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**THE ROLE OF MEDIATOR IN THE
EMPLOYMENTTERMINATION DISPUTE SETTLEMENT IN
JAMBI CITY**

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Abstract

EmploymentTermination Dispute is in industrial relations disputes category. According to Article 1 of Law Number 2 Year 2004 concerning Industrial Relations Disputes Settlement, the definition of employmenttermination dispute is dispute that occurred because of the lack of conformity of opinion concerning the employmenttermination which done by one of the party. The mechanism of employmenttermination dispute settlement is through several settlement levels namely Bipartite negotiation, Tripartite negotiation and Industrial Relations Court. Tripartite negotiation means negotiation between workers and employers by involving third party as facilitator. The tripartite negotiations can be done through mediation, conciliation and arbitration. Generally the parties choose settlement through mediation. Labour disputes that occurred in Jambi Citymostly due to employmenttermination. Department of Labour, Cooperatives and Small and Medium Enterprises Office of Jambi City assigned 3 (three) mediators who doubles as structural officials. The role of mediator can be seen from his success in doing mediation. For that matterit needs to beanalysed regarding the role of mediator in the Department of Labour, Cooperatives and Small and Medium Enterprises Office of Jambi City. The method used in this research is empirical research by viewing and analysing mediation results conducted by mediator. Based on the data obtained at Department of Labour, Cooperatives and Small and Medium Enterprises Office ofJambi City, on year 2015 and 2016 the mediator role is good enough because the disputes settlement generally ends with the Joint Agreement.

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1. Introduction

The relationship between workers and employers which is in writing in the employment agreement does not always go smoothly. Sometimes one or both parties neglects their obligations and/or does not fulfil their rights. With non-fulfilment of such rights or obligations, may result in industrial relations disputes between workers and employers. Article 1 Point 16 of Labor Law formulates that industrial relations as a relations system established between actors in the process of producing goods and/or services which consist of employers, workers/labourers and governments based on the values of Pancasila and Constitution of the State of Republic of Indonesia 1945. In the production process in the company the parties directly involved are workers/labourers and employers. While the government is included as a party in industrial relations because of it is important for realization of a harmonious working relationship which is one of requirements for the success of a business. The role of government in industrial relations is realized by issuing various policies in the form of legislation that must be obeyed by the parties. The government also oversees and enforces the regulation in order to run effectively, and helps to assist in the settlement of industrial relations disputes (Harianto, 2016).

While industrial relations disputes are defined as disagreements that result in a conflict between employers or joint ventures of employers with worker /labourers unions or workers/labour unions due to disputes over rights, disputes of interests and disputes over employment termination and disputes between unions/trade unions in one company. Dispute Termination is a dispute arising from the employment termination which generally arises because of differences of opinion about the validity of employment termination and or the amount of severance pay. Disputes should be solved on their own between the parties on negotiation for consensus. Industrial relations disputes between workers and employers may be settled by the settlement procedure as set forth in Law Number 2 Year 2004 concerning Industrial Relations Disputes Settlement. The first step that should be taken is to negotiate to reach consensus between workers and employers. But usually these steps are rarely achieved. Therefore, dispute settlement is generally left to the competent authority in the labor sector. For industrial relations disputes that occurred in Jambi city the settlement submitted to the Department of Labour, Cooperatives and Small and Medium Enterprises Office of Jambi City. Theoretically there are four possibilities for resolving industrial relations disputes, namely through negotiations, submitting to the separator (conciliator or arbitrator), submitting to the employee/ the mediator and finally through the industrial relations court. (Khakim, 2014). Successful mediation implementation is largely determined by the mediator. Therefore a mediator must have certain qualifications. Requirements to be a mediator other than those specified in Law Number 2 Year 2004 concerning Industrial Relations Disputes Settlement, are also specifically regulated in the Minister of Labor and Transmigration of Republic of Indonesia regulation Number 17 Year 2014 concerning the appointment and dismissal of industrial relations mediator as well as the work of mediation.

