , and repressive protection aim for complete happening disputes , including handling in the institution Justice Alfons (2010) .

Principle protection law to action government focused and sourced from draft about recognition and protection to rights basic man because according to history from the west, the birth concepts about recognition and protection to rights basic man directed to restrictions and laying obligation society and government Aspect dominant in western concept comes right basic man emphasize existence rights and freedoms inherent in nature humans and their status as individual rights the be above the country and above all organization political and character absolute so that no could bothered . Because of the concept this , then often thrown critics that Western concept of rights basic man is individualistic concept . Then with entry rights social and rights economy as well as right cultural , there are trend start fade it nature individualistic from western concept . Principle protection law in Indonesia, the foundation is Pancasila as ideology and philosophy of the State , with the framework think there is a principle recognition and protection to honor and dignity human based on Pancasila.

Research methods

Research method use method study juridical normative that has meaning search a answer about something problem (Valerine 2005) . In addition to approach juridical normative the above , research This is also supported and complemented by an empirical juridical approach. Research is descriptive analytical, Soerjono Sukanto (1984) says that research in the form of analytical descriptive aims to describe the reality of the object under study, in order to find the relationship between the two symptoms, by providing a systematic description, regarding legal regulations and facts as the implementation of legislation . In terms of the point of contact between bankruptcy cases and industrial relations cases for the legal protection of labor rights which is the object of research.

Types and sources of data in study is secondary data i.e. data which is study literature with search for data whole and thorough as well as integrated on something case . Secondary data this obtained from ingredient Primary law is legal material that has binding legal force for individuals or communities who can help in research (Amirudin and H Zainal, 2008). In this research, library research is used, what is meant by literature study is the study of written information about law originating from various sources and widely published as well as needed in normative legal research (Muhammad, 2004) . Writing based on data that is used as the object of research such as laws and regulations, library books, magazines, articles, court decisions which are then processed and analyzed so that they become the basis for solving problems.

Interviews were conducted to find out clearly about matters relating to the normative rights obtained by workers, namely through oral questions to several workers and or legal practitioners. In writing research, the author uses qualitative data analysis, namely data that cannot be calculated or expressed with numbers such as the case so that the object of research must be studied in its entirety. Data processing is a process, a way of processing all information for research purposes that is regular (systematic) and planned, which is done by editing.

RESULTS AND DISCUSSION

A. Existence bill nature Debtor bankruptcy.

Legal protection can occur if all parties, especially the weak, get what is their right (Lebacqz , 2004) . According to Aristotle, distributive justice is justice that demands that everyone gets what is his or her right or share. This share is not the same for everyone depending on what they produce or is proportional . Thus, workers are the party who should get the largest proportion. Labor is the party that generates profits for the company even though the capital belongs to the entrepreneur. The state in this case the government only collects taxes which he said will be used for development. The government can dominate or take advantage of unfair opportunities (the existence of state pre-emptive rights) obtained from the provisions of the law, while there are parties who do not have a great opportunity or are in a weak position, in this case workers who compete to get their rights in a process. bankruptcy. (Mertokusumo , 2009).

The working relationship between employers and workers based on a work agreement has elements of work, wages and orders. The position of the worker with the employer is actually equal (coordinative), but after an agreement occurs between the parties, the worker has bound himself to be ordered by the employer. The existence of an element of submission to orders in the work agreement, became the turning point of the relationship which was originally coordinating to be subordinate (superior-subordinate). Theoretically, labor is a factor of production whose position is equal to other factors of production such as capital, natural resources and entrepreneurship, but it must be admitted that labor is a factor of production that is specifically different from other factors which are generally inanimate (mono facet) .

Juridically, labor relations are categorized as reciprocal agreements, because both workers and companies (as employers) have rights and obligations at the same time. In its simplest form, workers have the obligation to work and have the right to receive wages. Meanwhile, the company has the right to employ workers (give orders) and is obliged to pay wages. However, the concept of rights and obligations born of labor relations is actually much more complex than the simplistic description. The rights and obligations in their development are not solely born from what the parties have agreed on in the agreement, but the state (with legal instruments) intervenes by establishing rights and obligations which are sometimes coercive.

