Proceedings
The 3rd International Conference in Social Science
University of Merdeka Malang, November 4-5 | Vol. 3(1), 2022
ISSN (Print): 2774-4132 | ISSN (Online): 2774-8383
https://jurnal.unmer.ac.id/index.php/iconiss

The Application of Ultra Petita Principles in Resolving Employment Disputes to Achieve Justice

Nuning Agesti, Supriyadi Supriyadi, Susianto Susianto
Master of Law, Postgraduate School, University of Merdeka
JL. Terusan Raya Dieng No. 62-64 Malang, 65146, Indonesia

Corresponding Author: E-mail: supriyadi@unmer.ac.id

Abstract

Each branch of power can produce legal products. Legislative power produces laws and regulations, executive power produces policy regulations, and judicial power produces judges' decisions or verdicts that can become jurisprudence. The principle of court decisions is issued by the application and must not exceed what is requested. However, in certain cases, the judge can decide beyond what is requested, which is called ultra petita to achieve truth and justice. Weaknesses in the application of this ultra petita principle, sometimes cause problems that harm the applicant, so it needs to be studied and investigated. The focus of this study and research is limited to how judges consider deciding cases, especially employment disputes in Batu City, and how to apply the ultra petita principle in court decisions, especially the decisions of the Surabaya State Administrative High Court. The purpose of this study is to describe and analyse the basis for consideration of the Panel of Judges of the High Court in deciding cases of employment disputes and to review and analyse the application of the Ultra Petita Principle in Court Decisions. This study and research use a normative legal research method with a statute approach and a conceptual approach. The expected contribution of this study and research is theoretically for the development of legal science, especially in the field of development of constitutional law, and practice can provide input to legal practitioners, especially judges in decision-making, local government officials in Personnel Administration, as well as for further researchers. In providing references, especially regarding the Ratio Decidendi of Judges in Court Decisions to the Ultra Petita Principle.

Keywords: Employment disputes, Ratio decidendi, Ultra petita principles

1. Introduction

Indonesia is a state of law, as stated in the 1945 Constitution of the Republic of Indonesia. The meaning of the rule of law is that the law in this country is placed in a strategic position in the constellation of the state administration. A law must be supported by good behaviour from the community, so there is a need for efforts to increase public awareness of the law and consistent and consistent law enforcement.

Article 1 in paragraph (3) of the 1945 Constitution states that Indonesia is a "State of Law", without any affirmation of the word rechstaat which is placed in brackets, it must be interpreted that the rule of law in Indonesia accepts the principle of legal certainty, which emphasizes on rechstaat, while at the same time accepting the principle of justice which emphasis on the rule of law. The concept of the rule of law is also emphasized in Article 28H of the 1945 Constitution which emphasizes the importance of expediency and justice. Likewise, Article 24 of the 1945 Constitution also emphasizes that judicial power must uphold law and justice, while Article 28D of the 1945 Constitution emphasizes fair legal certainty. Based on the legal concept mandated in the 1945 Constitution, it is appropriate when the purpose of law in Indonesia upholds 3 (three) things, namely justice, expediency, and legal certainty that the aim of law can be seen from three points of view by Achmad Ali. As follows: (1) From a legal philosophical point of view, if the legal goal emphasizes justice; (2) Where, from a legal sociological point of view, the legal purpose is emphasized in terms of its usefulness; (3) From the direction of positive normative or legal dogmatism, where legal objectives in the sense of legal certainty are emphasized.

The realm of law, legal certainty or the principle of legality, legal benefits, and legal justice are highly respected so that the main subject in realizing legal goals in law enforcement, whether criminal, civil or state administration, is the judge. Judges hold a central position and a key role in determining the fate of everyone who seeks justice through trial. One of the legal adages often shaded by the public states that judges are God's representatives on earth. Since the enactment of Law Number 48 of 2009 regarding Judicial Power, in addition to apply the stipulation of the Act in Article 5 paragraph (1) judges are required to analyse the values of justice that happen in society. This shows that in addition to legal certainty, the judiciary emphasizes a sense of justice. In other words, in modern law enforcement, the principle of legal certainty should not be used as the sole basis for a judge's decisions, because there is a need for a judge's decision based on the principles of justice and expediency.

