

Regional Head's Authority in Determining Work Placement Due to Mutations of Government Employees

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Abstract

This research is aimed to analyze and understand the actions of the Head of Boalemo Regency in mutation of the Civil Servant based on the mutation policy and also to analyze the filling positions in the implementation of the mutation of Civil Servants in Boalemo Regency. The method used in this research was Empirical Juridical Method. The results of the research were found that mutations of Civil Servant are enhancement over the years in Boalemo Regency. Injustice in determining mutations is marked by work placements that are incompatible with Civil Servants' educational background. There is a political interest in the Government of Boalemo Regency that caused injustice in the mutation of the Civil Servants.

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1. Introduction

Civil Servants as government employees have a central existence in carrying components of government policies or regulations in order to materialize national

goals as outlined in the constitution as *pacta sunt seranda*,¹ which becomes *rechti-dee* as contained in the Preamble to the 1945 Constitution of the Republic of Indonesia (the 1945 Constitution).² These components are accumulated in the form of distributing tasks, functions, and obligations of Civil Servants. With the paradigm shift in public services, this will automatically create a system change in the civil service law with adjustments in the implementation of tasks, functions, and obligations of Civil Servants including the structuring of government bureaucracy, systems, and management of personnel management.³

Mutations of civil servants are carried out for the benefit of service and as an effort to expand the experience and capability insight, thus there are mutations of positions, tasks, and work areas for Civil Servants, especially those who hold leadership positions without prejudice to their civil service rights, as well as officials who are delegated with the authority to determine the designation, mutation, and dismissal of Civil Servants, signing the decree on behalf of themselves, rather than on behalf of the official who gives the delegation of authority. An official who is given with delegation of authority is able to authorize other officials.

The purpose of the mutations of civil servants in Law no. 5/2014 contained in Article 73 paragraph 7 and its explanation. Article 73 paragraph 7 states that “the mutation of Civil Servants is carried out by taking into account the principle of prohibiting conflicts of interest.” It is then clarified in the elucidation that “in order to prevent conflicts of interest, civil servants who have direct marital and blood relations in one

¹ Ahmad Ahmad and Novendri M. Nggilu, (2020) “Denyut Nadi Amandemen Kelima UUD 1945 melalui Pelibatan Mahkamah Konstitusi sebagai Prinsip the Guardian of the Constitution,” *Jurnal Konstitusi*, Volume 16 (4): 785–808.

² Novendri M. Nggilu dan Fence M. Wantu, (2020), Menapaki Jalan Konstitusional Menuju Zaken Cabinet : Ikhtiar Mewujudkan Pemerintah Berkualitas Konstitusi, *Jurnal Hukum Samudra Keadilan*, Volume 15 (1): 127

³ Sri Hartini, Hj. Setiajeng Kadarsih, (2008), *Hukum Kepegawaian di Indonesia*, Jakarta : Sinar Grafika, hal. 3

work unit can be mutated to a different unit based on the decision of the Officials of Trustees Personnel.

One of the reasons for the Government of Boalemo Regency in the mutations is the performance of Civil Servants. The performance of Civil Servants as public servants in government institutions has not performed their level of expected service, especially by the people who becomes the target of their services. The low performance of these employees can be proven by non-fulfillment of the targeted work both in terms of quality and quantity.⁴