Law employment and law bankruptcy is two field different laws , however thereby relation Among laborer with company especially when company declared bankrupt is something dynamics. Trends that occur laborer no get protection enough law in the process of bankruptcy , so that his rights no could fulfilled in accordance expectations and rules employment. Problem this is phenomenon common in the Unitary State The Republic of Indonesia is included in several other countries . Boedel bankrupt often not enough for pay bills creditor whose position is more high . By labor theory is preferred creditor payment (preference / privilege), however position laborer still is at under creditor separatists . On generally creditor separatist is institution finances that have been provide loan with guarantee assets company . Creditors separatist this entitled To do execution, for Fulfill payment the debt , from assets guaranteed company. When laborer faced with creditors separatist problem ethical be very crucial. Laborer who works for get wages as crutch life family Becomes marginalized by creditors who have position more high (creditor separatists). Creditors group final this, in general dwelling on capital problems, not "problems" stomach". From approach ethical, appear problem because law tend more siding with the owners of capital capitalist) rather than laborer in framework fulfillment needs primary .

Legislation that exists in a country in general arrange gradation (level) position creditor . Creditors whose gradation more tall entitled get overpayment of debt first . If still there is leftover , new the payment allocated to creditors one level below it . Model payments like this apply for all creditor preference , medium to creditor concurrent (creditor compete), the payment obey the principle proportionality (proportionality). Judicial practice that positions laborer as creditor preference after creditor holder right guarantee material , even still below the fee Curator and fees bankruptcy , has cause not fasting for laborer . Because , in general, bankrupt companies is companies that have economic fundamentals ugly and assets has made guarantee debt. Therefore almost could confirmed boedel remaining bankrupt will finished used for pay debts, in particular for creditor holder right guarantee material . The existence of the position and status or position of the rights of creditors holding mortgages and fiduciaries if they have to deal with labor rights or receivables from the tax office against debtors when there is a bankruptcy against the debtor of the petitioner for bankruptcy causes industrial relations disputes for workers.

Decision Court Constitution the number 67/PUU-XI/ 2013 , placing position payment wages laborer owed is at level first when the course of the bankruptcy process , which means when decision bankrupt already handed down by the Court Judge Commerce , then next Duty from curator who has authority full on treasure bankrupt debtor direct position wages laborer which is owed to the very first order paid off next followed by creditors separatism and state rights and followed by creditors concurrent . The Court's Decision Constitution the will change practice in bankruptcy which was originally the creditors separatist is holder right must first paid off because at first there is agreement with

debtor bankrupt . So from that with existence decision Court Constitution the on right from laborer in bankruptcy process no again threatened no paid , because already have certainty full law from Article 95 paragraph (4) U U Employment . The Court's Decision Constitution the give different position to wages and rights laborer other . Wages laborer owed to be at level first in repayment accounts receivable creditor whereas rights laborer other in bill the payment still is at as creditor which preference must wait repayment creditor separatists .

People who depend his life and his family to company the place where he work . When compared with holder right dependents and holders guarantee fiduciary or creditor separatist , obviously position laborer more weak compared with companies holder guarantee objects that have more funds for life compared with workers , and when compared with state debt such as tax , of course position more labor weak more and more important for take precedence , because the state has more income many through taxes other companies no only from tax bankrupt company whereas laborer only have income from company the place he work , beside that if compared with the country very no in accordance with not quite enough responsible state that guarantees decent life for inhabitant country including laborer .

