



The Federal Supreme Court (F.S.C.) has been convened on 1.4.2014 headed by the Judge Madhat Al-Mahmood and the membership of Judges Farooq Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-Nagshabandi, Abood Salih Al-Temime, Michael Shamshon Qas Georges and Hussein Abbas Abu Al-Temmen whom are authorized in the name of the people to judge, they made the following decision:

The Plaintiff:

The Representative (beh.ha.ain.ain.)/ his agent the attorney (mim.qaf.teh.).

The defendant:

The Speaker of the Iraqi Council of Representatives (I.C.R.)/ being in this post – his agents the legal officials (heh. mim. sin.) and (Sin. ta. yeh.).

The claim:

The agent of the plaintiff claimed that the order no. (9) for 2005 ruled in clause (1st) of it to grant the members of the dissolved Governing Council, the families of who died as a martyr, their deputies, the secretary – general, members of the presidency council, the Prime Minister, his deputies, Ministers, acting ministers, whom in their rank, and the

Athraa



consultants that gets paid a salary of acting minister, all to receive pension salary equal (80%) of the salary and allocations of their peers remaining in the service, except in cases of exclusion, dismissal, or resignation without the approval of the competent party. The amended law of governorates that are not associated in a region no.(21) for 2008 stated in clause (3rd) of article (18) to grant the councils members, president of administrative unites, and the governor deputies who occupy their post after 9.4.2003 pension salary not less than (80%) of the monthly bonus specified in this law, conditioned that the actual service is not less than six months or in case any of them injured with disability that prevent him from performing his tasks during the membership period. It also stated that they shall receive that pension salary after the end of the electoral cycle, this privilege grants the legal inheritors of the councils members, president of administrative unites, and the governor deputies in case of death or martyrdom of any of them during the membership term. The plaintiff agent cleared that the pension salary according to legislations of the world to be granted to the employee after he perform minimum amount of service, and he have to pay the pension allocations, while who included in this law are not employees but rather assigned to public service and didn't pay the pension

Athraa

Republic of Iraq
Federal Supreme Court
Ref. 110 / federal /media/ 2013



Kurdish text

allocations, they shall deserve that pension salary even if his service is six month. This law represent violation to the provisions of article (14) of the constitution which stated the equality before law. Also granting these salaries represent wasting to the state fuds, he requested to call upon the defendant for argument and to repeal order (9) of 2005 amended clause (3rd) of article (18) of the law of governorates not associated in a region for being unconstitutional. The defendant was informed with the case petition he responded with the draft dated on 12.11.2013 stating in it that the plaintiff has no interest in the lawsuit, and the court has no jurisdiction to estimate the entitlement of the included with the law to the pension salary. The performed service is that stated in the law, in case of death the employee' descendant deserve it regardless of the service, this doesn't represent violation for the principle of equality because the citizens are differentiated with their qualifications and in the amount of tasks assigned to them, also granting the pension rights doesn't count as exceeding on the public funds he requested to dismiss the lawsuit. The court call upon the parties for argument, the defendant agent request to delay the lawsuit until the new pension law acquire the formality aspects as it will effect this lawsuit, until the approval of the unified pension

Athraa



law no.(9) of 2014 and publishing it in the official gazette issue no.(4314) on 10.3.2014. whereas nothing left to be seed, the argument is closed, the decision issued publicly.

The decision:

During scrutiny and deliberation by the F.S.C., it found that the plaintiff challenged the constitutionality of the legislation order no.(9) of 2005 and article (19/3rd) of the amended law of governorates that are not associated in a region no.(21) for 2008 that stipulated pension rights for who included in its provision, as article (37/1st) of the unified pension law no.(9) for 2014 stipulated pension rights for who included in order no.(9) of 2005, article (38) paragraph (3rd) stipulated pension rights for members of locals, district, sub district and municipalities councils required that the service is not less than (15) years, paragraph (1st) of article (38) of the unified pension law stated on repealing all legal texts in the legislations and orders that grant the retired person or who deserve pension rights (salary or bounce) contrary to the provisions of the unified pension law no.(9) of 2014 including order no.(9) of 2005, and article (18) of the law of governorates not associated in a region no.(21) for 2008 the amended, therefore the mentioned articles in the legislation order no.(9) for 2005 and the law of governorates not

Athraa

Republic of Iraq
Federal Supreme Court
Ref. 110 / federal /media/ 2013



Kurdish text

associated in a region become nulled under the unified pension law no.(9) for 2014. By that the plaintiff' lawsuit is binding to be dismissed for the mentioned reasons, accordingly the court decided to dismiss the lawsuit and to burden the plaintiff the expenses and advocacy fees for the defendant' agents amount of (one hundred thousand) IQ.D. This decision has been issued unanimously on 1.4.2014.

Athraa