Information obtained from the Department of Labour, Cooperatives and Small and Medium Enterprises Office of Jambi City until January 2017 recorded that there are 1625 companies from various types of business sectors. With such amounts, those who take workers quite a lot raises various problems that occur between workers and employers. Almost every day there are workers or employers who come to apply for mediation and consultation (Ramayanti, 2017). Meanwhile the mediator assigned to the

office is only 3 (three) people. In 2014 and 2015 completion of incoming cases more than 50% of it were successfully completed with the Joint Agreements, while the remainder was done through a recommendations but also many of it continued into Collective Agreements. From these data means that the cases can be solved well through deliberation. For that reason, it is necessary to research about how the role of Jambi employment mediator in conducting dispute resolution between workers and employers.

2. Problem Statement

The Employment termination disputes settlement prioritizes negotiation for consensus. One of the most commonly used ways is mediation facilitated by mediator assigned by authorized agencies in the employment sector. Industrial relations disputes settlement mediator is a sole mediator appointed from civil servants at the Labor agency. (Irawan, 2013) The mediator has the task of mediating disputes settlement and prioritizing deliberative efforts. Mediator in carrying out its duties and obligations must be in accordance with the rules that have been set in the applicable legislation.

One of the Industrial Relations Disputes is due to a unilateral employment termination by the employer resulting in differing opinions on the validity or the amount of severance pay. Disputes settlement due to employment termination facilitated by the mediator is declared successful if there is an agreement between the employer and the worker made in written form as called the Joint Agreement. If it was successfully completed with a Joint Agreement, it means that the parties agreed with the advice given by the mediator. In this settlement through mediation, the role of mediator is crucial to the success or failure of the mediation. A successful mediator must have the ability to reconcile the two disputing parties.

3. Research Questions

The research questions are formulated as follows:

1. What are the duties and obligations of mediator who are assigned by Department of Labour, Cooperatives and Small and Medium Enterprises Office of Jambi City?
2. What is the role of mediator in settling employment termination disputes in Jambi City?

4. Purpose of the Study

In particular the purpose of this study are to know the duties and obligations of mediator who are assigned by Department of Labour, Cooperatives and Small and Medium Enterprises Office of Jambi City and to analyze the role of mediator in settling employment termination disputes in Jambi City.

5. Research Methods

Referring to the problem formulation, then the type of research used in this research is empirical legal research. Given this research is a descriptive research, then this research using qualitative analysis method. As for the qualitative method is a way of research that produces descriptive analysis data, namely what is expressed by respondents in writing or oral and also the real behaviour, which researched and studied as a whole. From these results then drawn a conclusion that is the answer to problems raised in this research. Qualitative approach is research method that produces descriptive data, namely what is

expressed by the respondents from the interviews with the mediator at the Department of Labour, Cooperatives and Small and Medium Enterprises Office of Jambi City. (Soekanto, Pengantar Penelitian Hukum, 2006). Interviews were conducted with 3 respondents who are mediators in the Department of Labour, Cooperatives and Small and Medium Enterprises Office of Jambi City. Then the interview was also conducted with 1 (one) person from the union representatives.

6. Findings

6.1. The duties and obligations of mediator who are assigned by Department of Labour, Cooperatives and Small and Medium Enterprises Office of Jambi City

Industrial relations disputes are disagreements that result in a conflict between employers or a mix of employers with workers or laborers or unions because of disputes over the rights, disputes of interest and employment termination disputes as well as disputes between unions within a company. Industrial relations is the relationship between all parties involved in the production process or service in a company. Therefore, industrial relations will greatly affect the results of production and income of workers and companies. In industrial relations the government has a very important role in maintaining the smooth and harmonious relationship, because if the industrial relations are not going well, in the sense of a conflict or dispute happened, then this will affect the production process that will broadly affect the economy of a country. (R.Budiono, 2011).

Industrial relations disputes between workers and employers can be solved by the settlement procedure as set forth in Law Number 2 Year 2004 concerning Industrial Relations Dispute Settlement. The first step that should be taken is to negotiate to reach consensus between workers with employers known as bipartite negotiation. But generally these steps are rarely achieved. Therefore, dispute issues are left to the competent authority in labor sector by doing mediation. Mediation is a negotiation involving third party who have expertise on effective mediation procedures and can assist in conflicted situations to coordinate their activities so that they are more effective in the bargaining process to reach a disputesettlement agreement. (As'adi, 2012).