The State Administrative Court is one of the implementers of judicial power for the people seeking justice for State Administrative disputes. In disputes, judges at the State Administrative Court have the main task of examining, adjudicating, and resolving cases based on the principle of active judges. The regulation of active judges is one of the essential principles in the investigation of the State Administrative Court. The regulation of the judge actively advises the plaintiff to complete the accusation, and in the evidentiary process actively finds material truth in state administrative disputes. In developments in society, as a judge, it is necessary to be widely understood to be able to provide substantial proportional justice.

The consequences of applying the principle of active judges can lead to the ultra petita fundamental in the decisions of the State Administrative Court. In fundamental, judges of the State Administrative Court may not apply the ultra petita principle, namely granting something that was not requested all or indicating that something requested has been granted but the value of the level exceeds that which was initially requested. The regulations in the State Administrative Court Law, namely Law no. 5 of 1986 in conjunction with Law no. 9 of 2004 in conjunction with Law no. 51 of 2009, do not stated clearly and unequivocally the provisions for the use of the ultra petita principle in the decision. From Article 53 paragraph (1) of Law no. 5 of 1986, in conjunction with Law no. 9 of 2004, in conjunction with Law no. 51 of 2009, it is known that the authority of the judge of the State Administrative Court is limited to choosing between declaring the object of the disputed state administrative dispute to be invalid or invalid or declaring the validity of the object of the dispute in the form of rejecting the lawsuit. However, Supreme Court Decision No. 425 K/Sip/1975 on July 15, 1975, stated that the judge was allowed to grant more than the Petita but following the posita. Then on February 6, 1993, in the Supreme Court Decision No. 5K/TUN/1992, the Supreme Court Council applied the ultra petita principle in its decision. The Supreme Court Council considers and hears all decisions or decisions that are contrary to the prevailing order/rules.

2. Literature Review and Hypotheses

Ultra Petita comes from Latin, namely Ultra which means very, very, extreme, excessive, and Petita which means request. Ultra Petita Decision is a decision based on a case that is decided more than what is demanded or requested by the public prosecutor. Ultra Petita is the imposition of a decision on a case that is not prosecuted or grants more than what is requested. Yahya Harahap concluded that Ultra Petita is a decision where the judge who grants the claim exceeds or exceeds what is demanded. In the International Criminal Court (ICC), Ultra Petita has been defined broadly beyond the definitions given in HIR and RBg. Based on several decisions made by the ICC, the judges have expanded their jurisdiction which is governed by several actions, including adjudicating ICC decisions, granting more than what is claimed, interfering in the jurisdiction of other courts, and interfering in the jurisdiction of other state organs. The decision of the ICC Ultra Petita is not based on the original intent of the constitution, which is known as the highest legal norm in Indonesia. An Ultra Petita case will occur if the ICC reviews more than requested by the applicant. For example, in some cases, the applicant only requests a review of a clause or article in law, but the ICC can go further by not only canceling the clause or article but also canceling the entire action. Judges are not the automatic substance of the Act, therefore, the application of ultra Petita is not only to enforce substantive justice but also to overcome the obstacles of laws and regulations that are not accommodating to the legal needs of justice seekers and the existing legal order. In implementing this ultra Petita, the court can base its legislative ratio on Article 4 paragraph 2 of Law no. 48 of 2009 regarding Judicial Power which reads "The courts help seek justice and try to overcome all interference and interference to accomplish a transparent, quick and low-cost trial". The center of this interpretation is not on the legal system, but on the “social problem” that must be solved