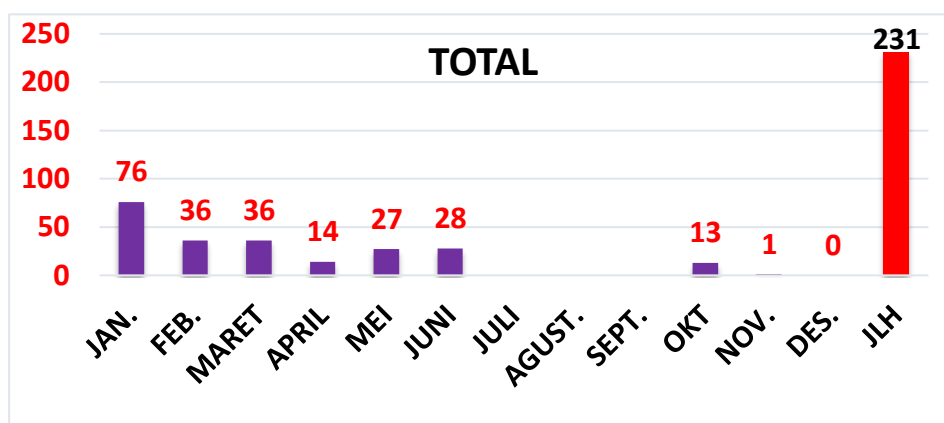
In Boalemo Regency, there is an increase in mutations every year, one of which is in 2019 and mutations that are not in accordance with procedures and have no basis for mutations as referred to in Law Number 5 of 2014 on State Civil Apparatus. Article 68 paragraph (4) of the ASN Law, Civil Servants can be mutated between High Leadership Positions, Administrative Positions, and Functional Positions at Central Agencies and Regional Agencies based on qualifications, competencies, and performance assessments of The provisions of the ASN Law, which clarify the legal basis governing mutations as referred to in Article 73 of the ASN Law on the mutations of Civil Servants without any conflict of interest.

The following is a summary of the number of Civil Servants who were mutated in 2019;

Data Summary of Civil Servant Mutation in Boalemo Regency

REKAPAN SPT/MUTASI STAF ANTARA UNIT KERJA DILINGKUNGAN PEMERINTAH KAB. BOALEMO												
TAHUN 2019												
JAN.	FEB.	MARET	APRIL	MEI	JUNI	JULI	AGUST.	SEPT.	OKT	NOV.	DES.	JLH
76	36	36	14	27	28				13	1	62	293

⁴ Nurdin, dkk, Pengaruh Penempatan, (2015), Mutasi Dan Promosi Terhadap Prestasi Kerja Serta Dampaknya Terhadap Kinerja Pegawai Sekretariat Daerah Aceh, *Jurnal Manajemen Pascasarjana Universitas Syiah Kuala*, Volume 4 (2): 222.



Data: Civil Service Agency of Boalemo Regency

Based on the table, as many as 76 ASN were mutated in January, which is the highest number of mutations compared to other months. In 2019, starting from January to December 2019, there were 231 ASNs that were mutated within the Boalemo Regency Government, with the least being in December, which is none of the ASNs were mutated.

Previous research has also been discussed by Muhajid and Edward from Fajar University with the title of Analysis of the Implementation of Mutations of State Civil Servants in the Scope of Government of South Sulawesi Province. In his research, the researcher found that the implementation of mutations in the South Sulawesi provincial government had been conducted in accordance with the applicable laws and regulations in Law No. 5 of 2014 on the State Civil Apparatus. In its implementation, the mutations in the Civil Servants of the South Sulawesi provincial government are classified by work performance, career development, and job vacancies.

Furthermore, the research were conducted by Rahmat Andika, Ahkam Jayadi, Andi Safriyani, with the title of Analysis of the Implementation of Personnel Mutations by Regional Head in Majane Regency. The research indicates that the implementation of personnel mutations tends to use the Merit System, considering the results of the dominant interview analysis, which states that the implementation of the mutations of Civil Servants in the Human Resources and Employment Agency of Majane Regency uses work performance considerations, but not entirely based on the Merit

System, as other considerations are still found that influence the implementation of the mutations, which is the Spoil System as it still involves the terms of likes or dislikes, the factor of proximity to the leadership or kinship factors.

2. Problem Formulation

Based on the description of the background, this research was formulated based on two problem formulations as follows: First, Why is the Head of Boalemo Regency's Decision in Determining the Work Placement Due to Mutations of Civil Servants Contradicting the ASN Law? Second, What are the implications of the head of Boalemo Regency's policies, which contradict the rights and obligations of Civil Servants in Boalemo Regency?