According to Article 1 Point 11 of Law Number 2 Year 2004, mediation is the settlement for rights disputes, interest disputes, employment termination disputes, and disputes between workers/unions only within a company through deliberations which mediated by one or more mediators who are neutral . Mediator of Industrial Relations, hereinafter referred to as mediator, is a government institution employee who responsible in the labour sector which fulfilling the requirements as mediator set by Minister to perform mediation and has obligation to give written recommendation to dispute parties to settle the rights disputes, interest disputes, employment termination disputes, and disputes between workers/unions within one company.

As regulated in Article 2 of Minister of Labour and Transmigration Regulation of Republic of Indonesia Number 17 Year 2014 concerning the Appointment and Dismissal of Industrial Relations Mediators and Mediation Work Procedures, the conditions for becoming mediators are:

- 1) Faithful and fearful toward Almighty God;
- 2) Indonesian citizens;
- 3) Civil Servants at the agency which responsible for labour affairs;

- 4) Healthy according to the doctor's certificate;
- 5) Mastering the legislations in the labour sector;
- 6) Authoritative, honest, fair and behaving impeccably;
- 7) Educated at least one stratum (S1)
- 8) Has a certificate of competence.
- 9) Has a letter of appointment from the minister.

In every government office which in charge of labour sector, several officers are appointed as mediators who conduct mediation to settle disputes between employers and workers. In the Department of Labour, Cooperatives and Small and Medium Enterprises Office of Jambi City there are three mediators, namely:

- 1) Ramayanti, SH.
- 2) Drs.Surungan.
- 3) Budi Warsito, SH.

6.1.1. The work of mediator

The mediator duties as stipulated in Article 7 of Minister of Labour and Transmigration Regulation of Republic of Indonesia Number 17 Year 2014 concerning the Appointment and Dismissal of Industrial Relations Mediators as well as Mediation Work Procedures as follows:

- 1) Fostering industrial relations;
- 2) Industrial relations development; and
- 3) The settlement of Industrial Relations Disputes out of court.

As for the meaning of industrial relations development referred to in Article 7 letter a is conducted through a series of effort intended to realize the capabilities and awareness of the parties involved in the process of producing goods and/or services for the workers/laborers and their organizations, employers and their organizations as well as the government toward the prevailing norms so as to foster harmony and a healthy business environment as well as workers welfare. Meanwhile industrial relations development is carried out through a series of efforts to create, improve, and develop systems, methods, industrial relations techniques in order to fulfill the demands of development and changes in the situation and conditions of employment in sectoral, regional, national and international scope. The Industrial Relations Dispute Settlement is conducted through Mediation of Industrial Relations Dispute Settlement.

6.1.2. Obligations of mediators

The obligation of mediator as regulated in Article 9 of Minister of Labour and Transmigration Regulation of Republic of Indonesia Number 17 Year 2014 concerning the Appointment and Dismissal of Industrial Relations Mediator as well as Mediation Work Procedures as follows:

- a. Requesting the parties to negotiate prior to the mediation process;
- b. Calling the disputing parties;
- c. Lead and organize the Mediation course;
- d. Help the parties make a joint agreement, if agreement is reached;

- e. Make written recommendations, if agreement is unreachd;
- f. Make an Industrial Relations Disputes Settlement Treaty;
- g. Maintain the confidentiality of all information obtained;
- h. Prepare a report on the result of Industrial Relations Disputes Settlement to the General Director or the Head of the Provincial Department or the Head of Regency/City Department Office in concerned; and
- i. Records the outcome of an Industrial Relations Dispute settlement in the Industrial Relations Dispute Registration books.