In practice bankruptcy , often right laborer for get wages severance pay as consequence from existence Termination Connection Work ignored by the debtor bankrupt nor curator . Thing this can occur because a number of factors , including ; the nominal amount of property bankrupt no sufficient for payment wages and or severance pay and position gift right in the form of wages and or severance pay as creditor preference . So that position the under creditor separatists . Almost all laid off workers do not again could work elsewhere because field more and more work narrow and limited and also a problem age. because of that , rights labor for get wages , severance pay after conducted Termination Connection Work is the main capital of the workers for continue his life and his family. Based on things the above, then if layoffs occurred due to statements bankrupt to company/ entrepreneur, portion wages and rights other from laborer like wages wages severance pay same importance , so second right the it's a must for protected in the same position .

The juridical view is that if Article 95 paragraph (4) of the Manpower Law continues to be implemented without a firm interpretation of the article, it will have the potential to create legal uncertainty as well as deny the rights of workers working in companies that are experiencing bankruptcy based on the decision. court. When we look at the words in the regulation that, "in the event that the company is declared bankrupt or liquidated based on the applicable laws and regulations, the wages and other rights of the workers are debts that take precedence in payment". The sentence "payment comes first" is categorized as preferred creditor in accordance with the provisions of Article 1132 of the Civil Code. Meanwhile, separatist creditors such as creditors holding mortgage rights and other material guarantees such as fiduciaries are not included in the realm of Article 1132 of the Civil Code, but are more suitable for the realm of Article 1134 of the Civil Code to Article 1135 of the Civil Code. Actually, the term "separatist" comes from the word "separated" which means separate, so it is not included in the bankrupt bank but is separate, meaning " secured creditor ". Thus the juridical view of labor rights is included in the realm of rights in the bankruptcy estate with other preferred creditors. Separatist creditors, because they are separated from the bankrupt boedel, naturally have full rights to the repayment of the material guarantees.

If the authors pay close attention to the decision of the Constitutional Court, the tax receivables are implicitly located under the hierarchy of separatist creditors, while the salaries of workers occupy the highest rank over concurrent creditors. The existence of labor claims on bankrupt companies when compared with the 2008 Constitutional Court decision number 18/PUU-VI/2008 that collateral is not part of the bankruptcy estate, therefore the wages of workers owed and state tax receivables cannot interfere with the rights of separatist creditors.

If the separatist creditors immediately exercise their right to parate execution during the insolvency period in bankruptcy, then the separatist creditors are fully entitled to the results of the execution parate without being deducted by state tax receivables or wages owed by workers. Meanwhile, the existence of labor claims in bankrupt companies refers to the 2013 Constitutional Court's decision Number 67/PUU-XI/2013 that the collateral held by separatist creditors is part of the bankruptcy estate, so the collateral must first be used for payment of workers' salaries. If the separatist creditor does not exercise his right to parate execution during the insolvency period, then the collateral falls into the bankruptcy estate and the position of the holder of the material guarantee falls into semi-preferred concurrent.

The two decisions of the Constitutional Court are seen and seem contradictory but they can still be implemented properly, if the separatist creditors exercise their rights during insolvency, then they can firmly and absolutely hold on to the fulfillment of all their debts without being subject to tax intervention or the claimant's labor claims for bankruptcy. In fact, creditors who hold mortgage rights are often forced to succumb to bankrupt company workers, taking into account factors for the sake of humanity and in order to maintain the condition of factories and machines that are bound by fiduciary material guarantees which are threatened with being damaged due to the tantrums of the masses of workers who do not receive their salaries due to the debts of the respondent. bankrupt is greater than the receivables and or assets owned.

B. Efforts to protect legal law against bill nature bankruptcy

In this day and age this law many colored and discussed with various topics not except discussion about protection law. In discussion the by no direct will closely related to maker law that alone . Speak about protection law , thing the is one Thing most important from element a state of law. considered important because in formation a country will laws governing each inhabitant his country .

In fact it is common for is known that a country will occur something reciprocal relationship Among inhabitant country alone . In terms of the will give birth to something rights and obligations one each other, protection law will Becomes right each inhabitant his country . However on the other hand can also felt that protection law is obligation for that country itself , therefore the state is obliged to give protection law to inhabitant his country.

