



## The Lawfulness of Assuming the Presidency of the Parliament via the Temporary Base

Phd . Dr. Karrar Hadi Sahar

[Karrar.hadi@uokerbla.edu.iq](mailto:Karrar.hadi@uokerbla.edu.iq)

### Abstract:

Due to the main member's lack, the organization of the public utility seem to be a short-term plan which can force the government to allocate anything that it sees appropriate whenever suitable. In this way, the acting official exploits the chief's power to be sure that the common tasks are run commonly with more constantly. One of the vital reasons of the government's devotion is to select the best experienced, operative, case-hardened as well as the most dependable people to manage the governmental headship managing. In time that nobody gratifies the abovementioned necessities, the government deals with the authorized power as a planned stage region. So, such a matter preserves a glance on their effort and adopts if it is best to deal with the dependents in order to raise harmony and realize the responsibility's or organization's impartial. Therefore, the government eliminates the person from his responsibility, cutting the vital obligations in time he ignores the abovementioned rules. Accordingly, such a change predictability which seems to be the most prominent way of changing the governmental control deprived of dismissing the government's efficient bond per or deprived of authorized source underscored the significance of the issue. Additionally, it gives its members a time chance for a while and thus releases those members due to the changes occurred within its strategy of supremacy or its constitutional rights which maybe proposed to assist the civic concentration. As such, it offers them the chance of gaining them the right of control duties as well as giving them all-embracing power for doing that by this organization.

**Keywords:** Union, The State Institutional Managing, Lawful Duty, Cessation of Duty.

### 1. Section one

#### 1.1 The Significance of the Study

This study is signified for its lawfulness of assuming the presidency of the parliament via proxy due to its members' authorized rule who occupy its high-ranking situations and their protest that has been appeared regardless its restricted consideration that has acknowledged. As such, the core of this study has touched the governmental action according to the highest ranks which turn out to be a challenging concern for all governments to resolute.

#### 1.2 The Objective of the Study

The Lawfulness of Assuming the Presidency of the Parliament via the proxy takes a vital occupation concerning the great ranks of government authority. However, this situation is a transitory state but at the same time it accomplishes a key determination of confirming the charming and stable procedure concerning the public interest. This is because it improves



more lawful legality for the members' use of the responsibilities and obligations, and thus particular circumstances have to be changed and even those members have to be apportioned to achieve and improve their political and lawful rank by means of their demonstration.

### **1.3 The Study's Problem**

All the modifications and changes that are happened in Iraq from 2003 till now and the Iraqi representative is attempted in the Federal Budget Law for 2019, 2023, 2024, and 2025 for being accommodate in order to stop the exercise of performing as supervisors of government establishments to the extent of having not, up till now, effected. Via these reasonable facts, this study touches the issue of the Iraqi representative's rank as well as the circumstances to be chanced with the supervisors regardless of being experienced specialists or being known because of their position. As such, this occurs alongside with the significant role of an Administrative Court as well as its details while its position has managed by performing and its lawful environment.

### **1.4 The Study's Methodology**

The methodology of the study is to follow the methodical as well as analytical methodology regarding the lawful manuscripts in addition to the analytical exploration of legal thoughts and judgements of the administrative institutes via representation. This idea needs to take in the consideration of the proficiencies and experiences of further nations to whom this experience has been keeping pace of governmental support.

### **1.5 The Construction of the Study**

This study is divided into two sections. The first one calls the idea of mission and representation removal from office. Additionally, the second section talks about the machinery for terminating governmental agency owners beside the omission of governmental magistrate's lapse.

### **1.6 The Reality of Duty and the Lawful Fact of Acting Dominant Ranks**

On the other hand, the idea of lawful duty of acting the strong positions can be dealt with even within the public interest and can be used cross many Iraqi governmental societies. By this a means, the handing over a member into a high-ranking governmental point seems to be commonly used among dealt with among many Iraqi state-owned societies. However, the Iraqi legislature and his role cannot be seen at all in any directive of this imperative and vivacious attitude and this problem is what the researcher aims to explain. So, addressing the nature duty of governmental positions will be dealt with in the first section. Moreover, clarifying the procedure of dismissing the individuals who embrace the governmental situations and the mistake of the governmental judges above them.

