

## The Giving Of Disciplinary Penalty of Civil Servants Based On Government Regulation Number 53 of 2010 in Governments of Demak Regency

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**Abstract.** Government Regulation No. 53 of 2010 regarding the discipline of the Civil Servant loading obligations, prohibitions, and disciplinary action which could be taken to the Civil Servant who has been convicted of the offense, is intended to foster a Civil Servant who has committed an offense, the form of disciplinary punishment is mild, moderate, and weight. Disciplinary punishment for the Civil Servant under Government Regulation No. 53 of 2010 Concerning the Discipline of Civil Servants. The formulation of this journal issue contains about how the process of disciplinary punishment, and constraints and efforts to overcome the impact of the Civil Servant disciplinary punishment in Government of Demak regency. The approach used in this study is a sociological juridical approach or juridical empirical, that is an approach that examines secondary data first and then proceed to conduct research in the field of primary data normative. The process of giving disciplinary sanctions for State Civil Apparatus in Government of Demak regency begins with the examination conducted by the immediate supervisor referred to in the legislation governing the authority of appointment, transfer and dismissal of civil servants. The results showed that in general the process of sanctioning / disciplinary punishment of civil servants in the Government of Demak be said to be good and there have been compliance with the existing regulations / applied in Government Regulation No. 53 of 2010, although it encountered the competent authorities judge still apply tolerance against the employee, but also a positive impact among their deterrent good not to repeat the same offense or one level higher than before either the Civil Servant concerned or the other. Obstacles in carrying out disciplinary punishment in Government of Demak regency environment is still low awareness of employees to do and be disciplined in performing the tasks for instance delays incoming work, lack of regulatory discipline, lack of supervision system and any violations of employee discipline. There must be constraints to overcome need for cooperation with other stakeholders comprising Inspectorate, BKPP, and the immediate superior civil servants in this way can be mutually reinforcing mutual communication, consultation, coordination so that if later there is a problem in the future could be accounted for.

**Keywords:** Delivery of Disciplinary Sanctions; Civil Servant; Government Regulation No. 53 of 2010.

### 1. Introduction

State law is a state based on law and justice for its citizens. The point is all of the authority and actions of the state scientific equipment or otherwise regulated by law. Such a situation would reflect the social life of justice for its citizens.<sup>4</sup> In Indonesia, the

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<sup>4</sup> Abdul Aziz judges, 2011, *Negara Hukum dan Demokrasi*, Yogyakarta: Pustaka Pelajar, p. 8.

term state constitutional law mentioned in the 1945 Constitution has a legal use of the term state after the difference between an amendment and prior to the amendment. Prior to the 1945 amendment, which reads that "Indonesia is a country based on law". Meanwhile, after the amendment of the 1945 Constitution that "Indonesia is a country of law." The state terms contained in the 1945 Constitution, Article 1 (3).

Based on the Preamble of the 1945 Constitution the fourth paragraph, there are four (4) points of interest Negara Indonesia is as follows:<sup>5</sup> Protect the entire Indonesian nation and the entire homeland of Indonesia, promote the general welfare, educating the nation, and participate in implementing world order based on lasting peace and social justice.

National objectives as stated in the preamble - Constitution of the Republic of Indonesia in 1945 is to protect the entire Indonesian nation and the entire Indonesian homeland, realizing the general welfare, educating the nation and participating the implementing world order based on freedom, lasting peace and social justice.<sup>6</sup> To realize the goal of national development, it is absolutely necessary to develop in all areas of life, as well as development in the field of job, both private employment and the Civil Servant. In order to achieve the national goal, the Civil Servant as a key element of human resources of the state apparatus has a very strategic role in the task and governance and development. The smooth implementation of governance and national development mainly depends on the perfection of the state apparatus is substantially dependent on the perfection Servants.<sup>7</sup>

To realize the Civil Servants reliable, professional, and moral, the disciplinary regulations of Civil Servants is absolutely necessary as a guideline in enforcing discipline, so as to ensure the maintenance of order and the smooth implementation of the task and could lead to the Civil Servant for more productive based career system and the system performance.<sup>8</sup>

Definition of Civil Servants is every citizen of the Republic of Indonesia which have been determined eligible, appointed by the competent authority and entrusted with the task in a country office, or tasked with other State and paid based on the legislation in force.<sup>9</sup>

Civil Servants Disciplinary Regulations are regulations governing the obligations, prohibitions, and sanctions if obligations are not adhered to or violated by the Civil Servant.<sup>10</sup>

In an effort to improve the discipline of the Civil Servant, the Indonesian government actually has a regulation with the issuance of Government Regulation No. 30 of 1980, as amended by Government Regulation No. 53 of 2010 on Discipline of Civil Servants. In Chapter I General Provisions Article 1 (1) which reads:

"Civil Servant Discipline is the ability of the Civil Servant to comply with their

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<sup>5</sup>Constitution of the Republic of Indonesia 1945

<sup>6</sup>SF. Marbun and Moh. Mahfud MD, 1987, *Pokok-pokok Hukum Administrasi Negara*, Yogyakarta: Liberty, p. 98.