After us knowing importance protection law , next our need to know too about definition protection law that alone . Protection law is something protection provided to subject law to in form device both preventive as well as those that are repressive , both verbal as well as what is written . In other words can said that protection law as something description alone from function law that himself , who has draft that law give something protection, certainty, justice , order , benefit and peace . According to Philipus M. Hadjon , that Legal Protection is protection will dignity and worth , as well as confession to rights basic human being owned by the subject law based on provision law from arbitrariness . In running and delivering protection law needed something the place or receptacle in frequent implementation called with means protection law . Means of protection law shared Becomes two how can understood , as following : First Means Preventive Legal Protection , On protection law preventive this , subject law given opportunity for submit object or his opinion before something decision government get definitive form , the goal is prevent happening dispute . Legal protection prevention is great it means for act government based on freedom Act because with existence protection preventive law _ government pushed for character careful in take decisions based on discretion . Not yet in Indonesia there is Settings special about protection law preventive. Second, Repressive Legal Protection Means , Protection repressive law aim for complete dispute . Protection handling law by Court General and Judiciary Administration in Indonesia includes category protection law this . Protection principle law to action government focused and sourced from draft about recognition and protection to rights basic man because according to history from the west, the birth concepts about recognition and protection to rights basic man directed to restrictions and laying obligation society and government . Principle the second underlying protection law to act government is rule of law principles . Associated with recognition and protection to rights basic people , recognition and protection to rights basic man get the place main and can linked with destination from the rule of law .

Juridically based on Article 27 of the 1945 Constitution of the Republic of Indonesia laborer same with employer/ entrepreneur, however by social economical position both of them no same , where position employer more tall from laborer . High notch low in connection work this result in existence connection note dienstverhoeding, so that cause trend party employer / entrepreneur for do arbitrary to the workers . In civil law workers and employers have equal position . According to the term labor called work partners . But in practice , position both of them it turns out no parallel . Entrepreneur as capital owner has more position _ tall compared laborer. It 's clear look in creation various policies and regulations company . Protection against laborer meant for ensure fulfillment rights base labor and guarantee similarity opportunity as well as treatment without discrimination on base whatever for realize well-being b workers and their families with permanent notice development progress of the business world .

In accordance with Philipus M. Hadjon's theory, preventively on the practice of the government's role, in this case the Manpower Service, conducts periodic labor inspections. In this supervision, all fulfillment of the rights and obligations of the parties in accordance with the rules regulated in the Manpower Law and matters that need to be corrected are recorded in the manpower report book. All of this is done in the context of anticipating disputes and/or industrial relations disputes within the company. When a dispute occurs in the company, the government carries out its duties and roles to resolve the dispute and/or dispute, either as a mediator or as a supervisory officer who helps resolve the issue in accordance with applicable regulations.

Disputes in industrial relations are basically related to four things, disputes over rights, disputes over layoffs, disputes over interests, disputes between trade unions. Disputes over layoffs and disputes over rights are the subject of cases that often occur and require maximum legal protection for the parties. Often this case leads to a strike and or the company closes the company. Likewise, if the company is declared bankrupt by the commercial court. Manpower issues related to wages that are still owed and other normative rights are the subject matter that must be decided in order to provide legal protection for workers.

The right to come first the payment in bankruptcy . Wages and rights other is right laborer or in other words is obligation from emerging entrepreneur from agreement work . Not filled something agreement or called with default . In contract law somebody said default if because the mistake no doing contents agreement though already be warned or with assertive already billed the promise . There are two condition for said default that is condition material and terms formal . Material terms cover existence error and existence loss . Own fault have two understanding, that is error in a broad sense , which includes willfulness and negligence whereas second mistake that is error in a narrow sense , which includes negligence course . The definition of intentional , namely: deeds done with known and wanted . intentional occur if si maker To do what he did alone has knowing consequence and while negligence , that is deeds done someone where is he no knowing possibility happening consequence from his deeds . That happened bankrupt can caused by error from entrepreneur .

