

Republic of Iraq
Federal Supreme Court
Ref. 96 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 17/7/2023 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, and Dyar Mohammed Ali who are authorized in the name of the people to judge and they made the following decision:

The Plaintiffs: Jassim Mohammed Ubaid Watifi, Jawad Kadhim Hassoun Abdulla, Rahman Ghafil Ashour, Waleed Sami Ubaid, Nassir Ubaid Kareem, Mohammed Suhail Abbas, Salman Mahdi Attiya, Fadhil Hamid Naji, Sabah Murad Ubbais, Ahmed Muhsin Jassim, Nahidh Manawi Naji, Dakhil Huraiz Hussein, Abbass Saadoon Jassim, Hussein Omran Mousa, Mahdi Muhsin Hussein – their agent the Ahmed Ali Hussein.

The Defendant: 1. Minister of Finance/ being in this capacity - his agent, the official jurist Amir Abbas Qadir.
2. Minister of Industry and Minerals/ being in this capacity – his agent, the official jurist Safaa Hussein Kudhair.

The Claim

The plaintiffs, through their agent, claimed that the Council of Representatives issued its resolution No. (3) of 2019 in its eighth session held on October 8, 2019, of the first legislative term of the fourth session, based on the provisions of Article (59/2nd) of the Constitution, paragraph (6) of which stipulates: (Reinstating the employees of the

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Industrialization Authority who are not covered by the accountability and justice procedures and transferring them to the staff of the Ministry of Industry and Minerals), and where the Prime Minister had previously obtained the approval of the reappointment of the plaintiffs, but the defendants refused the application of the decision of the Council of Representatives above, so the plaintiffs asked this court to rule to reinstate them or refer them to retirement and grant them their rights, the lawsuit was registered with this court in the number (96/Federal/2023), and the legal fee was collected for it, and the defendants are informed of its petition and documents in accordance with the provisions of Article (21/1st and 2nd) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, the first defendant's agent replied with the reply dated 10/7/2023 requesting the dismissal of the lawsuit due to the lack of jurisdiction of the court to consider it, in addition to the fact that the plaintiffs were employees of the Military Industrialization Corporation (dissolved), which was linked to the General Military Industries Company, one of the formations of the Ministry of Industry and Minerals, and because this company is one of the self-financing departments (losing) and receives a grant from the state treasury to secure the salaries of its employees, it does not have the right to appoint or reappoint employees because there are no vacant job grades in it, as the job grades that Resulting from the movement of owners, it is deleted when it becomes vacant as a result of (death/retirement/resignation) and this is what was confirmed in the budget laws of previous years, which were confirmed by Article (14/2nd/Alif) of the Federal Budget Law No. (13) of 2023. The second defendant's agent replied with the answering draft dated 30/5/2023, indicating the procedures followed and the correspondence addressed to the Ministry of Finance regarding the subject of the lawsuit, which requested, by its letter No. (9887 on

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3/3/2019), that work be carried out in accordance with the provisions of Article (11/Second) of the Federal Budget Law No. (1 of 2019), which includes obliging federal ministries to stop appointments within their self-funded formations that receive a grant from the public treasury or have received loans from government banks, and delete job grades within the staff vocabulary. When vacant due to transfer, retirement, resignation, or death, the General Military Industries Company has been notified regarding the apology of the Ministry of Finance for returning the employees - the subject of the research - to the job, so he requested the dismissal of the plaintiffs' lawsuit and charging them with the expenses and attorney's fees, and after completing the procedures required by the rules of the procedure above, the court set a date for considering the case without pleading based on Article (21/3rd) thereof, on the appointed day, the court was formed and the case began to be heard, the court reviewed the petition and the plaintiffs' requests and the defendants' answers under the regulations attached to the lawsuit papers, according to which they requested the dismissal of the lawsuit for the reasons stated therein, and after the court completed its scrutinies, the end of the minutes has been made clear and issued the following judgment decision:

The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiffs filed this lawsuit against the defendants, the Minister of Finance and the Minister of Industry and Minerals, in addition to their jobs, requesting a ruling to reinstate them to service, as they are employees of the (dissolved) Industrialization Authority who are not covered by the accountability and justice procedures, and to return them to the staff of the Ministry of Industry or refer them to

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retirement and give them retirement rights, and to implement the House of Representatives Resolution No. (3) of 2019 - which obligated to return them and transfer them to the staff of the Ministry of Industry and Minerals - This court finds that its competencies and powers are specified under Articles (52) and (93) of the Constitution of the Republic of Iraq for the year 2005 as well as under Article (4) of the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021 and none of those competencies are the requests received by the plaintiffs in the lawsuit petition. Therefore, the Federal Supreme Court decided to dismiss the plaintiffs' lawsuit for lack of jurisdiction and to charge them the fees and expenses and the amount of one hundred thousand dinars attorney's fees for each of the official jurist employee Amer Abbas Qadir (the agent of the first defendant) and the official jurist Safaa Hussein Khudair (the agent of the second defendant) distributed between them following the law. The decision has been issued with majority, final, and binding for all authorities according to the provisions of Articles (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 on the session dated 28/Dhul Hijja/1444 Hijri coinciding 17/July/2023 AD.

Judge

Jassim Mohammed Abbood

President of the Federal Supreme Court

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