3. Research Methods

This research was conducted using the empirical juridical method, which is a research conducted on the real situation occurring in the application of legal practice in the field or in the community within the work environment of the Civil Service Agency in Boalemo Regency and analyzes the actions of legal institutions related to these problems that aim to give legal certainty by the Civil Service Agency of Boalemo Regency. In conducting this research, the researcher used a sociological juridical approach, which is to study law as a result of real situations of Civil Servants or the work environment of Civil Servants with the intention of finding facts with the aim of solving problems in the final results. In order to factually recognize things that happens in the authority of the regional head in determining the work placement due to the mutations of Civil Servants explains to study a problem in Civil Servants with the intent and purpose of obtaining facts that is followed by finding the problem, which then identifies the problem and seek problem solving.

The technique of obtaining data in this paper was acquired by purposive sampling technique through several means or instruments, including interviews with related officials in the Civil Service Agency and interviews with several civil servants who were mutated in Boalemo Regency, Tilamuta District, and conducting literature

studies to help obtain data and documentation so that the researcher gets results and descriptions or perceptions.

4. Discussion

4.1 The decision of the Head of Boalemo Regency in determining the work placement due to the mutations of civil servants is contrary to the ASN Law

Regional governments, which are part of the government system in Indonesia, also require delegating authority to the composition of regional apparatuses, including in this case the regents so that the implementation of regional autonomy runs effectively.⁵ The current Head of Boalemo Regency in charge has mutated a number of officials within the Boalemo Regency Government. This raises a critical problem in the Boalemo Regency government, as the term of office is less than 6 months. The Head of Boalemo Regency makes very strict policy. On the part of the Civil Servants in Boalemo Regency, the Head of Boalemo Regency considers that the mutation is due to political interests.

As is well known, law becomes an object in legal politics. Politics basically investigates what changes must be made in the current prevailing law in order to conform to social realities. However, legal politics take down the legal system from social realities, especially in the mutations of employees, which is in the case of legal politics being a tool in the hands of a ruling class who wanted to colonize without paying attention to social realities.⁶

The actions of regional heads in intervening towards individual, group, and political interests, which should prioritize professional intervention so that the principle of *The Right Man on the right place and on the right job* can be achieved. The implementation of the authority of the regional head in determining the mutations

⁵ Abdul Hamid Tome, (2020), Anotasi Penataan Perangkat Daerah Pemerintah Provinsi Gorontalo Berdasarkan Asas Pembentukannya, *Jurnal Al-Ahkam*, Volume 16 (1): 25

⁶ E. Utrecht, (1966), *Pengantar dalam Hukum Indonesia*, Cetakan Kesembilan, Jakarta : Penerbit Universitas, hlm 74-75

of civil servants in structural positions is represented by the increased authority of the regional head in the field of regional personnel management, including the authority to designate positions within the regional government or known as mutations.

Based on the Mutations policy conducted by the Head of Boalemo Regency with political interests, it is a legal policy and legislation, in the context of legal reform. The process of forming a law must be able to accommodate all matters relevant to the field or problem to be regulated in the law. Mutation policy is an effective legal regulation, as the effectiveness of statutory products in their application requires attention by the institution, which must prioritize the procedures required in conducting their duties in order to achieve the targets, so that the state officials have an obligation to work professionally, thus accordingly, the performance of the state officials can be measured.⁷

In a study on the theory of the head of regency's authority⁸ in employee mutations, which is the Delegative authority originates from the delegation of an organ of government to another organ on the basis of laws and regulations. In this case the authority of the delegation of responsibility and accountability to those given with the authority, and changed over to the delegator.

Dismissal as Civil Servants is a dismissal that causes those who no longer hold positions as civil servants, in this case in the Boalemo Regency government, the dismissal consists of respectful dismissal as civil servant and unrespectful dismissal as civil servants.