In something company , which has authority take policy or action is businessman or the board of directors , you can just policy or action the miss from expectation businessman so that cause something the loss caused happening bankrupt . Loss is real thing arise from default . Losses consist of from two element , that is real loss suffered includes : costs , losses , and profits that are not obtained includes flowers . Law only arrange replacement loss that is material , possible occur that loss that cause loss immaterial , no tangible , moral , no could rated with money, no economical , that is in the form of body pain , suffering mind , fear , and so forth . The loss suffered by a laborer consequence

happening bankrupt could in the form of unpaid wages paid or the rights regulated in Article 95 paragraph (4) of the Manpower Law laborer get certainty payments, wages and rights other from worker / laborer is debt that must come first the payment. Formal terms for said default that is, there is warning or subpoena from creditor so that the debtor quick Fulfill promised performance. Need to know that subpoena no need conducted if intended achievement has listed in _ agreement. The meaning is about payment wages and other rights have been determined when conducted the payment or in condition how to do the payment. Provision the usually is in a agreement work or inside agreement work together. A company that has have agreement work together arranged based on deal entrepreneurs and workers no can contrary with agreement work.

In context bankruptcy condition formal this is fall down the tempo or ending deadline allotted time to businessman for pay his debts to the creditors so that do it bankruptcy. Withhold treasure object entrepreneurs who will made as guarantee on fulfillment wages and rights other. Rights holder retention entitled withhold object certain owned by party opponent until right fulfilled by party opponent. Article 1616 of the Civil Code have meaning large that laborer have right retention to object owned by employer until rights laborer fulfilled. Labor Law by implied also gives right retention of workers. According to Jono (1983), the rights of withhold or right retention in general is right for permanent hold object belongs to someone else until accounts receivable si holder object the paid off. According to Sri Soedewi Masjchoen Sofwan (2000), rights retention is right withhold something thing, until something related receivables with object the paid off. Traits right retention among other things, no could divided, I mean right retention will delete if all debtor's debt paid paid off, no give right use or enjoy on object held, creditor only entitled withhold object, and is accessories, rights retention born from agreement tree that is debt agreement.

Bankruptcy Law confess existence right retention, in Article 61 of the Bankruptcy Law explained that creditors who have right for withhold object owned by Debtor, no lost right because there is decision statement bankrupt. This thing means right retention contain right for reject demands submission goods including reject deliver object retention to in foreclosure general bankruptcy.

In reality everyday things or the machines owned by the entrepreneur have often been made guarantee to other parties such as banks or other means the gain through a financing process that is still enter in period time payment. In the Bankruptcy Act alone there is contradiction about right retention, in Article 31 paragraph (2) of the Bankruptcy Law explained that all form foreclosure to object owned by debtor endor delete after existence decision bankrupt and automatic switch Becomes foreclosure general under bankruptcy. these terms no mention existence exception, and will endanger fate worker / laborer if the confiscation in question including confiscations that occur consequence right retention. Even though the rights retention no have right for come first fulfillment, based on Article 185 paragraph (4) of the Bankruptcy Law, curator have obligation pay accounts receivable Creditors who have right for withhold something thing, so object that enter return in treasure bankrupt and profitable treasure bankrupt. When the curator think that right retention delete after existence decision bankrupt, then laborer could placed in category creditor concurrent, and labor threatened no get whole rights.

