

(Translated From Arabic)

In The Name Of God The Most Gracious, Most Merciful

Republic Of Iraq

Federal Supreme Court (Emblem)

(Kurdish Text)

Ref: 12/Federal/Media/2017

The Federal Supreme Court has convened in 7.3.2017, headed by the Judge Medhat Al-Mahomood and the membership of the Justices Jaefar Naser Hussain , Akram Taha Mohamed , Akram Ahmed Baban , Mohamed Saeb Al-Naqshabnde , Mekaeel Shamshon Qis Qourqis , Hussain Abbass Abo Al-timen and Mohamed Rajeb Al-kobaese who are authorized to judge in the name of the people. And it issued the follow decision:

The Plaintiff: (Kaf. Ha'. Sad.) ,his agent's the lawyers (Ha'. Aen. Aen.) and (Alf. Seen.).

The Defendant: (Aen. Lam. Ha'. Lam.) Head Of The Sunni Mortmain/being in this post.

THE CLAIM:

The agents of the plaintiff claims that their client previously went to Employees Judgment Court to give him justice because he was forbidden of practicing his duty as deputy of the Head Of The Sunni Mortmain according to Ministers Council decision no.(162 year 2016) on 14.6.2016. even though the decision issued by the aforementioned Court no.(2345/2016) on 13.10.2016 that earned the decisive degree decision according to The Administrative Supreme Court decision no.(1013/ Employees Judgment/Appeal/2016) and executing the decision, but the defendant refrain of executing it and accepting the plaintiff job initiation. As the defendant refrain of executing the Ministers Council decision and the Iraqi Judgment provisions; so the agents of the plaintiff request from the FSC to issue its decision to compel the defendant to accept the plaintiff job initiation.

The defendant/being in this post was informed of the case petition and its documents; his agent answered it on their draft presented to this Court on 15.2.2017, that showed that the Ministers Council decision no.(162) year 2016 had been copied by the General Secretary Of Ministers Council/Secretary-General Office in draft no.(Meem. Kha'. /42/2400)

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dated 13.10.2016 included the agreement of the Prime Minister to assign (Kaf. Ha'. Sad.) the tasks of general director in the Sunni Mortmain.

The Sunni Mortmain inform Al-Karkh Implementation Directorate that the approval of the Head Of The Sunni Mortmain/being in this post has been gained to assign the plaintiff the tasks of general director in the Sunni Mortmain there is no obstacle prohibiting him from starting his tasks; but he did not start in his job.

The agents of the defendant said that they did not receive any of the decisions and the drafts mentioned in the case petition. The agents of the plaintiff and the agents of the defendant attended to the proceeding and started the public present proceeding. The agents of the plaintiff repeated the case petition and requested to judge by what is mentioned in it. The agents of the defendant answered that the decision to assign the plaintiff as deputy of the Head Of The Sunni Mortmain was canceled and he was assigned as general director in the Sunni Mortmain and started his duty. They show his assign letter and attached it to the case file. The two parties repeated their saying; the Court ended the proceeding and the follow decision made clear.

THE DECISION:

In the deliberation and discussion the FSC found that the plaintiff request from the FSC to compel the defendant Head Of The Sunni Mortmain/being in this post to grant the plaintiff the approval to start his duty as deputy of the Head Of The Sunni Mortmain according to Ministers Council decision no.(162 year 2016) on 14.6.2016 and the Employees Judgment Court decision no.(2345/2016) on 23.10.2016.

Whereas the case subject and the plaintiff request is out of this court competence stipulated in article (93) of Constitution and article (4) of the FSC Bylaw no.(30) for year 2005. Because the FSC is not specialized to

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execute the Ministers Council decision and the Courts decision that the Employees Judgment Court is one of them.

Therefore it decided to reject the plaintiff case and burden him the expenses of the case and the fees of the agent of the defended amount of (100000) one hundred thousand Iraqi dinar. The decision was made unanimous and made clear in 7.3.2017.