### **1.7 What is the Lawful Duty of Assuming the Presidency of the Parliament via the Temporary Base**



The concept of the lawful duty of assuming the presidency of the parliament via the temporary base can be considered actual general taking into account the matter of the selection role for the high-ranking governmental degrees via the representation to be played an important role in this matter. So, the governmental direction helps to the representational position in a precise era for being protracted or incomplete to the individual who initially grasps the political seat. And here its lawful duty can be associated with the occupiers of governmental places via the matter of representation. All in all, one may tackle such terms taking into its consideration the methodological meanings within the first section. As such, the second section deals with the lawful duty of assuming the presidency of the parliament via the temporary base as follows:

The lawful duty means that it is well-known as a responsible substance by dealing with it in much trouble and intervention to trust another individual for doing a contract to him. On the other hand, the lawful duty is theoretically identified as a special means of selection to the situation due to the lack of any text in the Civil Service Law for being legislated. Looking among different University Service Laws No. (23) of 2008, one can find that such a term may improve the members' duties for the provision of the university. This means that the governess is apportioned for his law member duties through the identified authorized operational periods as well as the approved outings. Accordingly, this is achieved during the issuance of a campus instruction by the ultimate premier of the campus premier.

Concerning the Lebanese Legislative Decree No. (70) of 1977, that is set its source for promotion via intervention for highest political ranks, cannot be involved this. One can find that the Legislative Decree No. (112) of 1959, regarding the Lebanese Civil Service System, the definition of the representative is "an employee temporarily assigned to occupy a position other than his original position" (I) Article (44) of Legislative Decree No. 112 of 1959, as modified, with reference to the Lebanese Civil Service System. This matter is different regarding a Jordanian legislator. He seems to be satisfied with the idea of emphasizing the concern that "If a vacancy in any job department of the senior category or what is similar to it becomes vacant or its occupant is absent for any reason, it may be filled by proxy.." Point (93) item (a) of the Jordanian Civil Service System No. 9 of 2020., even though the legislator does not know it and just refers to it according to the manuscript of the above-mentioned commentary. This can be considered as an enough proof to explain the idea of the Jordanian legislator about his goal of establishing a static standard for handling high-ranking places by demonstration. As such, one can see that the Yemeni legislator seems to be genuine while he is talking about to the Civil Service Law No. 19 of 1991 and called it "deputation," as "the temporary assignment of an employee to fill a position, whether independently or in addition to the duties of his original job within his



administrative unit” Article (144) of the Executive Regulations of the Yemeni Civil Service Law No. 19 of 1991.

"(I) The texts of the articles of the Civil Service Law No. 23 of 2008 are:

- The text of Article (4/Second) states: “A faculty council decision may, when necessary, assign a lecturer to teach and supervise master’s students only.” –

Article (10/Third) stipulates that “a university service employee is entitled to an annual vacation leave of 60 days. The Minister, the President of the University, or the Authority may call upon a university service employee to perform some official duties during the annual vacation and compensate him for it for a similar period during the year or with an equivalent monthly salary and allowances. This assignment may not be repeated for two consecutive years without the employee’s approval.

- Article (16/First) stipulates that “some teachers or researchers in institutions of the Ministry of Higher Education and Scientific Research may be assigned to conduct research and experiments and carry out activities related to the jurisdiction of ministries and other entities not affiliated with a ministry with the aim of developing the productive and service aspects therein in exchange for wages agreed upon between the two parties. A percentage not exceeding (80%) of these wages shall be allocated to the participants, and the remaining percentage shall be allocated to the university, college, authority, or institute in accordance with instructions issued by the Minister.”)], and the definition of agency is stated as “a contract by which a person appoints another in his place in a permissible and known transaction” (I) Article (927) of the Iraqi Civil Code No. 40 of 2015 1951 (amended).)], in some

Upon closer examination of the current Civil Service Law, we found no legal regulation of agency, while the dissolved Revolutionary Command Council Decision No. 12 of 1997 stipulated the regulation of administrative agency for a senior position, namely the General Secretary (I) Dissolved Revolutionary Command Council Decision No. 12 of 1997, Clause One, published in the Iraqi Gazette, Issue No. 3659, dated March 3, 1997. Gibran Masoud, Pioneer of Students, The Illustrated Dictionary of Modern Linguistics, Dar Al-Ilm Lil-Malayin, Lebanon, 2005, p. 93. ]),

(I) Dr. Ibrahim Anis and others, Al-Mu’jam Al-Wasit, Vol. 2, no edition, Dar Ihya’ Al-Turath Al-Arabi, Beirut, no year of publication, p. 1054 and after. ]),

-Resolution No. 12 of 1997, Article One, of the dissolved Revolutionary Command Council, published in the Iraqi Gazette, Issue No. 3659, dated March 3, 1997.

