

Republic of Iraq
Federal Supreme Court
Ref. 224 / Federal / 2022



The Federal Supreme Court (F.S.C.) convened on 2.11.2022 headed by Judge Jasem Mohammad Abbood and the membership of the judges Sameer Abbas Mohammed, Galeb Amer Shneen, Haider Jaber Abed, Haider Ali Noory, Khalaf Ahmed Rajab, Ayoub Abbas Salih, Abed Alrahman Sulaiman Ali, and Diyar Muhammad Ali, who are authorized to judge in the name of the people, they made the following decision:

The plaintiff: Hussain Saeed – Member of the General Authority of the General Federation of Trade Unions in Iraq, President of the General Union of Agricultural and Food Industry Workers / in addition to his job.

The defendant:

1. Star Denbos Brack - President of the General Federation of Trade Unions in Iraq, in addition to his job.
 2. Rahim Laibi Muheisen
 3. Hussein Jassim Al-Mohammed
 4. Hussein Musa Hussein
 5. Jabbar Tarish Fares
 6. Adnan Jalil Allawi
- Members of the Executive Office - their attorneys, Jaafar Alaa Hussein
And Youssef Abdel Majeed.

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The claim:

the plaintiff claimed that the elections for the General Federation of Trade Unions in Iraq for the year 2022 (the third term) were previously held, and the defendants won them despite having assumed the responsibility and management of the same federation for more than two consecutive elections and that their candidacy and victory for the third time is considered invalid for violating Law No. (48) for the year 2017 (Law to annul the dissolved Revolutionary Command Council Decision No. 180 of 1977), which revoked the permissibility of re-electing the captain or the president in trade unions and professional federations more than once in a row, which was settled by the judgment of the Federal Court of Cassation according to its decision No. (44/ The Expanded Civil Commission / 2022) Therefore, he objected before the Supreme Preparatory Committee supervising the workers' elections and asked for their exclusion, but his request was rejected, and since Article (43) of the Workers' Trade Union Organization Law No. (52) of 1987 limited the electoral cycle to (4) years Only that the workers in the General Federation of Trade Unions are assigned to public service and their money is subject to the oversight of the Financial Supervision Bureau and is considered public money based on the provisions of Article (71) of Civil Law No. (40) of 1951, so the plaintiff asked this court to exclude the defendants from assuming responsibility and management of the General Federation of Trade Unions, nullify their candidacy and election for the third time, and issue a state order to

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stop their financial and administrative actions and charge them with all judicial expenses and fees. The case was registered with this court under the number (224 / Federal / 2022), and the legal fee was collected according to Article (21 / First) of the Internal Regulations of the Federal Supreme Court No. (1) for the year 2022, and the defendants are notified of its petition and documents following Clause (Second) of the same article Their representatives responded with the reply list dated 10/23/2022, summarizing that the plaintiff does not possess any legal capacity to file a lawsuit, due to his dismissal and dropping his membership from trade union work according to the decision of the Supreme Disciplinary Committee on 3/31/2022, and because he did not object during the legal period, the decision gained the preemptory degree. Based on Article (55/Third) of the unified by-laws for trade union organizations in Iraq, and Law No. (48) of 2017 canceled the dissolved Revolutionary Command Council Resolution No. (180) of 1977 and did not stipulate that it is not permissible to elect the heads of federations and trade unions for more than two sessions The Workers Trade Union Law No. (52) for the year 1987 and the internal regulations for labor union organizations did not provide for this either, and the decision of the Federal Court of Cassation referred to in the petition dealt with A special case in the elections for the Iraqi Bar Association, where Law No. (173) of 1965, amended in Article (84) of it, stipulates (...the president may not be elected more than twice in a row...), so the defendants' attorneys requested that the case be formally dismissed. The litigation was not

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directed based on the provisions of Article (80) of the Civil Procedure Law No. (83) of 1969. After completing the procedures required by the aforementioned internal system of the court, a date was set to consider the case without pleadings, in accordance with the provisions of Article (21/Third). From it, and in it the court was formed and the examination of the case began. The court checked what was stated in the plaintiff's case and its evidence, and what was stated in the defenses of the defendant's attorneys according to the answering list dated 10/23/2022, and after the court completed its audits, the court decided the conclusion of the minutes and issued the following ruling:

The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff's case included a request for a state order to stop the financial and administrative actions of the defendants to preserve public money and workers' rights, and then rule to exclude them from assuming responsibility and management of the General Federation of Trade Unions in Iraq and charging them with all judicial expenses. The court has reviewed the plaintiff's requests and his regulations dated 10/31/2022 and has also reviewed the list of the defendants' attorneys dated 10/23/2022 and the documents and papers attached to the case file. The Constitution of the Republic of Iraq for the year 2005 and Article (4) of the Federal Supreme Court Law No. (30) for the year 2005 amended by Law No. (25) for the year 2021, and among these

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jurisdictions is not the consideration of the plaintiff's requests contained in his petition, and the decision on its subject is outside the jurisdiction of this court specified by the aforementioned articles, and therefore his claim is devoid of its support from the Constitution and the law, and the freedom to respond from the jurisdiction, and for the foregoing, the Federal Supreme Court decided to rule by:

First - Rejecting the plaintiff's request to issue a state order to stop the defendants' financial and administrative actions.

Second – Rejecting the claim of the plaintiff, Hussein Majeed Sultan, and charging him with all judicial expenses, including the attorney's fees for the attorneys for the defendants, lawyers Jaafar Alaa Hussein and Yousef Abd Majeed, an amount of one hundred thousand dinars.

The decision was issued final and binding in the agreement under the provision of articles (93 and 94) of the constitution of Iraq of 2005 and articles (4 and 5/Second) of Federal Supreme Court Law No. (30) of 2005 amended by Law No. (25) of 2021 and issued in the session dated 7 Rabi' al-Akhir 1444 AH corresponding to 11/2/2022 AD.

Signature of
The president
Jassim Mohammad Abood

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