

In the name of God most Gracious most Merciful

Republic of Iraq
Federal supreme court
Ref. 76/federal/media /2013



Kurdish text

The Federal Supreme Court (F S C) has been convened on 1. 4. 2014 headed by Judge Madhat Al-Mahmood and membership of Judges Farouk Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-nagshabandi, Aboud Salih Al-temimi, Michael Shamshon Qas Georges and Hussein Abbas Abu AL-Temman who authorized in the name of the people to judge and they made the following decision:

The Plaintiff: The lawyer (waw. ain. feh.) in his personal capacity and as agent of the plaintiff (ain. kha. ain. ain.) and (beh. sin. kaf.).

The Defendant: Speaker of House of Representatives- being in this capacity- his jurists (sin. ta. yeh.) and (ha. mim. sin.).

The Claim:

The plaintiff claimed lawyer (waw. ain. feh.) before the FSC in the lawsuit No. (76) in his personal capacity and as agent of his clients (ain. kha. ain. ain.) and (beh. sin. kaf.) that this article (1st) of the Law of the House of Representatives No. (50) of 2007 it stipulates that "the provisions of the National Assembly Law No. (3) and (13) of 2005 apply to members of the House of Representatives from the date of the swearing-in of its members.", the subject of the case concerns article (6), paragraph (3rd) of the National Assembly Act No. (3) of 2005, which stipulates that "the member of the National Assembly shall be granted a pension of 80% of

the monthly bonus he receives from the Assembly after the expiry of the term of the Assembly." since this law is contrary to the provisions of the Constitution of 2005, the Unified Retirement Act and the Civil Service Act. Therefore, the appeal against it and the reasons described in his petition requested the ruling to annul paragraph (3rd) of article (6) of the National Assembly Law No. (3) of 2005 retroactively for violating the preamble of the Constitution and article (14 and 27) of the Constitution of the Republic of Iraq in 2005 with the defendant charging the expenses and the fees of the lawyers and after registering the case with this court in accordance with article (1), paragraph (3rd) of the Bylaw of the FSC and after completing the required procedures in accordance with article (2), paragraph (2nd) of the bylaw of the court referred to above, a date has been set for the argument, the lawyer (waw. ain. feh.) in his personal capacity and as agent of the plaintiff (ain. kha. ain. ain.) and (beh. sin. kaf.) under the two general agencies linked in the case file for his first client under the general agency certified by the Notary Department in Karrada with a public number (28339) on 13/8/2013 and the second under the general agency certified by the Notary Department of Al-Karkh /Day in a public number (13683) on 2/5/2013 authorized by all legal powers under which all legal powers are authorized and attended by the defendant/being in this capacity and his two jurists (sin. ta. yeh.) and (ha. mim. sin.), under the official agencies attached to the case file, the case was commenced in immanence and public. The plaintiff in his personal capacity and as agent of his clients repeated what was stated in the petition and requested the judgment under it with the defendant's charge of expenses and fees, and the defendant's attorney repeated the statement in the answering regulations dated 2/9/2013 and requested that the case be rejected with the plaintiffs charging expenses and fees. The plaintiff also submitted explanatory drafts to his petition and his statements dated 29/10/2013 and 27/11/2013 and 30/12/2013 in which he explained his requests, he was charged with violating article (6/3) of the National Assembly Law No. (3) of 2005 for the Constitution, and the defendant's attorneys submitted an

explanatory draft of their defences, dated 4/11/2013, and requested the outcome of the rejection of the case. After scrutiny found that the Unified Draft Law, in order to acquire its formal aspects as stipulated in article (73/3rd) of the Constitution, and since the legislation mentioned has implications in the case, decides to approach the Presidency Office to find out when it will receive the mentioned project, it turns out that the (Presidential Office/Presidential Office/Legal Department) responded by its letter No. (dhal.waw/1/42/732) on 11/3/2014 that the bill was received from the House of Representatives on 12/2/2014 and sent for publication on 4/3/2014 , under its letter No. (dhal.waw/1/41/669) on 4/3/2014, it was considered approved by the expiry of the legal period stipulated in article (73) of article (3rd) of the Constitution and after reviewing the link in the case, it was found that the Unified Retirement Law No. (9) of 2014 was published in Iraqi Gazette No. (4314) on 10/3/2014, it became valid as of 1/1/2014 under article (42) of the mentioned law and the plaintiff reiterated in his personal capacity and as agent for his clients' statements and previous requests and requested a judgment under which the defendant incurred all expenses as the defendant's agents repeated their statements and previous requests and requested to dismiss the case with the plaintiffs charging all expenses.

The Decision:

After scrutiny and deliberation by the FSC found that the plaintiff in his personal capacity and as agent of the plaintiffs request in his petition, the FSC requested the ruling to annul article (6), paragraph (3rd) of the National Assembly Law No. (3) of 2005, for violating the provisions of Articles (14, 63/1st) and Article (27) of the Constitution of the Republic of Iraq of 2005 and retroactively from the date of the 2005 Constitution of the Republic of Iraq on (28 November 2005) with the defendant charging the charges of the lawsuit and the fees of the lawyers. Whereas the Court found that the Unified Retirement Law No. (9) of 2014 and in item (1st) of Article (38) provided for the abolition of

all legal provisions contained in the legislation and orders that are decided for the retiree or entitled to a pension or reward, such as the National Assembly Law No. (3) of 2005 (amended) who decides the retirement rights of those covered by its provisions and is included in the law article (6/3rd) of it, which is required to be repealed in the case, as stipulated in paragraph (dal) of item {1st/of article (38)} of Law No. (9) of 2014, which valid as of 1/1/2014 under article (42) of it. The plaintiff requested that the decision to repeal the law retroactively and since the law became null and out of the law and that the request requires legislative intervention from the House of Representatives and not the jurisdiction of this court decided to reject the application and for advanced reasons article (6/3rd) of the National Assembly Law No. (3) of 2005 is null and that the plaintiffs' case is due to be rejected by this body. Therefore, the FSC decided to reject the case, with the plaintiffs charging all the expenses and the defendant's lawyers (sin. ta. yeh.) and (ha. mim. sin.) amount (100,000) one hundred thousand Iraqi dinar between them and the decision was immanence decisively unanimously and had made clear public on 1/4/2014.