Ratio Decidendi based to John Salmond, in discussing the nature of a precedent in English law sir Jhon Salmond says: Thus, precedent is a trial that contains principles. The underlying code that forms that trustworthy element is therefore often referred to as the Ratio Decisionendi. Concrete decisions are binding between the parties, but only abstract Ration Decisionendi have global legal effect. Sir John Salmond, in discussing the nature of precedent in English law, says that precedent is a judicial decision that contains the principle itself. Therefore, the basic principles that make up its governing elements are often called the decisive ratios. Concrete decisions are binding between the parties in them, but abstract ratios decide for themselves that have legal force regarding the world in general. The case determination rate is determined by considering: (1) Facts deemed material by the judge. b. His decisions are based on them. Consider the following points when looking for the decision proportion of cases; (2) Facts deemed important by the judge b. The decision is based on them. The theory of Ratio Decisionendi is, as Professor Morgan put it, 'the legal norms applied by the courts necessary for the determination of the issues presented are considered decisions,'' or Ratio Decisionendi. The ratio decidendi as described by Morgan is a rule of law applied by the court, the application of which is necessary for the determination of the proposed problem and must be considered as a decision. Ratio Decidendi are legal reasons used by judges to arrive at their decision. According to Goodheart, this ratio decidendi shows that legal science is a prescriptive science, not descriptive. Ratio decidendi is the interpretation or judge's consideration which is used as the basis for consideration by the legislators. Where the material facts are the main factor because the judge and the parties will look for the right legal basis to be applied and poured into the facts in the case they are trying.

Personnel Disputes are disputes submitted by *ASN* employees, which arise as a result of the issuance of a decree in the field of employment from the competent authority. Personnel Disputes are regulated in the provisions of Article 129 of Law Number 5 of 2014 concerning State Civil Apparatus, which states that *ASN* employee disputes are resolved through administrative efforts in the form of objections and appeals before taking legal action through the courts. Personnel management is indeed very vulnerable to the issue of Personnel Disputes because it relates to the issuance or stipulation of State Administrative Decrees in the field of employment, among others in the form of decisions on appointments as candidates for civil servants (CPNS), decisions on appointments as civil servants (PNS), decisions on appointments in civil service rank (for promotion), decisions on appointments in structural and structural positions, decisions on appointments in structural and functional positions, decisions on temporary dismissal as civil servants, decisions on disciplinary penalties, and decisions on dismissal as civil servants. The TUN decision in the field of personnel can be analogous to the *TUN* decision as regulated in Article 1 point 9 of Law no. 51 of 2009.

3. Methods

Researchers took the type of normative legal research to study and analyze Judge's Decision Number: 41/B/2018/PT.TUN.SBY Employment Dispute between Mayor of Batu and Muhammad Yamil., AP. related to the Judge's Decidendi Ratio in his decision, and the researcher will relate it to the Ultra Petita Principle. This research was conducted with the intention of providing legal arguments as a basis for determining whether an event was right or wrong and how the event should be according to the law. This research was conducted by reviewing library materials related to the Ratio of Judges' Decisions on Appeals with the Ultra Petita Principle Number: 41/B/2018/PT.TUN.SBY in Personnel Disputes. The approach used in this research is the statutory approach and the case approach. Some of these approaches are used to build legal arguments to solve the problems being studied.

This research includes normative legal research so it uses legal materials. Normative legal research relies on library research through the study of primary legal materials as the main legal material in the form of laws and regulations that have binding legal force and can be used as references and legal considerations that are useful in conducting studies on the application of legal rules in regulations. legislation, especially those related to the Ratio Decidendi of Judges in Appeal Level Decisions with the Ultra Petita Principle Number: 41/B/2018/PT.TUN.SBY and secondary legal materials as complementary or supporting materials consisting of legal books (literature) written by influential legal experts, legal journals, opinions of scholars, academic manuscripts, court minutes, and seminar papers by experts related to this research.

The method of collecting legal materials is done through library research. Because this research is normative legal research, the method of collection is done by document study, namely by studying, reviewing, and reviewing legal materials related to this research.

