

In The Name Of God, Most Gracious, Most Merciful

**Republic of Iraq
Federal Supreme Court
Ref.16 /Federal/Media/2014**



Kurdish text

The Federal Supreme Court has been convened on 4/5/2014, headed by the judge Madhat Al-Mahmood and membership of judges Farouk Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-Nagshabndi, Abood Salih AL-Tememi, 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 minister of finance-being in this capacity- his agent the senior manager (Kha.Alif.Nun.)

The Defendant: ICR's speaker- being in this capacity- his both agents, the legal officials (Sin.Ta.Yeh.) and (Heh.Mim.Sin.).

The Claim:

The plaintiff's agent claimed that the defendant passed the law of pension's rights for the temporary national council's members No.(14) in 2005, without the government approval. Based on this law, pension rights got decided for the temporary national council members. the plaintiff's agent requested from the court to decide the unconstitutionality of the first article from the law of pension rights of the temporary national council members No.(14) in 2005 which relates to pension rights of the council's members because it violates the following:

- 1)provisions of the law of Iraqi state administration for the transitional period.
- 2) what legislations of pension settled on which doesn't grant any pension rights to the employee unless he has the conditions to be retired.

3) the pension fund of state employees is self-funded and relies on the number of pension deductions which are not provided in salaries of the temporary national council members.

the case had been registered, the day for the argument was selected, then the court called upon both parties, so they attended. the argument had been started publicly and presently, both parties repeated their previous requests. The plaintiff agent requested to decide based on the case petition. The defendant two agents requested to reject the case for the reasons included by their answering draft dated on 19/2/2014. Since there is nothing left to say, the court made the end of the argument, and the decision was understood publicly.

The Decision:

After scrutiny and deliberation by the FSC, it found that the plaintiff agent requested in his case petition to decide the unconstitutionality of the first article from the law of pension rights of the temporary national council members No.(14) in 2005, relates to pension rights of the council's members for violating provisions of the law of Iraqi state administration for the transitional period, and what legislations of pension settled on. It is noticed that that the unified law of retirement No.(9) of 2014 item (1st) from the article (38) stipulated to annul all the legal texts included by legislations and orders which decided for the retired or the one who deserves a retirement salary or payment contrary to the law, one of these legislations is the law of pension's rights for the temporary national council's members No.(14) in 2005 which decided pension rights for those covered by his provisions. Since the unified law of retirement No.(9) of 2014 became valid from 1/1/2014 based on the article (42) from it and the challenged law by its constitutionality became annulled according to the above law, the case of the plaintiff must be rejected from this point. The FSC decided to reject the case for the reasons above and to burden the plaintiff all the expenses and fees of the advocacy from both agents of the plaintiff, amount of hundred thousand Iraqi dinars divided between them equally. The decision had been issued unanimously and presently and got understood publicly on 4/5/2014.