The concept of authority in determining the work placement due to mutations in State administrative law is related to the principle of legality, in which this principle

⁷ Weny Alamaravid Dunga dan Abdul Hamid Tome, (2019), Identifikasi Faktor Penghambat Penyelenggaraan Pengawasan Ketenagakerjaan Di Provinsi Gorontalo, *Jambura Law Review*, Volume 1 (1): 10.

⁸ Nuvazria Achir, (2020), Anotasi Normatif Terhadap Peraturan Daerah Tentang Transparansi, *Jambura Law Review*, Volume 2 (1): 85

is one of the main principles used as the basic material in every government and state administration in every legal state, especially for legal states that adhere to the European legal system *Continental*. In the State administrative law, the principle of legality has the meaning of *dat het bestuur aan wet is onderwopen*, which is that the government is subject to law.

One of the reasons for local governments to make mutations is the performance of civil servants and violations committed by Civil Servants. The performance of Civil Servants as public servants in government institutions has not shown the level of expected service, especially by the community who become the target of their services. The low performance of these employees can be proven by non-fulfillment of the target of Disciplinary problems, especially for civil servants disciplinary, but to this date, Civil Servants get attention from the public for their lack of discipline.

Some of the reasons behind the Head of Boalemo Regency conducting the Mutations are based on 3 (three) principles, which are quick, careful, and disciplined. In the policy, the head of regency involved the government in Boalemo Regency in implementing methods such as in a corporation, that when a target is unfulfilled, a mutation is carried out to employees who did not reach the target. Basically, in making a mutation, a head of regency must look at the problems and violations committed by employees who make mistakes without any political interest that underlies the decision of the Head of Boalemo Regency.

In the Regulation, precisely Article 73 paragraph 7 of the State Civil Apparatus Law states that "Mutations of civil servants are carried out by observing the principle of prohibiting conflicts of interest". It is then described in the elucidation that in order to prevent conflicts of interest, civil servants who have marital relations and blood relations directly in one work unit can be mutated to a different unit based on the decision of the Civil Servant Officials.

In this case, it is very different in the Boalemo Regency government agency, as it is not in accordance with the reality in Article 73 paragraph 7 regarding a conflict of interest, the decision was made due to political interests so that civil servants

become targets of political interests. Based on the results of interviews in the field, the researcher found that there were civil servants who were mutated based on political interests and without being based on government regulation Number 5 of 2014 on State Civil Apparatus.

The placement of employees in Boalemo Regency is very contrary to the provisions of the ASN Law as it is not based on the level of education but rather the placement of employees who are not suitable in their professional fields. In this case the researcher found some gaps in the Boalemo Regent government, as in the data, one of the civil servants who were mutated or resettled in an agency did not match his/her field of expertise. For example, Mr. Nurdin ST., MT; he graduated as Master of Engineering and was placed in the regional library service in Boalemo Regency, this is not in accordance with Government Regulation no. 13 of 2002 Article 5 point c, which is having the specified qualifications and education level, but employees who are mutated by Baperjakat are not in accordance with the placement.”

4.1.1 Baperjakat Policy

The results of the researcher’s observations and interviews obtained several respondents, which were Mrs. Fatlina Pakaya, S.pd., Muhammad Taufik Kamali, Abdul Harris, Rusni Lapangi, Husin Etango, Agus Nahu, Yakob Yunus, and Prof. Rauf Hatu (academics). From the results of the study, it was found that there was a policy of implementing a different role from the duties and functions of Baperjakat, towards the mutations of civil servants of which processes and mechanisms were not in accordance with existing procedures due to pressure exerted by the Head of Boalemo Regency. Apart from that, several respondents considered that the position of Baperjakat in mutations of Civil Servants did not fully evaluate and assess Civil Servants in Boalemo Regency.