Analysis of legal materials is carried out through adjustments to the contextual problems. For theoretical problems through the study of legal theory with normative methods and normative-empirical

scientific characteristics as well as analytical explanations. For juridical problems through the study of legal dogmatic layers through normative methods and normative scientific characteristics as well as juridical technical explanations. Analysis of legal materials is carried out in a qualitative descriptive way, meaning that legal materials are presented descriptively and analyzed qualitatively, namely analyzing legal materials based on the quality and truth of legal materials and then drawing conclusions which are the answers to the problems in this study. Analysis of legal materials is also carried out with systematic interpretation/interpretation, systematic interpretation, namely legal interpretation based on the systematics of legal arrangements in relation to articles or paragraphs of the legal regulations themselves in regulating their respective problems.

In addition to systematic interpretation, a teleological/sociological interpretation method is also used which interprets a statutory provision in order to understand its meaning or which is based on societal goals. This interpretation method is applied to a statutory regulation that is still valid but does not function in society because it is not in accordance with the current state of society. The teleological or sociological interpretation method is an effort to adapt legislation to the new social situation of today's society. The state of a law that is no longer in accordance with the times is used as a tool to resolve disputes that occur at this time.

4. Results and Discussion

The connection between the State Administrative Court Acts, Law No. 5 of 1986 and Law No. 9 of 2004, and Law No. 51 of 2009 clearly and expressly defines the provisions enabling the application of the micro miniature principle in judgments. Not included. However, the provisions of Article 53, Paragraph 1 in conjunction with Law No. 5 of 1986 In relation to Law No. 51 the Year 2009 of September 9, 2004, the powers of the State Administrative Judge shall be determined either to invalidate or invalidate the subject matter of the state administration in question or to establish the validity of the subject matter. Known to be limited in choice. Issues in the form of denial of claims. Concurrently, if the claim of the plaintiff is accepted, the liability of the defendant is limited as stipulated in Article 97 paragraph (8) and Article 97 paragraph (9). However, with Supreme Court Decision No. 425 K/Sip/1975 on July 15, 1975, stated that the judge was allowed to grant more than the petitum but following the posita, meaning that the judge granted the thing that was by the dispute. The judge is allowed to decide more than this petitum as a result of the application of the active judge principle. Then on February 6, 1993, in the Supreme Court Decision No. 5K/TUN/1992, the Supreme Court Council applies the ultra petita principle in its decision. The Supreme Court Council considers and hears all decisions or stipulations that are contrary to the proposed order, not on the object of dispute proposed by the parties because sometimes the dispute must be assessed and considered in the stipulated objects or decisions of administrative bodies/officials. Countries that are not disputed between the two parties.

In implementing this Ultra Petita, the Court may refer to Article 4(2) of Law No. 48 the Year 2009 on Judiciary. A simple, fast, and cost-effective process can be achieved. ”Central to this is not the legal system, but the “social problem” that must be solved. There is one principle in the civil procedure law and State Administration which, according to the author, provides an opportunity for the judge to give a decision that exceeds what is requested or in other words ultra petita. The verdict in question is the Ex Aequo Et Bono principle a phrase used in the petitum of a lawsuit which reads "if the panel of judges is different, please make a fair decision". Where such a clause gives an assumption that the judge can grant a petitum beyond what is requested for reasons of justice.

The application of this ultra petita principle in regulatory practice was first in the Supreme Court's cassation decision in case No. 5 K/TUN/1992 or known as the Sabang case. The Supreme Court's decision regarding the dispute between Mrs. D Binti A et al as plaintiffs against the head of BPN et al as defendants. In essence, the contents of this decision have legal consequences for the invalidity of all decisions or stipulations issued by the Land Administration Officials in litis since the date. May 2, 1967, until the decision of the Supreme Court, vide the decision of the Supreme Court No. 1523 K/Sip/1982 dated February 28, 1983. The object of the original dispute was only the HGB certificate No. 116/KS and No. 138/KS issued by Defendant. Another ultra petita practice in the Supreme Court decision is the dispute between Dahniar cs and the Head of BPN, as noted by Adrian Brender. In addition, in decision no. 4/G/TUN/1994/PTUN-Smg. (Soedirto & Subroto) against the Head of BPN Semarang in which the Semarang Administrative Court filed two notarial deeds which were not contested, including decision No. 11 K/TUN/1992 date. February 3, 1994.