<sup>7</sup>Nainggolan, 1987, *Pembinaan Pegawai Negeri Sipil*, Jakarta: PT. Pertja, p. 23.

<sup>8</sup>Acacio Frenande Vassalo, "Law Enforcement Civil Servant Discipline in Achieving Good Governance in East Timor", *Journal of Legal Issues*, (Vol 43, No 03, July 2014)

<sup>9</sup>Sri Hartini, Setiajeng Kadarsihdan Tedi Sudrajat, 2014, *Hukum Kepegawaian di Indonesia*, Third edition, Jakarta: Sinar Grafika, p.32

<sup>10</sup>Moh. Mahfud, 1998, *Hukum Kepegawaian Indonesia*, Yogyakarta: Liberty, p. 121.

obligation and avoid the prohibitions specified in legislation and / or regulatory official who, if not adhered to or violated sentenced to discipline".

In order to realize the necessity of fostering discipline Civil Servants towards the realization of the clean and respectable government. Therefore, the selected title in scientific journals is: "The Giving Of Disciplinary Penalty Of Civil Servants Based On Government Regulation Number 53 Of 2010 In Governments Of Demak Regency".

This research aims to know and analyze the disciplinary punishment, to identify measures to overcome and to analyze the impact of disciplinary punishment Servants in Government of Demak regency.

## Research Methods

The approach used in this study is juridical empirical sociological or juridical (Socio-Legal Research), the specifications of this study is included in the descriptive analysis of legal research. Methods of data collection consist of primary data and secondary data. Primary Data include the interview as for sample retrieval technique using purposive non random sampling and observation. Data Analysis Methods using qualitative descriptive.

## 2. RESULTS AND DISCUSSION

### 2.1. Granting Process Punishment

Embodiment clean and respectable government begins to enforce discipline within the state apparatus, particularly for the Civil Servant which is an element of the civilian apparatus of the state itself. Government of Demak regency intensively continues to improve planning through education and training, guidance and consulting assignments, as well as through the development motivations, code of conduct and discipline of a healthy official who supported a steady personnel information system and equipped with a reasonable reward system.

Mechanisms for imposing disciplinary punishment is a process or activity that should elapse before civil servants disciplinary sentenced by a competent authority to punish includes the summons, investigation, punishment and delivery decisions. When civil servants were sentenced to discipline are not satisfied on disciplinary punishment in the form of disciplinary punishment is mild, moderate or heavy then the civil servants can perform administrative or effort objection or administrative appeal.<sup>11</sup>

The process of giving disciplinary sanctions for State Civil Apparatus in Government of Demak regency begins with the examination conducted by the immediate supervisor referred to in the legislation governing the authority of appointment, transfer and dismissal of civil servants. Examination report which concluded that employees at the check getting moderate or severe penalty may be formed a team of inspectors, namely: direct supervisor, Elements Escort Personnel Board of Education and Training (BKPP) Demak. Upon receiving the report of the inspection team provided to *Section Officer* fostering new examination results then get a recommendation to be made SK sentencing discipline and examination results then just get a recommendation for

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<sup>11</sup>Results Interview with Sudono as *Section Officer* Development BKPP on December 4, 2019.

discipline made SK sentencing.<sup>12</sup>

The level and type Disciplinary Sanctions as follows:

- The level of disciplinary sanctions consist of: Mild disciplinary sanctions; Disciplinary punishment is being; Severe disciplinary punishment
- Type mild disciplinary sanctions consist of: Verbal warning; Written reprimand; and Unsatisfied statement in writing.
- This type of punishment is being composed of: Delays periodic salary increases to a maximum of 1 (one) year; Postponement of promotion for a maximum of 1 (one) year; Demotion lower level for 1 (one) year.
- What kind of severe disciplinary sanctions consist of: The decrease in the level of a lower rank for 3 (three) years; Displacement in order to decrease the lower-level positions; Exemption from office; Honorable discharge not his own request as State Civil Apparatus; and Dismissal with respect as the State Civil Apparatus.

## 2.2. Constraints efforts to overcome

Constraints in the application of discipline, sometimes due to a lack of oversight immediate supervisor. Due to a lack of oversight of the immediate supervisor, the subordinates also do not need to do a better provisions on the working procedures properly and correctly. As a result of this attitude that led to the service being slow, decreased work performance that can be seen from a fast or slow pace factor services. Factors to be an obstacle to improving the discipline of Civil Servants in Demak regency is:

- Less specifically sanctions imposed by the competent authority. Competent authorities should impose sanctions / measures clearly evident when a civil servant disciplinary offenses with the aim to provide a deterrent effect and shock therapy so that other civil servants do not imitate or do. And also to refrain from disciplinary offenses more severe punishment. Therefore each competent authority shall examine first punished with a careful review of the Civil Servant who violate disciplines of Civil Servants.
- The erosion of the Civil Servant Discipline.<sup>13</sup>

In carrying out their daily tasks must be able to control themselves so that the rhythm and harmonious working atmosphere runs, but the reality is developing now is far from perfect. Still many civil servants with disciplinary offenses in various ways. For government officials, the discipline includes elements of obedience, loyalty, sincerity in performing their duties and ability to sacrifice. This means we have to sacrifice personal and group interests to the interests of the state and society.