Article 13 of Minister of Labour and Transmigration Regulation of Republic of Indonesia Number 17 Year 2014 provides for the Mediation Work Procedures of industrial relations settlement as follows:

- a. Conducting research about industrial relations dispute;
- b. Prepare a written call to the parties to attend it by considering proper call time so that the mediation session can be held no later than 7 (seven) working days since receiving the assignment to settle dispute;
- c. Conducting mediation sessions by seeking negotiation for consensus settlements;
- d. Issue a written advice to the parties if the settlement does not reach agreement within 10 (ten) working days of the first mediation session;
- e. Help to make a collective agreement in writing if a settlement agreement is concluded, which signed by the parties and witnessed by the Mediator;
- f. Informing parties to register the joint agreement that has been signed by the parties to the Industrial Relations Court at the District Court where the joint agreement is signed to obtain registration certificate;
- g. To make minutes of clarification and minutes of industrial relations disputes settlement; and
- h. Make a report on the result of Industrial Relations Disputes settlement to the General Director or the Head of Provincial Department or the head of Regency/City Department.

In the event that one of the party or all parties are using lawyer in a mediation session, the Mediator may ask the attorney to present the authorizer. If the parties have been properly and appropriately called for 3 (three) times but the applicant who has registered the dispute is not present, Industrial Relations Disputes are removed from the disputes registration book. In the event that the parties have been properly and appropriately called for 3 (three) times and the requested party is not present, the Mediator issued a written recommendation based on the available data.

The mediator shall complete his duties no later than 30 working days from the date of receiving dispute settlement assignment. Within no later than seven working days after receiving dispute settlement assignment, the mediator conducts research on the case and immediately holds a mediation session (Articles 10 and 15 of Law No. 2 of 2004). If the mediation settlement is not reached, the mediator shall follow up the dispute settlement by issuing written recommendation. Recommendation means the opinion/recommendation proposed by the mediator to the parties in an effort to resolve their dispute. The recommendation in no later than 10 working days since the first mediation session must be delivered to

the parties. The Parties then subsequently provide a written reply to the mediator, whose content approves or rejects the recommendation within no later than 10 working days after receiving the recommendation. For those who do not give their opinion on the recommendation, it is considered to reject the written recommendation. In the event that the parties agree to the recommendation, within no later than three working days of the recommendation being approved, the mediator will assist the parties to make a Joint Agreement which then registered in the Industrial Relations Court in the jurisdiction of the parties where they made Joint Agreement to obtain the proof of registration certificate (Article 13 paragraph (1) and (2) of Law No. 2 Year 2004). If it has been registered and the parties do not implement the agreement written in the Joint Agreement, then the aggrieved party may apply for an execution to the Industrial Relations Court in its jurisdiction.

6.2. The role of mediator in settling employment termination disputes in Jambi City

Role is a dynamic process of individual status, if he do his rights and obligations according to his position, then it can be said that he has performed his role. (Soekanto, Sosiologi Suatu Pengantar, 2009) So an institution will be effective and useful in society which can be seen from how far the institution role in solving or overcoming the problems that exist in the society although not all solved. The good or bad role of the mediator can be seen from the good or bad of the mediation process. Implementation of mediation in Department of Labour, Cooperatives and Small and Medium Enterprises Office of Jambi City can be said good enough, because the mediator has been carrying out his duties in accordance with the provisions contained in Law Number 2 Year 2004 concerning Industrial Relations Disputes settlement. Disputes that filed and recorded at Department of Labour, Cooperatives and Small and Medium Enterprises Office of Jambi City, are generally about employment termination. Regarding rights disputes and interest disputes are rarely filed because the rights and interests are generally regulated in company regulations in which workers must obey. If workers do not agree with the rules made by the company generally they will not dare to argue as long as it does not violate the applicable legislation. Workers who do not agree with the rules made by employers can resign or stop quietly (Ramayanti, 2017). In addition, if there is a violation of workers' rights that are not or less fulfilled by the employer, the workers or their representatives through the union may report and request assistance for their settlement through industrial relations supervisors located at the provincial labour agency.

Dispute over employment termination is a dispute that occurs because the parties or one of the party disagree about the employment termination that has been done. Termination procedure is done through several stages. First, must be negotiated first between employers and workers/unions about the reason for the employment termination. Second, if the negotiation failed the employer may terminate the employment after obtaining the assessment from industrial relations dispute settlement institution. Third, employment termination without the assessment of the competent authority is null and void and the employer obligate to employ the worker (Sunyoto, 2013).