Mrs. Fatlina as the 1st assistant to the Head of Boalemo Regency who has been mutated several times stated that the position of Baperjakat in terms of the relationship between Baperjakat and regional heads (head of regency) allows for

political interests in making decisions about the mutations of ASN. It is marked by the mutations for ASN and even received dismissal.

The role of the Position and Rank Advisory Board (Baperjakat) in implementing the mutations or placement of an individual, especially in Boalemo Regency in a certain position must be maximized. Thus far, the role of Baperjakat in Boalemo Regency is considered to be still far from expectations and seems less than optimal, so that almost every mutation is accompanied by criticism. Empirically, the power and authority in selecting and proposing officials is borne by Baperjakat. Thus, there is a kind of saying that who has good access to those who sit in this body will also have good luck in his position.

Baperjakat is only an extension of the Head of Regency. Law of the Republic of Indonesia Number 43 of 1999 on Amendment to Law Number 8 of 1974 on Personnel Principles, which is the management of Civil Servants that is followed up by Government Regulation of the Republic of Indonesia Number 100 of 2000 as amended by the Government Regulation of the Republic of Indonesia Number 13 of 2002 on the Designation of Civil Servants in Structural Positions.

In this case, the mutation of employees by the Head of Boalemo Regency contradicts the delegative theory. From *Das Sollen's* point of view, politics in the government of Boalemo Regency must be subject to the law. However, from its *das sein* or empirical point of view, the law is in fact determined by the underlying political configuration. In Indonesia, especially in the Boalemo Regency government, there is an instrumental function of law as a means of political power compared to its functions, and it can be seen from the growth of legal institutions, values, and procedures of legislation and law enforcement bureaucracy, which is not only to reflect law as a condition of the development process, but as a strong support for political, economic, and social structures. The stability approach as a product of legal politics can be used as a justification tool for ruling politics. In fact, legislative activities trully contain more political decisions than law.

State policies, especially in the Boalemo Regency Government, especially regarding personnel management policies, must be carried out comprehensively. At the application or implementation stage, it is necessary to identify the existed social forces in society by conducting research on the patterns of power and authority that exist within the Boalemo Regency government. Both official and unofficial results of research on policies will be used for the evaluation phase, especially in the Boalemo Regency government, so that they can be given an assessment in the implementation of the policy, thus it can provide some kind of lesson for the future.

4.2 Implication of the Policy of the Head of Boalemo Regency that contradicts the Rights and Obligations of ASN in Boalemo Regency

According to Carl Friedrich, policy is an action that leads to the goals proposed by a person, group or government in a certain environment in connection with certain obstacles while looking for opportunities to achieve goals or materialize the desired goals.⁹ The definition of state policy according to Harold D. Lasswell and Abraham Kaplan as “a project program of good, values and practices” means a program of achieving goals, values, and targeted temporary practices. Amara Raksasataya presented policies as tactics and strategies aimed at achieving goals.¹⁰

Implications of the rights and obligations of the Head of Regency's policies in the Boalemo Regency government regarding the issue of the Position of Civil Servants, which is the relationship between civil servants and the State and Government as well as issues of loyalty to Pancasila and the 1945 Constitution.¹¹ In this case, state policies, especially in the Boalemo Regency Government, especially regarding personnel management policies, must be implemented comprehensively. At the application or implementation stage, it is necessary to identify the existed social

⁹ Fadel Machmud, et, al, (2017), Implementasi Kebijakan Program Pemberdayaan Ekonomi Masyarakat Pesisir Dinas Kelautan Dan Perikanan Kabupaten Kepulauan Sangihe, *Jurnal Jurusan Ilmu Pemerintahan*, Volume 2 (2): 2

¹⁰ *Ibid*

¹¹ Mahfud MD, (1998), *Hukum Kepegawaian Indonesia*, Jakarta: Liberty, hal. 23

forces in society by conducting research on the existed patterns of power and authority within the Boalemo Regency government. Both official and unofficial results of research on policies will be used for evaluation stage, especially in the Boalemo Regency government, so that an assessment can be given in terms of implications.