Based on Article 77 paragraph (1) of the Bankruptcy Law, each creditor including laborer could submit letter object to the superintendent to the actions of the curator or beg to the superintendent for Secrete letter order for Curator To do deed certain or no To do actions that have been planned. Workers can submit object if action curator could cause loss to laborer. However, based on the Bankruptcy Law, all action curator must profitable for treasure bankrupt, with thereby It should be a curator in look after treasure bankrupt could profitable all creditor including power work. As the party who feels harmed in something agreement, labor could sue company demand the right laborer quick fulfilled. However, in the Bankruptcy Law, the right laborer for sue Becomes fall after existence decision bankrupt. Although lawsuit already in the judicial process the process cancelled with existence decision bankrupt.

Point refuse to be base struggle laborer this is with the enactment of the Bankruptcy Law, in particular Article 29, Article 55 paragraph (1), Article 59 paragraph (1) and Article 138, this will very potential to loss rights decided workers connection work because company the place it works bankrupt, caused death by law all moderate demands walking and being article that regulates by special about existence creditor separatist as creditor holder right dependents who have authority absolute for To do execution right the responsibility as if no occur bankruptcy. Provision Article 29, Article 55 paragraph (1), Article 59 paragraph (1) and Article 138 of the Law Bankruptcy, viewed no ensure certainty fair law for laborer as well as the same treatment in front of law and only give opportunity as well as rights special to creditor holder pawn, guarantee fiduciary rights dependents, mortgage, or right collateral or material other, which will delete protection to rights labor, ok During ongoing connection work nor moment ending connection work because bankruptcy.

In practice, when something company bankrupt almost could confirmed company middle face acute financial problems. On many company, assets company has made guarantee debt by the company. With position as holder right guarantee material, strong guess that asset company absorbed finished for pay debt creditor holder right guarantee material. In b many case bankruptcy, results sale object a minan no could close debt creditor holder right guarantee material. In fact, assets company could confirmed has run out. Right special on accounts receivable labor in the end no more from " messenger " empty " which is not will be able give adequate legal protection.

The government is of the opinion that the Bankruptcy Law and the Manpower Act character each other complement. The point of contact between the Manpower Act and the Bankruptcy Law is not only character complementary but also subject to the doctrine of *lex specialis derogate lex generalis*, including Settings about rights laborer as creditor. Legislators position the Bankruptcy Law as a law that is special law and the Manpower Act as a law

that is general . logic positive thinking f that , position laborer positioned as creditor preference , but permanent give same opportunity for creditors preference, creditor separatists , workers as one creditor preferences , and creditors concurrent) for fight for right equally . Equality for fight for right as creditor motivated by view that bankruptcy no always based on disability pay the debt, but more on base not (want to) pay the debt that has been due and collectible

Logic h u kum with link provision Article 2 of the Bankruptcy Law , ways of thinking like this is true , but by sociological logic think thereby will produce diametrically opposed conclusion back . None _ one companies that don't want to continue existence business , except because forced (one of is entangled problem finances that have been no possible again described) . Way difference look This is, according to the legendary American Supreme Court justice. Windel Holmes, who said "the life of law in not logic but it is your experience". in nature think laborer , is experience, moderate in natural legislator 's mind, h u kum is logic that hasn't been of course both pangs Holmes experience, 2019)

In the author's opinion, the decision of the Constitutional Court number 67/PUU-XI/2013 still requires alternative solutions to realize legal protection efforts against labor bills in debtor bankruptcy. The role of curator in bankruptcy also plays an important role in fulfilling advance payments for wages that are still in arrears, but are still inadequate. Various efforts to suppress entrepreneurs continue to be carried out by the workers and/or the Manpower Office by launching demonstrations. Efforts to reconcile and or recommendations submitted by the mediator that are acceptable to the parties, but cannot be realized because the company was declared bankrupt by the Court. Company regulations or Collective Labor Agreements, and or Employment Agreements that apply as law for the parties also do not guarantee advance payment of wages that are still in arrears in the debtor's bankruptcy. Thus, alternative solutions are still needed that can guarantee and realize legal protection efforts against labor bills in the bankruptcy of the debtor.

