

Republic of Iraq
Federal Supreme Court
Ref. 85/ federal /media/ 2013



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 1.4.2014 headed by the Judge Madhat Al-Mahmood and the membership of Judges Farooq Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-Nagshabandi, Abood Salih Al-Temime, Michael Shamshon Qas Georges and Hussein Abbas Abu Al-Temmen whom are authorized in the name of the people to judge, and it issued the following decision:

The Plaintiff:

The Deputy (Ba'. Ha'. Ain. Ain.) – His agent the attorney (Mem. Qaf. Ta'.).

The Defendants:

The Prime Minister/being in this post _ his agent the Consultant (Ain. Ain.).

The Third Person:

The I.C.R. Speaker /being in this post _ his agents the legal official (Sen. Ta'. Ya'.) and (Ha'. Mem. Sen.).

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The Claim:

The agent of the plaintiff claimed the retirement benefits of the Prime Minister and his members were in violation of the laws, as the request for retirement under Law No. 27 of 2006 requires service and age, Likewise, Civil Service Law No. (24) of 1961 stipulates that the position be included in the permanent personnel and subscriptions are paid for it. And requested to cancel pensions for the Prime Minister and members of the Council of Ministers, the defendant was notified of the lawsuit. And he answered it by his regulation dated 9/18/2013 in which it was stated that the Prime Minister and the Ministers did not receive a "retirement salary because they are in service".

Therefore, there is no place for this lawsuit, and that the litigation regarding the disbursement of pension salaries is directed to the Minister of Finance and the President of the National Pension Authority, and that the plaintiff has not indicated the law or the decision calling for its cancellation, so this court is not competent to hear this case.

The court called the two parties and the pleading took place in the presence of the two parties. The court asked the plaintiff's attorney questions to answer them, as proven in the session of 10/29/2013, and he answered these questions in his regulation dated 11/3/2013.

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Including that the plaintiff is requesting a ruling on the unconstitutionality of Order (9) for the year 2005 / amended by order (31) for the year 2005 issued by the Prime Minister according to his legislative authority according to the State Administration Law for the Transitional Period And that the Speaker of Parliament replaced the Prime Minister, according to the 2005 constitution.

And he requested the inclusion of the Iraqi Parliament Speaker of a "third" person in the lawsuit. He also requested that the entry be on the side of the defendant and paid the legal fee for him. He was notified and the pleading took place in his presence as well. The attorney of the defendant submitted his list on 11/4/2013 repeating his request to reject the lawsuit because the litigation was not directed against him, and the third person's attorney responded to the lawsuit with his regulation dated 11/24/2013 asking "to dismiss it because there is no interest for the plaintiff in establishing it and because the text requested to be canceled was not applied to him and because he demanded the cancellation of the retirement salaries of the Prime Minister and members of the Council of Ministers.

Then he made a fundamental change by calling for the cancellation of Legislative Order No. (9) of 2005 / amended and other defenses.



The plaintiff attorney submitted an explanatory and supplementary list dated January 21 2014, explaining his requests.

And in the session on 02/25/2014, the pleading was postponed until the draft unified retirement law was approved and published, which was considered effective as of 1/1/2014. And the aforementioned law was published in the Iraqi events on March 10, 2014 and No. 9 of 2014, which canceled the contested legislative decision that it was unconstitutional.

The decision:

During scrutiny and deliberation by the F.S.C., it found that the plaintiff is challenging the unconstitutionality of the legal provisions that stipulate retirement salaries for the Prime Minister and the Ministers, which he explained in his explanatory and supplementary regulations dated January 21 2014 and indicated that Legislative Order No. (9) of 2005 / amended is what decided to grant them pensions.

Whereas, Article (38) of the Unified Retirement Law No. (9) of 2014 stipulated the cancellation of all legal texts contained in legislation and orders that prescribe retirement rights (salary or remuneration) for the retired person (salary or bonus) in contravention of the provisions of this law and of these orders It

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was mentioned in (First/ALif.) of the aforementioned article related to Legislative Order No. (9) for the year 2005 amended by Order No. (31) for the year 2005, so the aforementioned legislative order became canceled according to the Unified Pension Law No. (9) for the year 2014, and the lawsuit is due to be returned for the reasons. He then decided to dismiss the plaintiff's case with charging the plaintiff all the case's expenses with the advocacy fees for the defendant agent Amount of (one hundred thousand) IQ.D. This decision has been issued by agreement on 1/4/2014.