Civil Servants have the rights that must be fulfilled in the Law on the rights of Civil Servants, which is salary, allowances, facilities, leave, pension plan, and competency development. Apart from the rights, there are also Civil Servant Obligations regarding things that must be done or allowed to be done by every Civil Servant based on the applicable laws and regulations, as the obligations of civil servants are regulated in article 23 of the ASN Law and Article 3 of the 2010 Government Regulation, among others, being loyal and obedient to the 1945 Constitution and the Pancasila and the legitimate government, safeguarding the national unit and integrity and implementing policies formulated by authorized government officials, work honestly, orderly, carefully, and passionately for the benefit of the country.

Work placement of Civil Servants in Boalemo Regency is a process that is inseparable from the employment of employees. After the recruitment process, employees must be assigned to a particular organizational unit that requires new personnel and refers to existing formations. Basically, every employee has a position as they are recruited based on the need to carry out their duties and functions in the organization.

Apart from structural positions, there are also functional positions. Functional position is a position that represents duties, responsibilities, authority, and rights of Civil Servant in the context of carrying out the main duties and functions of expertise and/or attachments to achieve organizational goals. Employees who occupy a functional position are programmed to attend functional education or other education applicable to Civil Servants in general.

Apart from assigning employees to functional positions, the principle of placement is also known as mutations. Mutation is a displacement or transfer of tasks from an

organizational unit to another one. The basis used to determine employee mutations includes the length of time of work in a field of work, organizational needs, organizational refreshment, knowledge and skills of Civil Servants, especially in the area of the Boalemo Regency government. Usually this mutation is conducted at least every two years and a maximum of once every five years. In a government, based on the proposal of the head of work unit, in this case the authorized party in determining employee mutations, there is generally direction and supervision, but things are different in the government area in Boalemo Regency as the mutation of employees was conducted in 2019 who were mutated or transferred by the Regional Head of Boalemo Regency.

Work placement of employees to fill positions with general qualifications is the authority of each level of government in accordance with the laws and regulations, while in order to fill certain positions, it requires special qualifications, such as some experts in certain fields, certain work experience in regencies or cities, so that the provincial or government personnel can provide facilities. This is in order to equalize certain personnel and assign appropriate employees according to the qualifications of the positions required in all regions.¹²

Work placement for employee must be professional, that is, in accordance with the discipline expected in a position. Even though an employee who is mutated to a higher position is not an expert due to good performance, it violates the law as the placement is unprofessional. It is reaffirmed in the Government Regulation of the Republic of Indonesia Number: 13 of 2002 on Amendments to Government Regulation Number: 100 of 2000 on the Appointment of Civil Servants in Structural Positions. In article 5 it reads:

Requirements for designation in structural positions are:

- a. Status of Civil Servants
- b. At the lowest, occupy the rank of 1 (one) level below the specified rank.

¹² HAW Wijaya, (2005), *Penyelenggaraan Otonomi Di Indonesia*, Jakarta: PT Raja Grafindo Persada, hlm. 144

- c. Have a predetermined qualification and education level.
- d. All elements of work performance appraisal have at least been good in the last 2 (two) years.
- e. Have the required work competence and,
- f. Physically and mentally healthy.

Within the Boalemo Regency Government, in order to ensure order and the smooth execution of work tasks, a provision on the Discipline of Civil Servants has been made, in which the provisions regarding the discipline of Civil Servants are contained in Government Regulation Number 53 of 2010. Government Regulation on the discipline of Civil Servants regarding obligations, prohibitions, and disciplinary penalties that can be imposed on Civil Servants who have been proven to have committed a violation. With undisciplined employee actions, the Head of Boalemo Regency imposed a disciplinary penalty in the form of mutation, which is intended to foster Civil Servants who have committed violations, so that they have a sense of remorse and prevent themselves from repeating their action and improve themselves in the future.

