

Republic of Iraq
Federal Supreme Court
Ref. 43/ federal /media/ 2014



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 24.6.2014 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 they made the following decision:

The plaintiff: (beh.jim.sad.zin.) –his agent the attorney (ha.mim.ha).

The defendant: Speaker of the parliament/ being in this post – his agents the legal officials (heh. mim. sin.) and (Sin. ta. yeh.).

The claim :

The agent of the plaintiff claimed before the F.S.C. in the lawsuit No.(43/federal/2014) that the law No.(9) for 2014 the Unified Pension Law was issued from the I.C.R., the articles (13, 19/3rd, 21/1st, 35/10th, and 37) of it contradicts the constitution, therefore he requested the F.S.C. to rule the unconstitutionality of these articles, and any other text the estimated court found to contradicts the constitution when consider the lawsuit, and to compile the defendant to amend these articles for violating the constitution, as these articles violates articles (14, 16, 15) of the Iraqi republic constitution of 2005 and to burden the defendant the

Republic of Iraq
Federal Supreme Court
Ref. 43/ federal /media/ 2014



Kurdish text

expenses and the advocacy fees. the defendant' agent responded to the case petition with his answering draft dated on 22.4.2014 requesting to reject the lawsuit and to burden the plaintiff all the expenses for the reasons listed in it. The court call upon parties of the lawsuit, the agent of the plaintiff and the agents of the defendant has attended and continue with the argument in present and public, during scrutiny, the court found that the case is complete for reasons of judgment then decided to close the argument and issued the following decision publicly in the session.

The decision:

During scrutiny and deliberation by the F.S.C. found that the plaintiff' agent challenged in his case petition the unconstitutionality of the articles (13, 19/3rd, 21/1st, 35/10th, and 37) of the Unified Pension Law No.(9) for 2014, he requested the F.S.C. to rule that these articles are unconstitutional, in addition to any text found by the court to contradicts the constitution when considering the lawsuit and to compile the defendant to amend these articles for violating the constitution, as these articles violates articles (14, 16, 15) of the Iraqi republic constitution of 2005 and to burden the defendant the expenses and the advocacy fees. The court found that article (13) of the unified pension law No.(9) for 2014 stipulates that (the employee's displacement, dismissal, leaving the service, resignation or dispensing of his services does not preclude his

Republic of Iraq
Federal Supreme Court
Ref. 43/ federal /media/ 2014



Kurdish text

entitlement to pension rights, and the pension is not granted unless he has completed the age of fifty (50) and has a retirement service not less than (20) twenty years, and in all cases the pension is not granted on the period preceding the date of completion of the mentioned age), as the mentioned article didn't deprive the employee who was displacement, dismissal, leaving the service or resignation of his pension rights, but the legislator has set standard for those to obtain their pension rights, it is a legislator choice, doesn't violate the constitution, the mentioned article is not related to article (14) of the constitution, article (19/3rd) of the unified pension law No.(9) for 2014 under challenge for being unconstitutional it stipulates that (the employee may request the addition of his guaranteed retired services performed to the private sector, which he has not received any retirement rights from the Retirement and Social Security Department for workers to his retirement service resulting from a career service, not to exceed half of his actual career service performed in the state, the Retirement and Social Security Department for workers providing the Authority with the details of his services and paying the amounts of contributions deducted from his wages with the contribution of the employer, the employee bears the difference between the amount of the contributions and the amounts of pension dedications with the state's contribution calculated on the basis of his salary at the date of submitting the service calculation request) this article is also legislator choice that doesn't violates article (14) and (16) of the

Republic of Iraq
Federal Supreme Court
Ref. 43/ federal /media/ 2014



Kurdish text

constitution. the plaintiff could present a request to the I.C.R. to consider his request. As for article (21/1st) of the unified pension law No.(9) for 2014 which stipulates that (the employee who is referred to retirement shall be entitled to a retirement salary if he has a retirement service not less than (15) fifteen years, the pension salary shall not be granted unless he has completed fifty years (50) of age, in all cases the pension won't be granted from the period prior to the date of completion of the mentioned age, except for cases of death, martyrdom, referral to retirement for health reasons and those referred to retirement according to the provisions of the clause (2nd) of article (12) of this law), throw scrutinizing this article we found that the legislator didn't deprive the employee who referred to retire from his pension rights, but he regulated the mechanism of his receiving the pension salary, this article is also didn't violates the constitution but it is legislator choice. As for article (35/10th) of the law subject of challenge for being unconstitutional which stipulates that (pensioner shall be granted allocations for the certificates below or their equivalent obtained before or during the career, according to the following percentages of pension. A) the diploma, is granted a certificate allocations of (5%) five percent. B) bachelor, grant a certificate allocations of (10%) ten percent. C) higher diploma and master's degree, granting certificate allocations (15%) fifteen percent. D) PhD, grant certificate allocations (20%) twenty percent.) this text is also a legislator choice that doesn't consider as violation to the

Republic of Iraq
Federal Supreme Court
Ref. 43/ federal /media/ 2014



Kurdish text

constitution, because the differentiation is between categories of different certificates, therefore the e text is not violation to article (15) of the constitution. as for challenging the constitutionality of article (37/1st, 2nd, 3rd, 4th) of the law, this challenge is irrelevant after the court decided in the lawsuit No.(36/federal/2014) the unconstitutionality of this article. As for the plaintiff agent request that the court to rule the unconstitutionality of any text during considering the lawsuit, this is out of the F.S.C. jurisdiction according to article (93) of the constitution and article (4) of the F.S.C. law No.(30) for 2005 which obligate the rejection of this request. For the aforementioned reasons the plaintiff' lawsuit has lost it constitutional and legal substantiation, as the plaintiff request to rule the unconstitutionality of article (37) of the unified pension law was achieved, which bind to reject it. Accordingly the court decided to reject the plaintiff' lawsuit and to burden him the expenses and the advocacy fees for the defendant' agents amount of (one hundred thousand) IQ.D. This decision has been issued unanimously and final according and issued publicly on 24/6/2014.