

Republic of Iraq
Federal Supreme Court
Ref. 3 / federal /2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 31/1/2024 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: Shawki Ali Shawki Ali Al-Saffar.

The Defendant: Minister of Finance/ being in this capacity – his agent the official jurist Amir Abbas Qadir.

The Claim

The plaintiff claimed in the lawsuit petition that after the issuance of Law No. (7) of 2021 - the second amendment to the Veterinary Medical Graduation Law No. (136) of 1980 - which is one of the important laws because of its link to human health and livestock, especially since the veterinarian is the first line of resistance to communicable diseases, but the Ministry of Finance committed a legal and constitutional violation by ignoring the aforementioned law despite urgent communications from the Ministry of Agriculture, which confirmed the acute shortage of veterinary cadres, which caused the closure of many hospitals and veterinary clinics according to its letter No. (6455) on 26/2/2023, as the Ministry of Finance, through its repeated answers, deliberately links it with the law on the employment of holders of higher degrees and firsts, and the law of veterinary medical gradation has nothing to do with those laws, and the Ministry of Finance / Legal Department referred to the

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legal article on the basis of which veterinarians are appointed in its letter addressed to the Ministry of Agriculture No. (54824) dated 12/21/2023, which stipulated that (the provisions of the law apply to veterinarians who are graduates of recognized Iraqi and foreign colleges, except for graduates at the expense of the Ministry of Defense and Interior, and they are appointed employees in accordance with the law), while the answer of the Ministry of Finance / Budget Department, Ministries Division, stipulated in its letter No. (127451) on 6/12/2023, in the same month, the Minister of Finance signed the following: ((We inform you that there is no legal basis in the Federal Budget Law of the State No. (13) for the years (2023, 2024, 2025) that allows the appointment of veterinarians)), and that the Ministry of Finance, headed by the current minister, is fully aware of the Veterinary Medical Graduation Law since it was the Director General of the Budget Department, as in the letter No. (130911) dated 12/26/2021, and it has many answers that confirm the inclusion of the law and could have included it in many budgets, including the supplementary budget for the year 2021, and the Food Security Law, similar to the Law on Employment of Senior and Postgraduate Studies, the latest of which is the tripartite budget for the years (2023, 2024, 2025), noting that their numbers do not exceed (5000) according to the latest statistics of the Veterinarians Syndicate, but it practiced procrastination and procrastination throughout that period, so the plaintiff requested a ruling to oblige the defendant to implement Law No. (7) For the year 2021 the second amendment to the Veterinary Medical Graduation Law No. (136) of 1980, and published in the Gazette No. (4621) on 15/3/2021, and lifted the injustice and injustice caused to this segment as a result of the non-implementation of the law. After registering the case with this court No. (3/Federal/2024), collecting the legal fee for it, and informing the defendant of its petition

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and documents in accordance with Article (21/1st and 2nd) of the Court's Rules of Procedure No. (1) of 2022, his agent replied by the answering draft dated 24/1/2024 that the court lacks jurisdiction to consider the subject matter of the case based on the provisions of Article (93) of the Constitution of the Republic of Iraq for the year 2005, and Article (4) of the Federal Supreme Court Law No. (30) of 2005, as amended, in addition to that his client's department has created (619) job grades to appoint holders of higher degrees and the first with the functional title of a trainee veterinarian and a practicing veterinarian with the sixth degree on the staff of the Ministry of Agriculture, and the court has previously decided on the same subject by the decision numbered (296/Federal/2023) in 27/12/2023, therefore, he requested the dismissal of the lawsuit and the plaintiff to be charged with all fees and advocacy fees. After completing the procedures required by the court's rules of procedure and in accordance with Article (21/3rd) thereof, a date was set for the consideration of the case without pleading, in which the court was formed and the case was considered, the court examined the plaintiff's requests, his substantiations and the defenses of the defendant's agent, and after the court completed its scrutinies, the end of the minutes has been made clear and the court issued the following decision:

The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff Shawqi Ali Shawky Ali Al-Saffar filed this lawsuit before this court against the defendant, the Minister of Finance, in addition to his job, requesting a ruling obliging the defendant to implement Law No. (7) of 2021, the second amendment to the

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Veterinary Medical Graduation Law No. (136) of 1980, and the Federal Supreme Court finds that its competencies are limited under Articles (52 and 93) of the Constitution of the Republic of Iraq for the year 2005, and Article (4) of the Federal Supreme Court Law No. (30) of 2005 as amended, and none of those competencies are the requests contained in the lawsuit petition, therefore, the decision on such proceedings shall be outside the jurisdiction of this Court, therefore, the Federal Supreme Court decided to dismiss the lawsuit of the plaintiff Shawqi Ali Shawky Ali Al-Saffar for lack of jurisdiction and to charge him with fees and expenses and the amount of one hundred thousand dinars for the attorney fees of the defendant's attorney, the human rights employee Amer Abbas Qadir. The decision has been issued unanimously, final, and binding according to the provisions of articles (52 and 93 and 94) of the Constitution of the Republic of Iraq for 2005 and articles (4 and 5) of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. The decision has been edited in the session dated 19/Rajab/1445 Hijri coinciding 31/January/2024 AD.

Judge

Jassim Mohammed Abbood
President of the Federal Supreme Court

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