The consideration of the Panel of Judges Applying the Ultra Petita Principle in Decision Number: 41/B/2018/PT.TUN.SBY is based on and prioritizes Substantive Justice compared to formal justice, which

will have a positive impact on other State Civil Apparatus (ASN) not to neglect their duties and obligations. According to the Appellate Panel of Judges, deficiencies in the consideration of a decision included in the "Trivial matter" category means things that are too small, so they do not deserve to be considered in law (De minimis curate lex) when compared to the mistakes made by the Appellant/Plaintiff based on the evidence T-10 in the form of Recap of Employee Attendance on behalf of Muhammad Yamil. AP in 2016 and 2017 until August and evidence T-12 in the form of Manual Recap of Attendance List (presence) from February 2016 to December 2016, whose attendance was very rare (In 2016 of 246 working days, the Appellant/Plaintiff only present for 11 working days and in 2017 from January to August 2017, out of 158 working days, the Appellant/Plaintiff only entered/presented 8 working days). Furthermore, the Appeals Panel of Judges pays attention to all the evidence as considered above related to Government Regulation Number 53 of 2010 concerning Civil Servant Discipline, it should be following the provisions of Article 10 number 9 letter d the appropriate sanction to be imposed/imposed on the Appellant/Plaintiff is Dismissal with Disrespect. At their request or dishonourable discharge as a civil servant, based on this consideration, the Appeals Panel of Judges needs to correct and straighten out the imposition of sanctions that must be imposed on the Appellant/Plaintiff, based on the Reformation in Pieus Principle, namely that the Judge of the State Administrative Court may issue a more painful decision. or unfavourable for the Appellant/Plaintiff, in this case, Disrespectful Dismissal at His Request or Disrespectful Dismissal as a Civil Servant against the Appellant/Plaintiff by ordering the Appellant/Defendant to k adjust the sanctions to the Appellant/Plaintiff following the provisions of Article 10 point 9 letter d of Government Regulation Number 53 of 2010 concerning Discipline of Civil Servants.

Substantive justice is focused or oriented to the fundamental values contained in the law so that matters that focus on procedural aspects will be placed second. The purpose of the decision is none other than to realize aspects of justice, certainty, and expediency. Because ideally, decisions must contain three elements, namely justice (Gerechtigkeit), legal certainty (Rechtsicherheit), and expediency (Zwechtmassigkeit). From the explanation above, the writer concludes that the concept used in ultra petita is the concept of substantive justice. Where it has been explained that the concept of substantive justice refers to a substantial problem in a dispute.

Judges are not the automatic substance of the Act, therefore, the application of ultra petita is not only to enforce substantive justice but also to overcome the obstacles of laws and regulations that are not accommodating to the legal needs of justice seekers and the existing legal order. In the Black's Law Dictionary, the term "substantive justice" is found which is defined as "justice that is carried out according to substantive law, without seeing procedural errors. In other words, substantive justice does not mean that judges must always ignore the sound of the law. Rather, substantive justice means that judges can ignore laws that do not give a sense of justice but remain guided by the formal-procedural laws that have given a sense of justice while at the same time guaranteeing legal certainty. According to Atmadja, the benchmark for substantive justice seems to be the principle of "decision", while procedural justice is justice that is expressed in the application of dispute resolution procedures or legal decision-making. The benchmark is obedience to procedural law.

The application of this ultra petita court can base its legislative ratio on Article 4 paragraph 2 of Law no. 48 of 2009 regarding Judicial Power which reads this micro court application can have a legislative basis to achieve a simple, fast and cheap process under section. The center of this interpretation is not on the legal system, but on the "social problem" that must be solved. Ultra petita in a formal legal review implies the imposition of a decision on a case that is not prosecuted or passes more than what is requested. The purpose of the law is justice. Judges as ordinary human beings carry out extraordinary tasks and calls because all judicial processes are intended to achieve "For Justice Based on the One Godhead" given article 2 paragraph (1) of Law no. 48/2009 on Judicial Power. These provisions certainly appear out of nowhere but are a form of embodiment of the first basic principles of the state which naturally require religious values to be actualized in the law enforcement process. Therefore, constitutionally, judges in Indonesia have a basis for overriding the paradigm of legal positivism in upholding justice, because the inclusion of "For the sake of Justice Based on God Almighty" as the initial sentence in every decision, then meta-juridical thinking about law is the basis for the judge's decisions.

