

Republic of Iraq
Federal Supreme Court
Ref. 222 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 8/11/2023 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Khalef Ahmed Rajab, Hayder Ali Noori, Hayder Jaber Abid, Ayoob Abbas Salih, Abdul Rahman Suleiman Ali, and Dyar Mohammed Ali who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Ali Jabbar Hafidh – his agents, the barristers Ali Manfi Abbas and Ameer Mohammed Khalifa.

The Defendant: the Prime Minister/ being in this capacity – his agent the legal counselor Qassim Suhaib Shakoor.

The Claim

The plaintiff, through his representative, claimed that the Prime Minister, in addition to his job, violated the provisions of the Constitution in Articles (14 and 16), which emphasized the principles of equality and equal opportunities among Iraqis, and also violated Article (58) of Federal Budget Law No. (13) of 2023, which referred to... Preparing a schedule of salaries and allocations for members and employees of the state and the public sector. He also ignored the recommendations of the Diwani Order Committee No. (24) of 2022 to find a real balance and equality in the salaries of state and public sector employees. He also ignored the demands and entitlements of millions of the Iraqi people, namely the segment of employees in the public sector. They represent the basic pillar of the Iraqi state in creating a unified salary scale and removing the discrepancy in salaries in state ministries in a way that is commensurate with the prices of goods and the requirements of local markets, so the plaintiff asked this court to issue a decision obliging the defendant to implement the aforementioned articles and approve what was stated in the recommendations of the Diwani Order Committee (24) and propose a draft law amending a real new salary scale. It is unified and fair, guaranteeing the rights of all state and public sector employees, and sending a special draft law to amend the employee salary scale to the Iraqi parliament to legislate and approve it to achieve justice and equality among Iraqi employees.

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The case was registered with this court under the number (222/Federal/2023), and the legal fee was collected and notified to the defendant/being in this capacity, in accordance with Article (21/First and Second) of the internal regulations of the Federal Supreme Court No. (1) of 2022, his agent responded with the answer statement dated 10/5/2023, in which he concluded the request to dismiss the case due to the court's lack of jurisdiction to hear it and the plaintiff's lack of interest in filing the lawsuit in accordance with what was required by Article (20) of the court's bylaws, and after completing the procedures required by the court's bylaws, he determined A date for the pleading was set in accordance with Article (21/Third) thereof, and both parties were notified of it. On the appointed day, the court was formed, and the plaintiff and his two agents attended, the defendant's agent attended, and the public in-person pleading began. After the court heard the statements and requests of the two parties and completed its scrutinies, the end of the argument has been made clear and the court issued the following ruling:

The Decision

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff, Ali Jabbar Hafez, filed this lawsuit against the Prime Minister in addition to his job, requesting that he be obliged to implement Articles (14 and 16) of the Constitution of the Republic of Iraq for the year 2005, which stipulate that Iraqis are equal before the law and that equal opportunities are a right guaranteed to all. Iraqis, as well as obliging him to implement Article (58) of the Federal Budget Law of the Republic of Iraq for the years (2023, 2024, 2025), which referred to the preparation of a schedule of salaries and allocations for members and employees of the state and the public sector, and obliging him to propose a draft law amending a new, real, unified, and fair salary scale that guarantees the rights of all employees. The state and the public sector sent a special draft law to amend the salary scale to Parliament to legislate and approve it to achieve justice and equality among employees, the defendant's agent responded in addition to his job following his regulations dated 10/5/2023, which included a request to dismiss the case because the court did not have jurisdiction to hear it and the plaintiff's interest was not achieved by filing it. During the public in-person pleading and the court hearing the defenses of the two parties and reviewing the regulations

saady

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exchanged between them, the court finds that the plaintiff based his claim on the provisions of Article (93/First) of the Constitution of the Republic of Iraq for the year 2005, which stipulates that the Federal Supreme Court has the jurisdiction to monitor the constitutionality of the laws and regulations in force, even if the plaintiff requests According to what was stated in the lawsuit petition, which includes obligating the defendant, the Prime Minister, in addition to his job, to propose a draft law amending the salary scale and send it to Parliament for the purpose of legislating and approving it, it falls outside the jurisdiction of this court in accordance with the aforementioned court's jurisdiction and the other court's jurisdictions, whereas the court's jurisdictions were stated in Articles (52 and 93) of the Constitution of the Republic of Iraq of 2005 and Article (4) of the Federal Supreme Court Law No. (30) of 2005 amended by Law No. (25) of 2021 and some other laws, but none of them were mentioned. From the requests in the plaintiff's lawsuit petition, for all of the above and with the request, the Federal Supreme Court decided to rule to dismiss the plaintiff's lawsuit, Ali Jabbar Hafez, and charge him the fees, expenses, and advocacy fees of the defendant's agent, the Prime Minister, being in this capacity as legal advisor, Qasim Suhaib Shakur, an amount of (100,000) one hundred thousand dinars, distributed according to the law. The ruling has been issued unanimously, final, and binding for all authorities according to the Articles (93 and 94) of the Constitution of the Republic of Iraq for the year 2005 and Articles (4 and 5) of the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021 and has been made clear on 23/Rabea Al-Akhir/1445 Hijri corresponding to 8/November/2023 AD.

Judge
Jassim Mohammed Abbood
President of the Federal Supreme Court

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