

In The Name Of God, Most Gracious, Most Merciful

Republic of Iraq
Federal Supreme Court
Ref.59 /federal/media/2016



Kurdish text

The Federal Supreme Court has been convened on 16/8/2016, headed by the judge Madhat Al-Mahmood and membership of judges Jaafar Nasir Hussein , Akram Taha Mohammed ,Akram Ahmed Baban, Abood Salih AL-Tememi, Michael Shamshon Qas Georges, Hussein Abbas Abu Al-Temman,Aad Hatif Jabar and Mohammed Rijab AL-Kubaisi, who authorized in the name of the people to judge and they made the following decision :

The Plaintiff: (Ha.Mim.Sad) his agent the barrister (Mim.Ain.Nun.Jim.Jiim).

The Defendants:

- 1- the prime minister/ being in this capacity- his agent the legal counselor (Ha.Ain.Jim).
- 2- the minister of justice/ being in this capacity- his Senior Judicial Assistant (Heh.Mim. Ra).

The Claim:

The plaintiff claimed that the cabinet has already issued its decision No.(295) for 2009 which included the plaintiff appointment as undersecretary for the ministry of justice and he had started his work then he was elected as a member in the ICR, after the end of the electoral cycle he presented many requests to the Defendants to return him to his previous job, but they didn't respond to his requests despite the issuance of the federal budget law for 2016 which obliged the ministries to reappointment of the local councils, municipal councils, governorates, and the representatives who left their jobs after been elected, and whereas the post is still vacant and the decision of appointment is still valid and for the violation of the decisions and the pro-

cedures that were issued by the defendants to the law and for their Absten-
tion to answer his requests according to the law, the plaintiff requests the
decision to oblige the defendants/ being in their capacities- to return him to
his previous job before he was elected as a member in the ICR as undersec-
retary of the ministry of justice and to proceed his startment and to keep his
right of demanding all his functional rights and what happened to him from
financial and personal damages. After the case had been registered and the
procedures were completed, the day of the argument had been selected
and the agent of the plaintiff attended who repeated his previous sayings
and requests and he requested from the court to decide according to the
case petition, and the agent of the first defendant the prime minister/ being
in this capacity- attended, the mister (Ha.Sad). the agent of the second
defendant the ministry of justice/ being in this capacity- or who represents
him legally, didn't attend despite the notifying. The agent of the first de-
fendant repeated what was listed in his answering draft and requested to
reject the case of the plaintiff because of the reasons that were listed. Both
parties repeated their previous sayings and requests and the end of the
argument was understood.

The Decision:

During the scrutiny and deliberation by the FSC, the court found that the
plaintiff requested the decision to oblige the defendants/ being in their
capacities- to return him to his previous job (undersecretary of the ministry
of justice) which he occupied it before been elected as a member in the ICR.
Whereas he has already presented many requests to the defendants for this
matter without no response to him, he initiated a case before the court of
employees judiciary No.(406/Mim/2015) and the case had been rejected
and the decision of the rejection was ratified in the cassation after he chal-
lenged it before the FSC according to the decision No.(69/ 1286/ judiciary/
cassation/2015). The FSC found that the challenged decision before the FSC
is one of the administration decision and trying it, is not within the compe-
tences of the FSC which were stipulated in the article (93) from the Constitu-
tion and the article (4) from the law of the FSC No.(30) for 2005. So the court
decided to reject the case of the plaintiff from the incompetence point and

to burden him all the expenses and fees of the advocacy of the first defendant agent (Ha.Ain.Jim) amount of hundred thousand Iraqi dinars. The decision was issued decisive and unanimously on 16/8/2016.