

Republic of Iraq
Federal Supreme Court
Ref 64/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 12/3/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Jaber Abid , Hayder Ali Noori, Khalef Ahmed Rajab, Ayoob Abbas Salih, Dyar Mohammed Ali, and Munther Ibrahim Hussein ,who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Abdul Karim Kazem Sahar.

The Defendant: President of the State Council / being in this capacity – his agent,the human rights employee Aoham Habib Ali.

The Claim:

The plaintiff claimed that the Special Committee of the Political Prisoners Foundation in Dhi Qar issued its decision No. (Thal/5008) on 22/9/2016, which includes its coverage in the Political Prisoners Institution Law No. (4) of 2006 as amended by Law No. (35)for the year 2013, and sent the decision to the Foundation in Baghdad in the meal (38) on 25/10/2016, and after six months on 25/7/2017, the President of the Foundation appealed against it before the Appeal Authority formed in the Foundation, causing his grievance to be inaccurate in the decision of the Special Committee, and despite the passage of the appeal period, the Authority accepted it, and issued its decision (5580/9857/Ha Taa/2018)on 13/2/2018, which includes the annulment of the decision of the Special Committee, and the plaintiff has filed an appeal before the Administrative Court on 2/9/2018, his lawsuit focused on his right to be covered by the Foundation's law and issued its decision No. (1088/2019) on 17/4/2019, including the annulment of the decision of the Special Committee and considering it not covered by the provisions of the Political Prisoners Institution Law

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No. (4) of 2006, as amended, and thus it violated the law for not taking into account the period of appeal by the head of the institution, and that the committee's decision has exceeded the legal formality stipulated by law, in order to stabilize the legal centers and not shake them, and therefore the decision of the special committee becomes final and binding on the management of the institution, so the plaintiff asked this court to rule to annul the decision of the Administrative Court No. (1088/2019) on 17/4/2019 in lawsuit No. (3232/Qaf/2018) and the decision of cassation issued by the Supreme Administrative Court, which upheld it for unconstitutionality, and the ruling on the validity of the decision of the Special Committee for acquiring the degree of bits and the lapse of the legal period by appealing it in accordance with article (10/3rd) of the Political Prisoners Institution Law No. (4) of 2006 as amended by Law No. 35 of 2013, after registering the lawsuit with this court No. (64/Federal/2024), collecting the legal fee for it, and informing the defendant of its petition and documents in accordance with Article (21/1st and 2nd) of the Court's Rules of Procedure No. (1) of 2022, his agent replied with the reply list dated 3/3/2024, which requested to reject of the lawsuit, for lack of jurisdiction, the appeal against judicial rulings does not fall within the jurisdiction of the Federal Supreme Court. After completing the procedures required by the Court's Rules of Procedure, a date was set for the consideration of the case without pleading, in accordance with Article (21/3rd) thereof, in which the court was formed and the case was considered, the court scrutinized the plaintiff's requests his supports and review the defences of the defendant's agent and after completing the scrutinies issued the following decision:

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The Decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff Abdul Karim Kazem Sahar asked this court to rule on the annulment of the decision of the Administrative Court No. (1088/2019 on 17/4/2018-3232/Qaf/2019) and the decision of the Supreme Administrative Court, which he upheld for their unconstitutionality, and the ruling on the validity of the decision of the Special Committee, which includes its inclusion in the law of the Political Prisoners Foundation and its promise (a political detainee outside Iraq) because the decision is immune from appeal and acquires the degree of finality for the lapse of the legal period for appealing it according to Article (10/3rd) of the Political Prisoners Institution Law No. (4) of 2006 as amended by Law No. (35) for the year 2013, and the decision of this court dated 4/3/2024 to hear the case without pleading according to Article (21/3rd) of the Rules of Procedure of this Court No. (1) of 2022, and to inform the court of the list of the defendant's agent in addition to his position who requested the dismissal of the lawsuit for the reasons stated therein, Court finds plaintiff's claim to be an appeal against a court ruling article (7/8th/Jim) of the State Council Law No. (65) of 1979, as amended, ruled that the decisions of the Supreme Administrative Court are final and binding, and since the competences of this court are specified under Articles (52 and 93) of the Constitution of the Republic of Iraq of 2005, and none of those jurisdictions are the plaintiff's requests in the petition, so the decision thereon falls outside the competences of this court, and therefore the Federal Supreme Court decided to rule as follows:

First: Reject the lawsuit of the plaintiff Abdul Karim Kazem Sahar for lack of jurisdiction.

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Second:Charging the plaintiff fees, expenses and attorneyship fees of the defendant's agent, the President of the State Council, in addition to his job the human rights employee Aoham Habib Ali an amount of one hundred thousand dinars distributed in accordance with the law. The decision has been issued unanimously, final and binding for all authorities according to the provisions of Articles 93 and 94 of the Constitution of the Republic of Iraq of 2005 and Articles (4 and 5/2nd) of the Federal Supreme Court Law No. 30 of 2005, as amended by Law No. 25 for the year 2021, and the decision has been made clear on 1/Ramadan/1445 A.H. corresponding to 12/3/2024 AD.

Judge
Jasem Mohammad Abbood
President of the Federal Supreme Court

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