Before the birth of Law Number 2 Year 2004 the process of settlement is quite long, with the existence of this law the process is simplified. First handling is done at the Industrial Dispute Court within the General Courts, and it may be possible to file an appeal to the Supreme Court. This is intended to provide an opportunity for dissatisfied parties to the Industrial Relations Court's decree to re-examine

the dispute in a higher court, since the issue of employment termination is a complex issue. Therefore, the basis of the test is in addition to the provisions of the Civil Code particularly concerning agreement, as well as the provisions of public law (Labour Law)(Charda, 2017).

The mediation settlement process takes place after the parties have registered the dispute with the local labour agency, in which they are not agreeing to settle the dispute through arbitration or conciliation, or due to a rights dispute. As such, settlement through mediation becomes mandatory. The disputes settlement through mediation conducted by a mediator located in each of the Regency/City Labour agency offices. Within no later than seven working days after receiving assignment of industrial relations dispute settlement, the mediator conducted research on the case. Within a maximum of 30 working days from receiving dispute assignment, he must have completed his work (Articles 10 and 15 of Law No. 2 Year 2004). As soon as receiving disputefile, the mediator take the settlement measures as follows:

- a. conducting mediation hearing no later than seven working days after receiving the assignment of duty to settle the dispute,
- b. call the parties in writing to attend the session by taking into account the time of the call so that the mediation session can be held no later than seven working days from receiving the assignment of duty to settle the dispute,
- c. conducting mediation proceedings by seeking negotiation for consensus settlement,
- d. issuing written recommendation to the parties if the settlement does not reach an agreement within 10 working days of the first mediation session,
- e. assist in making a joint agreement in writing when a settlement agreement is reached, which signed by the parties and witnessed by the mediator,
- f. notify the parties to register the signed joint agreement of the parties to the Industrial Relations Court where the joint agreement is signed to obtain the registration certificate, and
- g. Make a minutes on every Industrial Relations Dispute Settlement. (Pradia, 2013)

In practice, prior to reporting the disputes to the Mediator, the disputing parties usually conduct bipartite negotiations first. This can be seen from the minutes attached when one of the party or both parties reported the dispute to the Mediator. The Minutes attached is in accordance with Law Number 2 Year 2004 concerning Industrial Relations Dispute Settlement, which contains:

- a. Full name and address of the parties.
- b. Date and place of negotiation.
- c. The subject matter or the dispute reason.
- d. Opinions of the parties.
- e. Conclusions or outcomes of the negotiation.
- f. Date and signature of the negotiating parties.

After the Mediator receives a report or delegation of dispute settlement, a mediation hearing should be immediately undertaken. Prior to the hearing, the mediator makes a call submitted to the parties which content is that the parties are expected to come to the mediation process to attend the mediation

session. Calls are usually responded well by the parties by directly attending the proceedings without the mediator having to repeat the call to bring in the parties or one of the party. Thus the mediator only makes a call just once. Even if the employees cannot attend they can be represented by personnel or legal counsel. After the parties have fulfilled the summons, the trial immediately held. In mediation meetings, negotiation for consensus are held between the parties and mediated by one or more neutral mediators. Mediation sessions are conducted depending on the needs, but it usually need only once meeting to found an agreement. If in one hearing they find an agreement from the parties, then there is no need to do another hearing. But if in a mediation hearing is difficult to find an agreement, then the mediator provides recommendation or options taken from the statements of the parties at the hearing which then submitted to the parties whether or not they approve the given options. If in the mediation hearing the parties have fulfill the agreement, then they made a Joint Agreement which signed by the parties and mediators who then registered it to the Industrial Relations Court to obtain the proof of registration certificate (Surungan, 2017).