The criteria for when a judge is considered ultra petita can be determined with two limitations, namely first, in the case of the judge deciding on a case that is not prosecuted, and second in the case of the judge passing or granting more than what is demanded. The concept of ultra petita is to protect the interests of the defeated parties in the judicial process because if the judge decides to exceed what is demanded/requested, of course, it will be very detrimental to the losing party. When viewed from the legal objectives according to Gustav Redbruch, this principle is very helpful for the realization of justice and legal certainty.

Judge's Reasons in Decision No 41/B/2018/PT.TUN.SBY. The researchers, follow Gustav Radburch's ideas based on his Three Fundamental Values Priority Principles, which are the goals of the law. The precedence principle used by Gustav Radbruch should be implemented in the following order: (1) Enforcement of Justice; (2) Legal Interest; (3) Legal certainty.

If analyzed based on the judge's considerations in deciding the civil service dispute case between the Mayor of Batu City and Muhammad Yamil, A. P in decision number: 41/B/2018/pt.tun.sby through Gustav Radburch's priority principle: (1) In terms of legal justice, the judge's considerations, in this case, have fulfilled legal justice. Justice is the glue that holds order in civilized social life. This law requires each member of the local and state administrations to maintain social ties and take the necessary steps to achieve the goals of coexistence or vice versa, and not to take any steps that could undermine the just order. Was created to if the ordered action is not performed or the prohibited items are not followed, it is a violation of the law and social order is disturbed. Justice must be maintained in order to restore order in social life. Each violation will be punished according to the severity of the violation itself; (2) Regarding legal interests, this theory is about the purpose and valuation of laws. The purpose of a law is the greatest possible welfare for the majority of the people or the people as a whole, and the evaluation of the law is based on the results that result from the process of applying the law. Seen in this light, the judge's considerations will aid future enforcement of her ASN discipline so that the same case where the ASN ignores that discipline is not repeated. You need to set a good example for the community around you; (3) When it comes to legal certainty, one might say that legal certainty is one of the purposes of law as part of the effort to achieve justice. The true form of legal certainty is enforcement or enforcement of the law against a claim, regardless of who is doing it. With legal certainty, anyone can predict what will happen if a particular legal action is initiated. Certainty is needed to realize the principle of equality before the law without discrimination. The word "certainty" is closely related to a principle of truth that can be strictly syllogized in legal and formal terms. Through deductive logic, positive legal rules are established as major premises, with concrete events as secondary premises. A closed logic system allows you to draw immediate conclusions. Everyone should stick to it because the conclusion should be predictable. With this grip, society is ordered. Certainty, therefore, brings order to society. Legal certainty will guarantee someone to behave following applicable legal provisions, on the contrary, without legal certainty, a person does not have standard provisions in carrying out behaviour, this is what the Panel of Judges emphasized in their consideration of the judge's decision has also been adjusted to legal certainty referring to Government Regulation No. 53 of 2010 concerning Discipline of Civil Servants, it should be following the provisions of Article 10 point 9 letters d the appropriate sanction to be imposed/imposed on the Appellant/Plaintiff is Dismissal Disrespectful Dismissal or Disrespectful Dismissal as a Civil Servant.

It was further concluded that in general the reasons for making amar ultra petita in the dictum of judges' decisions were motivated by the application of the principle of active judges, the principle of legal certainty, and orderly state administration, as well as the application of judges' duties as dispute resolution in the Administrative Court system. The choice between justice, legal certainty, expediency, and a combination of the three legal objectives is the main basis when an ultra petita order must be stated explicitly in the dictum of the decision.