Civil Servants Disciplinary Regulations stipulated in Government Regulation No. 53 of 2010 on the Civil Servants Disciplinary Regulations. In the PNS Disciplinary Regulations set provisions regarding the obligation, prohibition, punishment discipline, punish the competent authorities, imposition of disciplinary punishment, objection to the disciplinary and disciplinary decisions Applicability. The discipline comes from the individual himself is a discipline based on their own individual consciousness and spontaneous. This discipline is the discipline that is expected by an organization for this

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<sup>12</sup>*Ibid.*

<sup>13</sup>Results Interview with Sudono as *Section Oficcer* Development BKPP on December 4, 2019.

discipline does not require direct command or reprimand.

An employee who is aware of the duties and responsibilities would perform the duties assigned to him and away from the ban - a ban which would reduce its credibility. As a civil servant would have to perform the duties imposed upon him as mentioned in Article 2 of Government Regulation No. 53 of 2010.<sup>14</sup>

### 2.3. The Impact of Giving Punishment

With Government Regulation No. 53 of 2010 on Discipline of Civil Servants, no Civil Servant who can act with impunity disciplinary discipline, ranging from a light sentence, moderate and severe. Enforcement of discipline is indeed very difficult to do, especially against Civil Servants who have a low level of discipline. However, with the current demands which require a Civil Servant as the state apparatus as mandated by Law No. 5 of 2014 on the Civil Administrative State, then the condition can no longer be tolerated,

If a civil servant breaches of discipline, it will be rewarded by a disciplinary punishment. This penalty store, of disciplinary punishment is mild, moderate, or severe. Mild disciplinary punishment in the form of verbal warning, written warning, and the statement is not satisfied in writing. While disciplinary sanctions being comprised of delay salary increases periodically over one year, a delay of over one year of promotion and demotion lower level for one year. The highest was heavy disciplinary punishment in the form of demotion lower level for three years, the transfer in order demotion lower level, exemption from office, dismissal with respect not his own request as a civil servant, and dismissal with respect as a civil servant.<sup>15</sup>

Allah has promised that Allah will not change the state of a people before the people that change, because that required a reform towards better.

*"For humans there are angels who always followed her turn, in front and behind, they guard him by command of Allah. Allah does not change the state of a people so that they change the circumstances that exist in themselves. And if God wills evils against a people, then no one can reject it, and once - times there is no patron for them but Him "(QS. Ar-Raad: 11).*

From the above verses it is clear that the fate of a people change, there are two factors that are behind both the man and Allah. In the verse explained that in making changes (reforms) is not quite done by one or two people, but clearly Allah Almighty said that to make the changes necessary collection of people who have the same goals and obviously to make the change.

In realizing this, the first step that must be done is to increase employee discipline. Discipline encompasses the elements of compliance and adherence to regulations, the magnitude of a sense of responsibility towards the tasks given, and able to run and do not swerve to accept the sanctions and implement them really if it violates the duties and authority.

### 3. Closing

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<sup>14</sup> *Ibid.*

<sup>15</sup> Results Interview with Sudono as *Section Oficcer* coaching BKPP on December 4, 2019

### 3.1. Conclusion

Based on the results of research and discussion, as mentioned above, it can be drawn some conclusions as follows:

- Disciplinary procedures for granting the State Civil Apparatus in Government of Demak regency is in conformity with the provisions contained in the regulations contained in Government Regulation No. 53 of 2010 on Discipline of Civil Servants.
- Barriers are usually obtained in carrying out disciplinary punishment of employees in the Government of Demak regency is still low awareness of employees to do and be disciplined in performing the tasks for instance delays incoming work, lack of regulatory discipline, lack of supervision system and any breach of disciplinary always argued for nurtured administratively.
- The impact of disciplinary sanctions in Government of Demak regency environment of which will provide a deterrent effect to the Civil Servant is concerned not to repeat abuse and indiscipline.

### 3.2. Suggestion

As the end of this discussion, the author tries to give advice which can be useful for all parties concerned, namely:

- Should there must be firmness of employers in providing disciplinary punishment for the creation of the Civil Servant cleaner and authoritative in Government of Demak regency
- Training and socialization should be given continuously for the Civil Servant in government of Demak regency in an effort to improve discipline.
- Penalty Provision should be disciplined in Government of Demak regency environment further improved, so that a deterrent effect against the Civil Servant is concerned.

### 4. REFERENCES

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