

Republic of Iraq
Federal Supreme Court
Ref. ٨٤/ federal/ media/ ٢٠١٣



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on ١.٤.201٤ 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:

1. (Ha'. Ain. Ha').
2. (Mem. Mem. Mem.)



Their agent the
attorney (Ta'. Jem.
Ain.).

The Defendants:

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

The Claim:

The agent of the plaintiffs claimed before the F.S.C. in the case No. (84/federal/2013) that the defendant/being in this post has enacted Law No. 50 of 2007 (the Iraqi Parliament Law), Article 1 of which stipulates that the provisions of National Assembly Law No. 3 of 2005 apply to the House of

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Representatives, thereby granting them all the rights and privileges granted to a member of the National Assembly, including the right to retire, and since the defendant has enacted the above-mentioned law (Law No. 50 of 2007) based on a proposed law submitted by the House of Representatives without passing through the Council of Ministers or the President of the Republic and because that is a violation of Article (60 First and secondly) of the constitution, so I asked the Federal Supreme Court for the aforementioned reason and the reasons mentioned in the lawsuit petition to rule that Law No. 50 of 2007 is unconstitutional and obligates the defendant to issue legislation to repeal the aforementioned law with the defendant being charged with expenses and fees.

After registering the case with this court in accordance with paragraph (third) of Article (1) of the procedure of the Federal Supreme Court Bylaw No. (1) of 2005 and after completing the required procedures in accordance with paragraph (Second) of Article (2) of the aforementioned court's Bylaw. The date was set for the pleading, and the court was formed, so the agent of the plaintiffs the attorney (Ta'. Jem. Ain.) under her agency on their behalf, with the general power of attorney certified by the Notary Department in New Baghdad, with a general number (21241) on 08/20/2013 under which all legal powers are granted,

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and the attorney of the defendant the legal officials (Sen. Ta'. Ya'.) and (Ha'. Mem. Sen.) attended according to their official agency linked to the case file and started the public in presence pleading. The plaintiffs' attorney repeated what was stated in the lawsuit petition and asked for a ruling according to it and to charge (the defendant) the expenses and attorney fees.

The attorneys' of the (defendant) repeated what was stated in the response list dated 9/15/2013 submitted to the court on 9/30/2013, in which they requested to dismiss the lawsuit with the plaintiffs bearing all expenses and requested to postpone the case until the formal aspects of the Unified Pension Law are completed.

Because it is influential in the course of the lawsuit. The attorney of (the plaintiffs) answered that she has no objection to the request until the formal aspects of the unified pension law are completed, and the court has reviewed the letter from (Presidency of the Republic / Presidential Office / Legal Department)

No. (Dhal. Waw. / 42/732) on 11/3/2014, based on the inquiry of this court, and it has included that the draft law (the Unified Pension Law) was received on 02/12/2014, and it was sent for publication on 4/3/2014, According to the book No. (Dhal. Waw. 1/41/669) on 4/3/2014. And it was considered ratified by the

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lapse of the legal period stipulated in Clause (Third) of Article (73) of the Constitution.

After being examined, it was linked to the case file and found that the Unified Pension Law had been published in the official gazette during the postponement period, with its number numbered (4314) on 3/10/2014 and considered effective as of 1/1/2014 according to Article (42) thereof. It was published in the Official Gazette in issue (9) for the year 2014.

Whereas nothing left to be said, the argument is closed, the decision issued publicly.

The decision:

During scrutiny and deliberation by the F.S.C., it found that the agent of the plaintiffs in her petition, she requested the Federal Supreme Court to rule that Law No. (50) of 2007 is unconstitutional for contradicting the provisions of Article (60/First and Second) of the Constitution of the Republic of Iraq for the year 2005, along with charging it with all expenses and attorney fees, as it was found to the court that the Unified Pension Law No. (9) For the year 2014 in Clause (First) of Article (38) thereof, it stipulated that (All legal texts contained in legislation and orders which prescribe retirement pension rights (salary or remuneration) in violation of the provisions of this law and of these legislations shall be canceled. And the orders,

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Paragraph (E) of Clause (First) of Article (38) stipulated the cancellation of Law No. 50 of 2007 that establishes a retirement right for those covered by its provisions.

Therefore, the aforementioned law contested as unconstitutional No. 50 of 2007 has become repealed with the enforcement of Law No. 9 of 2014 The Unified Retirement Law on 1/1/2014 based on Article 42 thereof.

Therefore the plaintiffs case shall be rejected; the F. S. C. decided to dismiss the lawsuit for the mentioned reasons with charging the plaintiffs 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.