Judges who handle cases in court cannot be detached or influenced by the adopted value system. Judges are always fighting and interacting with the values in their mentality. The judge decides which values prevail and prevail in the case presented to him. The process by which judges handle cases in judicial courts is not only a technical legal and procedural matter for applying the rules, but also involves orientation to the values regulated by the judges. In enforcing decisions, there is a process of reflection, deliberation, and dialogue between the judge and the values inherent in the judge's mental nature. Judges pick and choose which values are realized. Moreover, the inclusion of "amar ultra petita" in the dictation of a general judge's decision is justified by the principles of positive judgment, legal certainty, and orderly state administration, and their application. It was concluded that the function of the judge is dispute resolution in the administrative court system. Fairness, legal certainty, expediency, and choosing between her three combinations of legal objectives are the primary when micro orders must be explicitly stated in the decision dictum. It is the foundation. Judges who handle cases in court cannot be detached or influenced by the adopted value system. Judges are always fighting and interacting with the values in their mentality. The judge decides which values prevail and prevail in the case presented to him. The process by which judges handle cases in judicial courts is not only a technical legal and procedural issue of the application of the rules, but also an orientation to the values regulated by the judges. In enforcing decisions, there is a process of reflection, deliberation, and dialogue between the judge and the values inherent in the judge's mental nature. Judges pick and choose which values are realized.

5. Conclusions

Pursuant to Law No. 5 of 1986 on State Administrative Courts, as amended by Law No. 9 of 2004 and last amended by Law No. 51 of 2nd year 2009, various provisions relating to the powers of the Administrative Courts. Normative Amendments to Laws and Regulations According to Law No. 5 of 1986 on Provincial Administrative Courts, there is no single article that expressly provides for the prohibition or ability of PTUN judges to render ultra-petit judgments. However, General Explanation No. 5 of Law No. 5 of 1986 on State Administrative Courts states:"In states, administrative court judges have taken a more active role in the judicial process to obtain material truth, and for this reason the law introduces the principle of free evidence.

The consideration of the Panel of Judges Applying the Ultra Petita Principle in Decision Number: 41/B/2018/PT.TUN.SBY is based on and prioritizes Substantive Justice compared to formal justice which will have a positive impact on other State Civil Apparatuses (ASN) not to neglect their duties and obligations. According to the Appeals Panel of Judges, deficiencies in the consideration of a decision included in the "Trivial Matter" category means things that are too small, so they do not deserve to be considered in law (De minimis curate lex) when compared to the mistakes made by the Appellant/Plaintiff based on the evidence T-10 in the form of Recap of Employee Attendance on behalf of Muhammad Yamil. AP in 2016 and 2017 until August and evidence T-12 in the form of Manual Recap of Attendance List (presence) from February 2016 to December 2016, whose attendance was very rare (In 2016 of 246 working days, the Appellant/Plaintiff only present for 11 working days and in 2017 from January to August 2017, out of 158 working days, the Appellant/Plaintiff only entered/presented 8 working days). Furthermore, the Appeals Panel of Judges pays attention to all the evidence as considered above related to Government Regulation Number 53 of 2010 concerning Civil Servant Discipline, it should be following the provisions of Article 10 number 9 letter d the appropriate sanction to be imposed/imposed on the Appellant/Plaintiff is Dismissal with Disrespect. At their request or dishonourable discharge as a civil servant, based on this consideration, the Appeals Panel of Judges needs to correct and straighten out the imposition of sanctions that must be imposed on the Appellant/Plaintiff, based on the Reformation in Pieus Principle, namely that the Judge of the State Administrative Court may issue a more painful decision. or unfavourable for the Appellant/Plaintiff, in this case, Disrespectful Dismissal at His Request or Disrespectful Dismissal as a Civil Servant against the Appellant/Plaintiff by ordering the Appellant/Defendant to k adjust the sanctions to the Appellant/Plaintiff following the provisions of Article 10-point 9 letter d of Government Regulation Number 53 of 2010 concerning Discipline of Civil Servants.

Judges in the practice of handling a case in court cannot be separated from and influenced by the value system adopted. Judges will always struggle and have a dialogue with the value system that resides in the mentality of the judge. In the process of imposing a decision, there is a process of thinking, considering, and having a dialogue between the judge and the values that reside in the mental nature of the judge.