The work agreement made by the parties guarantees advance payment of wages that are still in arrears in the debtor's bankruptcy if it is stated in an authentic deed. Employment agreements made in the form of an authentic deed serve as the strongest and most complete evidence and have an important role in every legal relationship between workers and employers. The existence of a Notary who in his profession is an institution that with its deeds creates written evidence tools and has an authentic nature as formal evidence. The notary has the authority to make a deed as long as it is desired by the parties or according to legal rules, it must be made in the form of an authentic deed. The making of the deed is based on the legal rules relating to the procedure for making a notarial deed. A work agreement made in the form of an authentic deed can answer alternative solutions for certainty, order and legal protection against labor bills in debtor bankruptcy as formal evidence.

CONCLUSION

From what has been described by the author in the previous section, the following conclusions can be drawn:

1. Existence of labor bill in bankruptcy debtor shaped Limited Liability Company is payment wages owed takes precedence over all types of creditors, including claims for separatist creditors, other labor claims, claims for state rights, auction offices, and public bodies established by the government, claims for other concurrent creditors. Other labor claims can be made after all outstanding labor wage bills and all claims from separatist creditors have been paid. After the other labor bills have been paid, the bills for the rights of the state, auction offices, and public bodies formed by the government will be billed for other concurrent creditors.
2. Efforts to protect law to bill laborer in bankruptcy debtor in the form of a Limited Liability Company is referring to the decision of the Constitutional Court. To implement Decision Court Constitution this inseparable from the role of the Curator who has integrity as well as must for obey standard profession and ethics . This must aim avoid existence collision interest with debtor or creditor . The point of contact between the Manpower Act and the Bankruptcy Law is not only character complementary but also subject to the doctrine of *lex specialis derogate lex generalis* , including Settings about rights laborer as creditor . The work agreement made by the parties guarantees advance payment of wages that are still in arrears in the debtor's bankruptcy if it is stated in an authentic deed. Employment agreements made in the form of an authentic deed serve as the strongest and most complete evidence and have an important role in every legal relationship between workers and employers. The existence of a Notary who in his profession is an institution that with its deeds creates written evidence tools and has an authentic nature as formal evidence. The notary has the authority to make a deed as long as it is desired by the parties or according to legal rules, it must be made in the form of an authentic deed. The making of the deed is based on the legal rules relating to the procedure for making a notarial deed. A work agreement made in the form of an authentic deed can answer alternative solutions for certainty, order and legal protection against labor bills in debtor bankruptcy as formal evidence.

REFERENCE

1. Abdul Kadir Muhammad, Law and Legal Research , PT. Citra Aditya Bakti, Bandung, 2004.
2. Adrian Sutedi , 2009, Bankruptcy Law , Ghalia Indonesia, Bogor .
3. Agusmidah , Dynamics and Theory Study of Indonesian Employment Law Ghalia Indonesia , Bogor , 2010 .
4. A hmad Yani & Gunawan Widjaja , Business Law Series Bankruptcy , Rajawali Press, Jakarta, 1999.
5. Amirudin and H Zainal, Introduction Method Legal Research , PT. King of Grafindo Persada , Jakarta, 2008.