However, the problem is the mutation or transfer of many civil servants in the government area of Boalemo Regency, which are not in accordance with their field of expertise, it is due to a shortage of personnel staffing in the work area of Boalemo Regency, in addition to the process of mutations of ASNs that are not in accordance with their skill of expertise, so that in the future in the process of employee mutations, especially in terms of work placement of Civil Servants, it must refer to the needs and capabilities of the organization by taking into account the skills of employees that must be in accordance with the expertise in the field of acceptance and placement.

In addition, the issue of mutations to ASN by Baperjakat became a debate, because according to most interviewees stated that they were mutated for very subjective reasons, as it was not in line with the head of regency's political direction, thus at the request of the Head of Regency to the Baperjakat, the employees is mutated.

The mutation by Baperjakat is understandable, as this institution is only an extension of the Head of Regency, as the Head of Boalemo Regency holds the prerogative (as the highest leader in the region) to make a policy of guidance for employees in the region, including if the head of regency makes a transfer policy, then the policy must be implemented even if it is not in accordance with the provisions of the laws and regulations. Thus, on the basis of the power held by the head of regency to control the government, including if the head of regency feels that there are employees who are not in line with their political actions, they will be mutated to other places, and even received dismissal. Many of the mutations that occurred in Boalemo Regency by the Head of Regency were not in line with the principle of “*the right man in the right place on the right time*”.

4.2.1 Merit System in Boalemo Regency

According to Eko Prasajo, explaining that building a merit system in the public bureaucracy means making competence and performance the main measures of appraisal of the state apparatus. This measure should be used as the basis for the selection and recruitment process, remuneration, mutation or promotion, rather than the other way around based on kinship, friendship, and political affiliation. State official will only function professionally and independently if competence and performance form the basis of all measurements. It means that the government must fundamentally overhaul the state official system.¹³

In order to ensure a provision for the creation of Merit system in Boalemo Regency to be implemented according to the provisions, the State Civil Apparatus Commission (KASN) that was formed to conduct the supervisory function of the implementation of ASN basic norms, code of ethics and code of conduct for ASN employees as well as implementation of merit system in ASN policy and management. KASN is given the authority to supervise every stage of the open

¹³ Eko Prasajo. (2009), *Reformasi Kedua (Melanjutkan Estafet Reformasi)*. Jakarta: Salemba Humanika, hal. 90

selection process for filling higher leadership positions (JPT). KASN has the authority to establish an agency and conduct an open selection.

Implementation of the Merit System is mandated by Law No. 5 of 2014, it intends to ensure that positions in the government bureaucracy are occupied by employees who meet qualification and competency requirements. In this case, it makes one of work competencies employee mutations based of on scientific, objective and work performance results. This merit system or career system is the basis for a good mutation.

Merit system policy in Boalemo Regency does not work according to the implementation of the law. There are ASN Movements that are not objective and based on ASN performance. This is due to the mismatch of mutations occurring within the Boalemo Regency government. The mutation is only based on the wishes of the leader, rather than the actual mutation provisions. It is proven by the number of ASNs that were mutated from one field to another by disregarding the expertise of the person concerned, which led to negligence in conducting their duties. Apart from differences in expertise by the mutated ASN, what proves that the mutation occurring in the Boalemo Regency Government environment was not in accordance with the merit system was the lack of attention to the work performance that had been achieved by the mutated ASN. Once the ASN violates things that are considered contrary to the wishes of the Head of Boalemo Regency, the ASN will be mutated regardless of the ability, educational background, and achievements that have been achieved.

5. Conclusion

The decision of the Head of Boalemo Regency for mutations is contrary to the State Civil Apparatus (ASN) Law as there is a conflict of political interest taking precedence over the interests of ASN. The placement of Civil Servants in Boalemo Regency is not in accordance with their field of expertise, in this case it is contrary to the principle of *the right man in the high place*, which is the right person is placed in the right position.

The decision of the Head of Boalemo Regency is expected to prioritize the interests of the State Civil Apparatus over conflicts of political interest as the State Civil Apparatus is not a political job but a neutral institution. Implementation of mutations within the scope of the Boalemo Regency government is expected to implement merit system and apply no “like or dislike” principle.

References

Books:

- E. Utrecht, (1966), *Pengantar dalam Hukum Indonesia*, Cetakan Kesembilan, Jakarta : Penerbit Universitas Indonesia.
- Eko Prasajo. (2009), *Reformasi Kedua (Melanjutkan Estafet Reformasi)*. Jakarta: Salemba Humanika.
- HAW Wijaya, (2005), *Penyelenggaraan Otonomi Di Indonesia*, Jakarta: PT Raja Grafindo Persada.
- Mahfud MD, *Hukum Kepegawaian Indonesia*, Liberty, 1998.
- Sri Hartini, Hj. Setiajeng Kadarsih, (2008), *Hukum Kepegawaian di Indonesia*, Jakarta: Sinar Grafika.
- Sri Hartini, *Hukum Kepegawaian di Indonesia*, Sinar Grafika, Jakarta, 2008

Journals:

- Abdul Hamid Tome, (2020), Anotasi Penataan Perangkat Daerah Pemerintah Provinsi Gorontalo Berdasarkan Asas Pembentukannya, *Jurnal Al-Ahkam*, Volume 16 (1).
- Ahmad Ahmad and Novendri M. Nggilu, (2020) “Denyut Nadi Amandemen Kelima UUD 1945 melalui Pelibatan Mahkamah Konstitusi sebagai *Prinsip the Guardian of the Constitution*,” *Jurnal Konstitusi*, Volume 16 (4).
- Fadel Machmud, *et, al*, (2017), Implementasi Kebijakan Program Pemberdayaan Ekonomi Masyarakat Pesisir Dinas Kelautan Dan Perikanan Kabupaten Kepulauan Sangihe, *Jurnal Jurusan Ilmu Pemerintahan*, Volume 2 (2).
- Novendri M. Nggilu dan Fence M. Wantu, (2020), Menapaki Jalan Konstitusional Menuju Zaken Cabinet : Ikhtiar Mewujudkan Pemerintah Berkualitas Konstitusi, *Jurnal Hukum Samudra Keadilan*, Volume 15 (1).

Nurdin, et, al, Pengaruh Penempatan, (2015), Mutasi Dan Promosi Terhadap Prestasi Kerja Serta Dampaknya Terhadap Kinerja Pegawai Sekretariat Daerah Aceh, *Jurnal Manajemen Pascasarjana Universitas Syiah Kuala*, Volume 4 (2).

Nuvazria Achir, (2020), Anotasi Normatif Terhadap Peraturan Daerah Tentang Transparansi, *Jambura Law Review*, Volume 2 (1).

Weny Alamoravid Dungga dan Abdul Hamid Tome, (2019), Identifikasi Faktor Penghambat Penyelenggaraan Pengawasan Ketenagakerjaan Di Provinsi Gorontalo, *Jambura Law Review*, Volume 1 (1).

Government Laws and Regulations:

Undang-Undang Nomor 8 Tahun 1974 tentang Pokok-pokok Kepegawaian.

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

Undang-Undang Tahun 1945 Pasal 1 ayat 3 Tentang Negara Indonesia negara hukum.

Undang-Undang Nomor 43 Tahun 1999 tentang Perubahan atas Undang-Undang Nomor 8 Tahun 1974.

Peraturan Pemerintah Republik Indonesia Nomor 13 Tahun 2002 Tentang Pengangkatan Pegawai Negeri Sipil dalam Jabatan Struktural.

Peraturan Pemerintah Nomor 5 Tahun 2014 Pasal 73 ayat 7 tentang Mutasi PNS.