If the aforementioned Joint Agreement is not executed by the responsible party, the aggrieved party may apply for an execution to the Industrial Relations Court in the area where the Joint Agreement is registered, to obtain the assessment of execution. If the execution applicant is domiciled outside the Industrial Relations Court where Joint Agreement registered, the execution applicant submits it through the Joint Agreement Court in the domicile of the applicant, then it is forwarded to the competent Industrial Relations Court of doing the execution (Article 7 of Law No.2 Year 2004). Especially in the case of employment termination disputes, if it cannot be resolved by negotiation, the employer can only terminate workers after obtaining the assessment from Industrial Relations Disputes Settlement institution. The application of the assessment is done in writing along with the reasons for the termination, and evidence of the negotiations. The assessment of the request for employment termination can only be granted if the negotiation has actually taken place, and has not resulted in an agreement (Article 151 paragraph (2) and (3) and Article 152 of Law No. 13 Year 2003).

Data obtained from Department of Labor, Cooperatives and Small and Medium Enterprises Office of Jambi City on the number of cases of Industrial Relations Dispute Settlement in 2015 and 2016 as follows:

- a. In year 2015 as many as 51 cases, 27 completed with Joint Agreement, 5 completed with Joint Agreement made in the company, 9 recommendations, 5 recommendations followed by the Joint Agreement, 5 cases removed because the parties did not continue the cases.
- b. In year 2016 as many as 33 cases, 22 completed with the Joint Agreement, 1 finished with a joint agreement in the company, 10 with recommendations.

The above data does not show the names of the workers and companies in disputes, because according to the provisions of Article 9 of Minister of Labour and Transmigration Regulation of Republic of Indonesia Number 17 Year 2014 stated that the mediator shall keep the confidentiality of all information obtained, so that the names of the disputing parties are not published. The mediator always try to achieve peace between employers and workers in the form of agreement set forth in the Joint Agreement. As far as possible the case should not transferred to the Industrial Relations Court. During the

period of 2 (two) years there is only 1 (one) case that reached the Industrial Relations Court which is a case filed in 2015. Generally the parties agreed and received recommendation from the mediator (Ramayanti, 2017). The same thing was also expressed by other mediators. The mediator always advised that the case should not be brought to the Industrial Relations Court, in spite of the long term of settlement, as well as the parties surely paying the cost of the court fee and also to the lawyer (Satria, 2017). Mediators should be fair and independent that can be seen when the Mediator provides recommendations or options when there is no agreement at the mediation session. The mediator provides impartial recommendations to either party. Evidence that the mediator's recommendations is impartial to either party that the recommendation proposed by the mediator is ultimately approved by the parties so that the case does not reach the court (Satria, 2017). Mediation is an alternative dispute settlement process in which the third party that requested for assistance in the dispute settlement process is passive and unauthorized to provide an input, moreover to decide the dispute, so in mediation, the mediator serves only as an intermediary for the parties to the dispute. Even if the mediator gives input it is only recommendation that can be approved and unapproved by the parties. If the recommendation is finally approved by the parties then the mediator creates a Joint Agreement.

In the Year 2015 there are 5 (five) mediation results in the form of recommendations which continue to be a Joint Agreement. This proves that in the end the parties agree with the settlement option or recommended by the mediator. In 2016 settlement that done through mediation in 33 cases which was reported, completed with the Joint Agreement in 22 cases, whereas recommendations in 10 cases, 1 case with the Joint Agreement in the company. The recommendations settlement that took place in 2016, has not obtained any information about them whether they proceed to the court or they receive the recommendations. The parties sometimes do not provide information on how to proceed from the proposed settlement, this is one of the obstacles faced by the mediator at the Department of Labor, Cooperatives and Small and Medium Enterprises Office of Jambi City, so it is not known whether the dispute settlement is complete or not (Ramayanti, 2017). Another obstacle is that it is difficult to bring employers to attend meetings or hearings held by Mediators. Employers usually have their own busyness so they do not have time to attend meetings and are represented only by their personal staff. It can make the process last longer even if there is a term of completion, because the company representative must report the results of the meeting to the employers first (Satria, 2017). Employers cannot be forced to attend because legislation allows parties represented by their legal counsel.