References

Abraham, A. H. F. (2007). *Legal opinion teoritis & empirisme*. Jakarta: PT Grafindo Persada.

Achmad, A. (2015). *Menguak Tabir Hukum (Edisi Kedua)*. Jakarta: Prenadamedia Group.

Agustina, E. (2019). *Sengketa kepegawaian dalam sistem peradilan tata usaha negara*. Depok: Raja Grafindo Persada.

Ayu, P. (2013). Prinsip hakim aktif (Domini Litis Principle) dalam peradilan tata usaha negara. *Masalah-Masalah Hukum, 42*(3).

Bruggink. (1996). *Refleksi tentang hukum: Pengertian dasar dalam teori-teori hukum* (Trans: Arief Sidharta). Bandung: PT. Citra Aditya Bakti.

Carl, J. F. (2004). *Filsafat hukum: Perspektif historis*. Bandung: Nuansa dan Busamedis.

Friedmann, W. (1993). *Teori dan filsafat hukum: Legal theory*. (Trans: Mohamad Arifin). Jakarta: PT Raja Grafindo Persada.

Harahap, Y. (2008). *Hukum acara pidana tentang gugatan, persidangan, penyitaan, pembuktian, dan putusan pengadilan*. Jakarta: Sinar Grafika.

Herman, B. (2007). *Filsafat hukum: Desain dan arsitektur kesejarahan*. Bandung: Refika Aditama.

Hutchinson, T. (2002). *Researching and Writing in Law*. Sidney: Lawbook CO.

Jhon, R. (1973). *Theory of justice*. London: Oxford University.

Jhon, R. (1987). *Basic liberties and their proirity*. Cambridge: Cambridge University Press.

John, C. (1996). *Western philosophy: An anthology*. Oxford-UK: Blackwell.

John, R. (1980). *Theory of Social Justice, H. Gene Blocker (ed)*. Ohio: Ohio University.

Karl, R. P. (2002). *The open society and its enemy* (Trans: Uzair Fauzan). Yogyakarta: Pustaka Pelajar.

Kusumaningrum, R. D. (2017). Putusan ultra petita dalam perkara pidana. *Jurnal Putusan Ultra Petita dalam Perkara Pidana.*

Marzuki, P. M. (2005). *Penelitian hukum*. Jakarta: Kencana Persada Media.

Mukti, F., & Yulianto, A. (2017). *Dualisme penelitian hukum normatif dan empiris*. Yogyakarta: Pustaka Pelajar.

Notohamidjojo, O. (1971). *Masalah keadilan*. Semarang: Tirta Amerta.

Notohamidjojo, O. (2011). *Soal-soal pokok filsafat hukum*. Salatiga: Griya Media.

Peraturan Perundang-Undangan Yurisprudensi Mahkamah Agung Republik Indonesia.

Putusan Nomor: 595 K/TUN/2018.

Putusan Nomor: 41 /B/2018/PT.TUN-SBY.

Ranuhandoko, I. P. M. (2000). *Terminologi hukum (Cetakan Kedua)*. Jakarta: Sinar Grafika.

Ranuhandoko, I. P. M. (2003). *Terminologi hukum Inggris-Indonesia*. Jakarta: Sinar Grafika.

Sumaryono, E. (2002). *Etika dan hukum: Relevansi teori hukum kodrat Thomas Aquinas*. Yogyakarta: Kanisius.

Sunaryati, H. (1994). *Penelitian hukum di Indonesia pada akhir abad ke -20*. Bandung: Alumni.

Undang-Undang Nomor 5 Tahun 1986 tentang Peradilan Tata Usaha Negara, sebagaimana telah beberapa kali diubah, terakhir dengan Undang-Undang Nomor 51 Tahun 2009 tentang Perubahan Kedua atas Undang-Undang Nomor 5 Tahun 1986 Tentang Peradilan Tata Usaha Negara.

Undang-Undang Nomor 5 Tahun 2014 tentang Aparatur Sipil Negara.

Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan.