THE POSITION FILLING OF PRATAMA HIGH LEADERSHIP IN PERSPECTIVE OF ACT NO. 5 OF 2014

Dian Pertiwi¹, Eltri Erpita², Farida Arianti³

¹ Institut Agama Islam Negeri Batusangkar, Jalan Sudirman no. 137. Kubu Rajo, Lima Kaum Batusangkar, Tanah Datar Sumatera Barat, Indonesia
Email: dianpertiwi@iainbatusangkar.ac.id

² Institut Agama Islam Negeri Batusangkar, Jalan Sudirman no. 137. Kubu Rajo, Lima Kaum Batusangkar, Tanah Datar Sumatera Barat, Indonesia
Email: eltrierpita@gmail.com

³ Institut Agama Islam Negeri Batusangkar, Jalan Sudirman no. 137. Kubu Rajo, Lima Kaum Batusangkar, Tanah Datar Sumatera Barat, Indonesia
Email: faridaarianti@iainbatusangkar.ac.id

Abstract: The birth of Law Number 5 of 2014 concerning ASN as a substitute for Law Number 43 of 1999 concerning Amendment to Law Number 1 Year 1974 concerning the Principles of Staffing is the answer to the new bureaucratic paradigm and solving the ASN problem. The ASN Law also mandates the appointment of a high-ranking merit-based ASN Position supervised by an independent institution (KASN State Civil Apparatus Commission), so that it is free from Corruption, Collusion and Nepotism (KKN) and ASN management starting from formation, selection / recruitment, placement, development, appointment / promotion and transfer, payroll system, up to dismissal of ASN employees. This is important because one of the objectives of bureaucratic reform is to realize the professionalism of ASN employees by improving quality and competence. Seeing the management of ASN in the regions regarding the system of filling positions and promotion or commonly referred to as "position auction", KASN said that it still found the practice of buying and selling positions in the auction system in several regions. Although it has encouraged the holding of an open selection throughout the agencies to fill high-level office leaders. The problem of research is how is the model for the appointment of the High Leadership Position of the State Civil Apparatus? The aim of this research is to analyze the model of appointment of the High Leadership Position of the State Civil Apparatus. This research use descriptive qualitative approach. The research data was explored by the literature study technique. Research location in Tanah Datar District BKSDM. Data analysis through stages of data reduction, data presentation, and conclusion drawing. The results showed that the appointment system of the JPT ASN was carried out with a merit system through open selection ranging from administrative selection, competency selection, interview tests, track record tracking, and health and psychology tests which resulted in 3 (three) qualifications to be determined by 1 (one) JPT Staffing Officer.

Keywords: High Leadership Position, Position Appointment

Introduction

The position filling of high leadership is open positions that intends for career development of a civil servant in a structural position and it is in accordance with the requirements stipulated in the applicable laws and regulations. Placing a structural official in the administration responsibilities of government should refer to statutory laws, in case to produce a good performance requires good human resources as well, therefore every Civil Servant who is a member of the state civil apparatus has a responsibility to provide proper services to the community professionally, honest, fair and equitable in the implementation of the responsibilities, government and development.

In its development, the implementation of regional government regarding the filling of the High Leadership Position, both at the Central and Regional Government agencies, there is still a deviation from the rules and principles that have been set. [1] Whereas in its regulation, as explained in Article 108 Verse (3) Act No. 5 of 2014 on State Civil Apparatus, in filling the high leadership position must
be implemented by considering the education and training of position factors, competence, and term of office of a civil servant from appointment to retirement. [2]

In essence, the qualifications and level of education will support the implementation of responsibilities and positions professionally, especially in the effort to apply the theoretical framework, analysis of methodology for carrying out responsibilities. But in reality, there are still qualifications and levels of education that are not in accordance with the position requirements. [3]

Then it is clarified in Article 19 Verse (2) on State Civil Apparatus Act: For each High Leadership Position, the terms of competence, qualifications, rank, education, track record of position and integrity and other requirements are required. In Article 108 Verse (3) states that “Filling in the position of Pratama high leadership is implemented openly and competitively among civil servants, taking into account competency requirements, qualifications, ranks, education and training, track record of position, and integrity and other job requirements in accordance with statutory provisions”.

Next is Article 9 Verse (3) Further provisions regarding the determination of competency requirements, qualifications, ranks, education and training, track record of position and integrity as well as the requirements needed by the High Position as referred to in Verse (3) are regulated by Government Regulation.

In Article 115 Act Verse (1) also mention that Filling in the position of Primary high leadership is implemented by Staff Development Officer by establishing a selection committee, Verse (2) The selection committee as referred to in Verse (1) selects 3 (three) names of Pratama leadership officials for every 1 (one) job vacancy, verse (3) Three names of candidates for high leadership officials who are selected as those referred to in Verse(2) shall be submitted to Staff Development Officer through an authorized official.

The phenomenon of selection or recruitment for filling positions politically does not occur at the beginning of staff procurement, but the most important thing is the promotion selection in this structural position is determined by the Selection Committee Team in coordination with KASN. In Article 110 Verse (1) on State Civil Apparatus Act “The filling position of high leadership as referred to in article 109 is implemented by Staff Development Officer by establishing a Government Institution selection committee first and in Verse (2) In establishing the selection committee as referred to in Verse (1) Staffing Officer coordinates with KASN”. KASN is a non-structural institution that is independent and free from political intervention to create professional and performing State Civil Apparatus employees, provide services fairly and neutrally, and become a unifying nation. [4] In Article 32 Verse (1) letter (a), it is explained that KASN is also authorized to oversee every stage of the process of filling position of High Leadership ranging from the establishment of agency selection committees, job announcements, implementation of selection, nomination of candidate officials, determination, and inauguration of High Officials, as referred to in Article 113 and Article 115 on State Civil Apparatus, KASN has the authority to provide recommendations to Staffing Officials. Promotion of structural positions is indeed very strategic where the influence of regional leaders is one of the considerations in determining structural officials. Then it is clarified by Article 113 Verse (4) “Staffing Officers chooses one of the three names of candidates proposed as referred to in Verse (3) with the consideration of Authorized Officials to be designated as Pratama High Leadership officials”.

This development is undeniable; this has become a political issue that is widely known. [5] Where there is a reality where each Regional Head has a successful team that mobilizes indirectly or unofficially/non-formally which among others is one of the PNS. [6] The regional election success teams from the ranks of civil servants will certainly get compensation/compensation for the things they have done. On the basis of this fact, the aspect of loyalty to the ruler is a leading factor in determining the candidates for structural officials who will be elected to occupy certain positions.

In fact, this policy is contrary to the principles of Civil Servants neutralization and also contrary to the general principles of good governance. The abuse of laws, rules, authority, and power in government administration weakens the social control of accountability of government officials. People are no longer able to make access to the officials to ask for firmness against the law. The people are powerless to face the rules made by government administration and are used only to protect the interests of the officials themselves. [7]
In filling in the open position for Pratama High Leadership in Tanah Datar District Government, the Head of Tanah Datar District, Irdinansyah Tarmizi, officially inaugurated 28 (twenty eight) Pratama High Leaders on Friday (December 30th, 2016).[8] In his speech, Irdinansyah Tarmizi said that the inauguration of Pratama High Officials in Tanah Datar District was the second time after the enactment of Act No. 5 of 2014 on State Civil Apparatus (ASN), while previously an Echelon official II, the first inauguration on Monday (February 9th, 2015). The first filling of Pratama High Official has not been implemented under State Civil Apparatus Act because at the time of implementation, there was no Government Regulation which regulates. [9]

Based on Act No. 5 of 2014 on State Civil Apparatus, among others; mandating that the position filling of Pratama High Leadership are conducted openly and competitively among civil servants by taking into account requirements of competence, qualifications, ranks, education and training, track record of position and integrity as well as other job requirements in accordance with the provisions of legislation that are open and competitive at the level between Regency/City in 1 (one) Province.

In filling in the open high leadership positions, the government has formulated various regulations and mechanisms to regulate these policies. The mechanism related to filling the open position of Pratama High Leadership is regulated in Article 63 of Act No. 5 of 2014 on State Civil Apparatus. The above provisions were accommodated and further elaborated in the Minister of Administrative Reform and Bureaucratic Reform of the Republic of Indonesia No. 13 of 2014.

In addition to referring to the provisions previously explained, the legal basis for the implementation of civil servants in the Pratama high leadership position also refers to the Regional Regulations, Tanah Datar Regency Regulation relating to the filling of the Pratama High Leadership Position, namely Tanah Datar Regency Regulation No. 9 of 2016 concerning Establishment and Composition of Regional Apparatus and Regulations of Tanah Datar Regency No. 45 of 2016 concerning Position, Organizational Structure, Responsibilities and Functions, and Working Procedure of Regional Office.

The mechanism of the implementation of Position Filling of Pratama High Leadership openly in Tanah Datar Regency refers to the provisions stipulated in the Minister of Administrative Reform and Bureaucratic Reform Regulation (PERMENPAN) No. 13 of 2014 concerning Procedures for Filling High Leadership Position Openly in Government Institutions, where must include the following stages:

1. Preparation for the Position Filling of Pratama High Leadership openly in Tanah Datar Regency

   The Selection Committee of the Position Filling of Pratama High Leadership of Tanah Datar District consists of 5 people, where the comparison of selection members comes from 45% for internal and 55% for external. From the above table it can be seen that the selection committee not only came from Tanah Datar District government agencies but also came from the outside of Tanah Datar District Government, namely from Academics, namely from Padang State University (Dr. Marjohan, M.Pd.Kons) and from Professionals / Senior Staff (Drs. Hiptonius Damanhuri, M.Sc and Drs. Yohanes Dahlan, M.Sc). The names of the selection committee are proposed by the Regional Government to KASN and after being approved by KASN, then appointed by the Regional Head (the Head of District) with a Decree.

2. Implementation of the Position Filling of Pratama High Leadership in Tanah Datar Regency
   a. Announcement of Job Vacancies:

      At this stage, BKSDM of Tanah Datar Regency as an agency that manages regional staff, inventoried all vacancies in the structural positions at the Regional Work Unit (SKPD) of Tanah Datar Regency accompanied by requirements for the position. Based on the interview with Ms. Yayuk [10], “The announcement of Position Filling of Pratama High Leadership was announced widely, through the website. Announcements are also sent to all SOPD or Organizational Structure on Regional Devices by fax and email throughout the districts/cities throughout West Sumatra, and there is no proposal for the name of the applicants because the applicants
proposed his name by themselves to participate in selection of High Leadership Position in Tanah Datar Regency”.

At this stage, the Selection Committee of Position Filling of Pratama High Leadership in Tanah Datar Regency through the announcement number: 800/09/PANSEL-TD/2016 concerning Open Selection for High Leadership Position in Tanah Datar Regency, provides opportunities for Civil Servants who qualify to participate in High Leadership Position Selection openly and competitively. In Article 2 on State Civil Apparatus Act states “Implementation and Management of State Civil Apparatus Policy and is based on principles”: Legal certainty; professionalism; proportionality; cohesiveness; delegation; neutrality; accountability; effectiveness and efficiency; openness; non-discrimination; unity and integrity; justice and equality; and welfare.

Based on the results of the research, in terms of the general requirements submitted by the selection committee of Position Filling of Pratama High Leadership in Tanah Datar Regency, there are several principles for the implementation policies and management of State Civil Apparatus that are less obeyed and violated by the organizers, there are exceptions given to the position of Head of Development and Research Planning Agency. Exceptions given are participants who take part in the selection of JPT for the position of Head of the Development and Research Planning Agency who do not have to be civil servants in Tanah Datar Regency and do not have to take the competency tests conducted by Tanah Datar Government in 2016. The principle that is not obeyed by the organizers is the principle of legal certainty, the principle of non-discrimination, and the principle of justice and equality.

This exception implies that there are political interests, such as placing officials who have an active role in political parties as well as the success team in winning the Head of Regency. As for the interests of the bureaucracy, for example, there is a desire from the leadership element in placing employees who have direct relations with the leadership elements to be placed in certain strategic positions so that this can affect the requirements proposed by the selection committee..

In its implementation, the requirements compiled by Tanah Datar Regency Selection Team which were originally intended to guarantee equality of opportunity for civil servants who were eligible to occupy the High Leadership Position and to avoid arbitrariness as a civil servant could only be said to be a symbol.

Such conditions cause injustice for participants who take part in open selection of the Pratama High Leadership Position in Tanah Datar Regency, because of the exceptions in the general requirements given by the Selection Committee Team to the position of Head of the Development and Research Planning Agency. If this is viewed from the concept of bureaucratic theory, Miftah Thoha who cites Weber’s opinion stated that bureaucratic culture is a culture that governs itself in hierarchical, impersonal, rational, legalistive and meritocratic ways. This kind of culture emphasizes that the hierarchical arrangement is a logical consequence, if the power according to Miriam Budiarjo is the ability of a person or group of people to influence the behavior of another person or group in such a way that it is accordance with the desires and goals of the person or country. [11] So that the power can be run properly; hence the authorities or organs are needed so that the country is conceptualized as a set of positions (een ambten complex) where positions are filled by a number of officials who support certain rights and obligations based on subject-obligation construction. [12]

When associated with bureaucratic theory, it is emphasized that the bureaucracy wants rational work. The impersonal nature emphasizes that the way the bureaucracy works is not based on personal relations or political relations. The legalistic juristic attitude emphasizes that the culture adopted by the bureaucracy is a work culture that is always limited by legal provisions rather than political provisions and is based on justice. Justice is a condition for achieving the happiness of life for its citizens, and as a basis for justice, it is necessary to teach morality to every human being so that he becomes a good citizen. For Aristotle, the one who
ruled the state is not a real human being, but a fair mindedness, while the real ruler is the holder of law and balance. [13]

Referring to the theory of bureaucracy and authority theory, it is concluded that the authority possessed by government officials at the regional (district) level is the authority that derives from the law, and in exercising that authority the apparatus in question must act and act in accordance with the laws and regulations. In the provisions of regional government, authority in staffing, including bureaucratic theory and authority theory, both state that officials act and commit, which gives rise to legal aspects, must be in accordance with the provisions stipulated by legislation.

Noting the general requirements for filling in the prime leadership position in the Tanah Datar District government environment, it has clearly excluded the provisions of Article 2 of Act Number 5 of 2014 concerning State Civil Apparatus. Provisions that were ruled out occurred in filling in the Pratama High Leadership Position in Tanah Datar Regency, the selection committee ignored State Civil Apparatus Policies and Management, in which in Article 2, the implementation of State Civil Apparatus policy must be based on the principle of Legal Certainty; professionalism; proportionality; cohesiveness; delegation; neutrality; accountability; effectiveness and efficiency; openness; non-discrimination; unity and unity; justice and equality and welfare.

b. Administrative Selection:

In Article 108 Verse (3) on State Civil Apparatus clarifies the stipulation of requirements in Position Filling of Pratama High Leadership. “Filling in high leadership positions is conducted openly and competitively among civil servants by taking into account competency requirements, qualifications, ranks, education and training, track record of position and integrity and other job requirements in accordance with the provisions of the legislation”.

Based on the results of interviews with Mr. Irsyad, Head of the Sub-Division of Leaders and Cadres of The Civil Service Human Resources in Tanah Datar Regency, the administrative selection was held on December 20th 2016, with 60 applicants in the Pratama High Leadership Position in Tanah Datar Regency. The announcement of the results of the selection was also held on December 20th 2016 where the selection was conducted with a knockout system.

Referring to the Theory of Authority, it concludes that the authority possessed by the government apparatus at the regional (district) level is the authority that comes from the law, and in exercising that authority the apparatus must act in accordance with the laws and regulations. In provisions concerning local government, authority in staffing, the theory of authority states that officials act and commit, which gives rise to legal aspects, must be in accordance with the provisions stipulated by legislation.

In the case of filling in the Pratama High Leadership Positions in Tanah Datar Regency, the selection committee was responsible to the Head of District, and also monitored by KASN. The Chairperson of the committee will submit the results of the implementation of High Leadership Position to KASN. The Position Filling of Pratama High Leadership in Tanah Datar Regency has been running smoothly and in accordance with what is mandated in State Civil Apparatus Act and PERMENPAN Act No. 13 of 2014. The committee has implemented its authority to select three names of the participants with the best selection and then handed over to the Civil Service Officer. And what is expected of an open and competitive selection of this was the appointment of qualified persons, so that elected officials can do their job properly, and the government's aim to create a better public services.

**Conclusion**

In the implementation of the Position Filling of Pratama High Leadership in Tanah Datar Regency, the rules that are used as the legal basis are still less objective and the process is not fully in accordance with the mechanisms and procedures as stipulated by the applicable laws and regulations. It happens because the regulation has not been supported by technical implementation that is able to understand the substance of the policy itself. As a result, there are deviations and doubts for both the civil servants and staffing officials concerned. The authority of the committee in the implementation
of filling in the Pratama High Leadership Position in Tanah Datar Regency is in accordance with what is mandated in article 113 of State Civil Apparatus. The selection was implemented openly without any intervention from Staffing Officers in this case is the Head of District, this was indicated by there are no participants of the selection who complained about the results conducted by the Selection Committee. Lastly, the suggestion is the authority of the committee to implement the Position Filling of Pratama High Leadership in Tanah Datar Regency, should be added in the form of a fit and proper test in order to maintain transparency in its implementation, for example academics in accordance with their fields and expertise towards civil servants matters.

References

[1] Deviations from these rules and principles have at least illustrated that the development of the appointment of Civil Servants in and from these structural positions is still surrounded by ruling elites who infuse their interests in wanting a position.


[4] Laws No. 5 of 2014 on State Civil Apparatus. Verse (27)

[5] Beni Kurnia Ilahi, Merindukan Profesionalitas Kepala Daerah, Harian Pagi Padang Ekspres: Kolom Opini, Peneliti Muda Pusat Studi Konstitusi (Pusako) Faculty of Law, Andalas University, Monday, June 9th 2014


[10] Hasil wawancara dengan Ibu Yayuk Yusnita Sari selaku Kepala Sub Bidang Formasi dan Pengadaan Pegawai Badan Kepegawaian Sumber Daya Manusia, pada hari rabu 15 maret 2017 pukul 15:00