6. Amrah Muslim , Some Principles and Understanding tree About Administration and Administrative Law , Bandung , Bandung Alumni , 1985 .
7. Bambang Setijoprodjo , Legal Aspects of Bankruptcy and Liquidation Viewed from the Bank 's Perspective . In Rudhy A. Lontoh et al (Ed.), Solution U payables _ Through Bankrupt or delay Obligation Debt Payment , Alumni , Bandung , 2001 .
8. Edy Sutrisno Sidabutar, Guidelines for the Settlement of Layoffs , Elpress, Tangerang, 2007.
9. John Rawls, Theory justice , Yogyakarta , Student Library , 2011 .
10. Jonny Ibrahim, Normative Research Theories and Methods , Bayumedia, Malang, 2006.
11. Jono, Bankruptcy Law , Jakarta: Sinar Graphic, 2008 , pp. 133 , quote from HFA Volmar , Introduction to Civil Law Volume I , translated by IS Adiwirmata , Jakarta: Rajawali Press, 1983 .
12. Karen Lebacqz , Theories Justice , Bandung , Nusamedia , 2004 .
13. cardboard, Bankruptcy and Postponement of Payments, Pradnya Paramita, Jakarta, 1982.
14. Maria Alfons , Implementation Protection Indication Geographical TopLocal Community Products In Perspective Right Riches Intellectual , Summary Dissertation Doctorate , Universitas Brawijaya , Malang g .
15. M. Hadi Shubhan, Principles of Bankruptcy Law , Kencana Prenadamedia Group, Jakarta .
16. M. Hadi Shubhan, Bankruptcy Law Principles, Norms and Practices in the Judiciary . Kencana Prenadamedia Group, Jakarta, 2015.
17. Moh . Mahfud MD , Basics and Structure Indonesian State Administration (Edition revision) , Jakarta , Publisher plan Copyright , 2000 .
18. Mohd. Syaufii Syamsuddin, Norms of Protection in Industrial Relations , Sarana Bhakti Persada, Jakarta, 2004.
19. Mohd. Syaufii Syamsuddin, Agreements on Industrial Relations , Sarana Bhakti Persada, Jakarta, 2005..
20. Muchsin, Legal Protection and Assurance for Investors in Indonesia , Master of Law, Postgraduate Program at Sebelas Maret University, Surakarta, 2003.
21. Munir Fuady, Bankruptcy Law in Theory and Practice, PT. Citra Aditya Bakti, Bandung, 2010.
22. Philipus M. Hadjon , Protection Law for the People in Indonesia , PT. Science Development, Surabaya, 1987.
23. Rahayu Hartini, Settlement of Bankruptcy Disputes in Indonesia Two-list Authority of the Commercial Court , Jakarta, Kencana, 2009.
24. Satjipto Raharjo, Legal Studies , Citra Aditya Bakti, Bandung, 2000.
25. Setiono , Rule of Law (The Supremacy of Law) , Citra Aditya Bakti, Bandung, 2004 .
26. Soerjono Sukanto, Introduction to Legal Research , UI Pres, Jakarta, 1984.
27. Sri Soedewi Masjchoen Sofwan , Civil Law: Law of Objects , Yogyakarta , Liberty , 2000.
28. Sudikno Mertokusumo , Knowing the Law of a Introduction , Yogyakarta , Liberty Publishers , 1999.
29. Suhandjono . Prosecutor's Function In Civil Law and State Administration as well as Definition of Interest General in Bankruptcy . In Rudhy A. Lontoh et al (Ed.), Settlement of Accounts Payable Through Bankrupt or delay Obligation Debt Payment , Alumni , Bandung , 2001 .
30. Sutan Remy Sjahdeini, History of the Principles and Theory of Bankruptcy Law Understanding Law no. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations , Prenadamedia Group, Jakarta, 2016.
31. Thomas Suyatno , Bank Indonesia, Bank No Healthy , IBRA and Problems Bankruptcy . In Rudhy A. Lontoh et al (Ed.), Settlement of Debts Through Bankrupt or delay Obligation Debt Payment , Alumni , Bandung , 2001 .
32. Valerine JKL, Method Legal Research , Depok Collection of Writings : FHUI Undergraduate Program , 2005 .
33. Y LBHI and AusAID. Guide to Legal Aid in Indonesia . Sentralisme Production , Jakarta , 2006 .
34. Y. Sri Pudyatmoko , Licensing , Problems and Efforts Housekeeper n PT. , Jakarta , Gramedia Widiarsana Indonesia, 2009 .
35. Grace Vina, "Protection of Workers/Labourers in the Provision of Wages by Companies Affected by Bankrupt Decisions", Journal of the Faculty of Law, Atma Jaya University Yogyakarta , p. 4. (2016)