From the total of cases entering in year 2015 there were 51 cases, 37 of it cases completed with the Joint Agreement (27 cases with Joint Agreement in the Department of Labour, Cooperatives and Small and Medium Enterprises Office of Jambi City, 5 Joint Agreements in the company, 5 recommendations continued into Joint Agreements). From the above data it is seen that more than 50% of cases can be solved through mediators. Also in 2016, more than 50% can be completed by mediators in Joint Agreement form. Thus it can be concluded that mediators at the Department of Labour, Cooperatives and Small and Medium Enterprises Office of Jambi City have done a good job. The average period of completion in accordance with the provisions is sometimes even faster than the time specified, because the mediator does not delay to mediate if the parties are willing to be presented together. According to the Chairman of the Confederation of Indonesian Prosperity Trade Union (KSBSI), mediators at the

Department of Labour, Cooperatives and Small and Medium Enterprises Office of Jambi City are very good at their performance, they patiently explain and give understanding of the solutions that they suggested (Roida Pane, 2017). The success of mediation is determined by a mediator who has a certain qualification as a mediator. The mediator must master the subject matter of employment. In addition, a mediator must have the ability to analyse and the ability in creating a personal approach within the mediation technical corridor as well as the ability to formulate the will of the parties into a formulation of recommendations.

7. Conclusion

The duties and obligations of the mediator are regulated in Law Number 2 Year 2004 concerning Industrial Relations Dispute Settlement, specifically regulated in the Minister of Labor and Transmigration Regulation of Republic of Indonesia Number 17 Year 2014 concerning the Appointment and Dismissal of Industrial Relations Mediators as well as Mediation Work Procedures. Because it is specifically regulated, the duties and obligations of the mediator of industrial relations settlement are not the same as the duties and obligations of the mediator beyond the settlement of industrial relations.

The role of mediators in settling industrial relations disputes can be said to be good because it can solve with negotiation for consensus. It can be seen from the result of the settlement, which most of results are Joint Agreement in year 2015 as many as 51 cases, 5 cases were delete, so it is 46 cases left, 27 cases finished with Joint Agreement, 5 cases with suggestions which continued to become Joint Agreement. In 2016 there are 33 cases and finished with Joint Agreement in 22 cases, written suggestions in 10 cases, 1 case with Joint Agreement in the company. Implementation of mediation at the Department of Labor, Cooperatives and Small and Medium Enterprises Office of Jambi City, has been very important because from the number of cases reported for completion, there are more cases completed with Joint Agreement than recommendations. Which the settlement procedure is in accordance with the provisions of Law Number 2 Year 2004 concerning Industrial Relations Dispute Settlement. The obstacles are there are parties who are likely to have settled the dispute as suggested by the mediator, but they did not report it so that the results cannot be monitored for sure.

References

- As'adi, S. F. (2012). *Hukum Acara Perdata Dalam Perspektif Mediasi (ADR) di Indonesia*. Yogyakarta: Graha Ilmu.
- Charda.S., U. (2017). Model Penyelesaian Perselisihan Hubungan Industrial Dalam Hukum Ketenagakerjaan Setelah Lahirnya Undang-Undang Nomor 2 Tahun 2004. *Wawasan Yuridika Vol.1* , No.1.
- Harianto, A. (2016). *Hukum Ketenagakerjaan Makna Kesusilaan dalam Perjanjian Kerja*. Yogyakarta: LaksBang PRESSIndo.
- Irawan. (2013). Penyelesaian Hubungan Industrial Melalui Mediator. *Kajian Hukum dan Keadilan* .
- Khakim, A. (2014). *Dasar-dasar Hukum Ketenagakerjaan Indonesia*. Bandung: Citra Aditya Bakti.
- Pradia, A. (2013). Alternatif Penyelesaian Perselisihan Hubungan Industrial di Luar Pengadilan. *DIH Jurnal Ilmu Hukum, Vol. 7 No. 17* , 13.
- R.Budiono, A. (2011). *Hukum Perburuhan*. Jakarta: Indeks.
- Soekanto, S. (2006). *Pengantar Penelitian Hukum*. Jakarta: UI Press.
- Soekanto, S. (2009). *Sosiologi Suatu Pengantar*. Jakarta: Rajawali Pers.
- Sunyoto, D. (2013). *Hak dan Kewajiban bagi Pekerja dan Pengusaha*. Yogyakarta: Pustaka Yustisia.