

The In the name of god most gracious most merciful

Republic of Iraq  
Federal supreme court  
Ref. 3/federal/media/2019



Kurdish text

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The Federal Supreme Court (F S C) has been convened on 11.3.2019 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-nagshabandi, Aboud Salih Al-temimi, Michael Shamshon Qas Georges, Hussein Abbas Abu Al-Temman who authorized in the name of the people to judge and they made the following decision:

Objector : (mim. alif. mim. alif. beh.) his agent (alif. alif. mim.)

Objector (against) : Decision of the Commission to verify the return of political dismissals No. (24790/2012) on 5/12/2012 formed in the General Secretariat of the Council of Ministers.

### Claim

The objector's agent claimed that the Commission for verifying the return of political dismissals had made decision No. (24790/2012) on 5/12/2012 to include his client with the law on the return of political dismissals No. (24) of 2005 amended and the instructions issued thereunder. The decision of the Commission had calculated the duration of the political separation from (31/12/1990 to 8/4/2003) as an actual service for the purposes of the allowance, promotion, advancement and retirement, and the post-political term was not counted until its client had obtained formal approvals for reinstatement and direct employment in 5/4/2006, and claimed that the Commission's decision was violate to article (2/1<sup>st</sup>) of the Law on the

return of political dismissals as well as article (6) of the Instructions for facilitating the implementation of the mentioned Law because the decision in question was unfair to his client and contrary to article 2 of the Civil Code, he requested the interpretation of 2<sup>nd</sup> article of the Law on the return of political dismissals, namely the second and subsequent parts, as well as the interpretation of article (6) of the Instructions for facilitating the implementation of the law (24) of 2005 and notice to the Verification committee, the Court invited the parties, and the plaintiff's agent attended and Mr. (ha. sad.) agent by the President of the Council of Ministers/ being in this capacity, the objector repeated the petition and requested that the Prime Minister enter a third person in the case, and the court decided to reject this request because it was not produced in the case, the defendant's agent repeated his statement, requested the reject of the application, the court sealed the argument and issued the following judgment in public

### The Decision:

When scrutiny and deliberation by FSC found that the objector included in the law on the return of political dismissals No. (24) of 2005 the duration was calculated from (31/12/1990 to 8/4/2003) an actual service for all purposes and omitted to calculate the post-political term period until its career in 5/4/2006 and requested to interpretation the article (2/1<sup>st</sup>) of the Law on the return of political dismissals No. (24) of 2005 and interpreted as article (6) of the Instructions for facilitating the implementation of the mentioned Law. Since the request for interpretation of the article referred to and requested for interpretation of an article in the instructions for facilitating the implementation of the law are outside the jurisdiction of the FSC because its specific competency by article (93) of the Constitution and the article (4) of FSC No. (30) of 2005 with regard to the task of interpretation, it concerns the interpretation of the articles of the Constitution based on paragraph (2) article (93), and does not

relate to the interpretation of laws and regulations. Accordingly, decided to reject the plaintiff's claim from the competent authority and to charge the charges and legal fees to the agent of the defendant, Mr. (ha. sad.) amounting to 100,000 dinars and the judge was issued by the unanimously decisively and obligating according to the article (94) of the Constitution and the article (5) of FSC's No. (30) of 2005 on 11/3/2019.