-Article (44) of Legislative Decree No. 112 of 1959, as amended, concerning the Lebanese Civil Service System.

-Article (93), Paragraph (a) of the Jordanian Civil Service System No. 9 of 2020.

-Article (144) of the Executive Regulations of the Yemeni Civil Service Law No. 19 of 1991.



According to the Supreme Administrative Court in Iraq, the fact is that it is established the idea of intervention by the aid of the government's provisional mission of the member who aims to occupy the high-ranking position rather than his common one because of his lack of the first operative founded on lawful manuscripts as well as the guidance law business in addition to confirming the consistent task of a civic aptitude ([1]) Governing the Supreme Administrative Court in Iraq in Case No. 1566/Employee Judiciary/Cassation/2018 on 11/29/2018. ]), makes normal to serve the community and attaining the civic concentration that everybody searches for.

([1]) D. Muhammad Mahmoud Neda, *The Expiration of the Disciplinary Suit*, Dar Al-Fikr Al-Arabi, Cairo, 1st ed., 1981, pp. 318 and following. It is known linguistically as exemption ([1]) Muhammad bin Abi Bakr Abdul Qadir Al-Razi, *Mukhtar Al-Sihah*, Dar Al-Sala, Kuwait, 1983, p. 251. ]), and it can be understood as dispensing with, and it is known technically as "terminating the assignment of those occupying leadership positions from performing the tasks they hold, by order of the upper management, and based on the legal conditions that it deems appropriate, and it does not mean the termination of his service."

In the public service, many books were issued by the General Secretariat of the Council of Ministers to terminate the assignment of a large number of those holding senior positions ("Director General and above"), while we did not see any definition from legal jurisprudence and administrative judiciary that explains to us what is meant by the nature of exemption from administrative positions.

### **1.8 The Lawful Assuming of the Presidency of the Parliament via the Temporary Base**

If one wants to compare the matter of selecting anyone to be a representative for doing the governmental jobs by intervention with the lawful environment of engaging the high-ranking positions like the presidency of the parliament. So, one finds that it is a vital to be there lawful necessities to give the representative the lawfulness to use the authorities of the main degree. This means that when the government concerns any political judgement, it should be guaranteed by the lawful necessities which judge the dependable decisions via the civic concentration during the assurance of the political choice.

On the other hand, the governing of the Supreme Administrative Court in Egypt establishes an excellent means for choosing the civic positions, and so it becomes a good issue to the necessities of the commandments and guidelines that control the matter of obligation ([1]) Supreme Administrative Court in Appeal No. 1115 of the 28th Supreme Court year, in the session of 5/24/1986. Therefore, to domain the standards of the common and general procedure of civic services to be far away from everything leads to interrupt this task that is so vigorous and significant competence for all Iraqi government institutes. This is the base on it the government can built its decisions in legitimizing the effort assigned it. So, one can



see the judgement of the Supreme Administrative Court in Iraq shows the fact that in time the government matters a governmental choice to allocate a member to conquer a high-ranking seat. As such, all this is founded on a lawful manuscript as well as on the law of accompanying occupational and guaranteeing the consistent task of the civic aptitude ([]) Ruling of the Supreme Administrative Court in Iraq in Case No. 1566/Employee Judiciary - Cassation/2018 on 11/29/2018, State Council Decisions and Fatwas for the year 2018. ]]. Such changes can be stimulating side by side with running such high-ranking positions regardless if it is acted in person or if it has to be undergone a confident experimental historical. In this context, one can see that such phases are renewable since those representatives appreciate completely all honors such as monetarist ones. So, they are restricted with the responsibilities of the Over-All Chief's position regarding the total agencies that have surpassed <sup>(4)</sup> an age, having been reintroduced during one year. From another side, the choice of the Federal Supreme Court in Iraq as well as improving the controlling of governmental seats via demonstration are allotted a state-owned edict to stopover the enactment of the slogan "The concerned departments shall stop all financial allocations and administrative powers in the event that they continue after the aforementioned date" in accordance with the provisions of Article (71) of the Federal Budget Law No. (13) of 2023 ([]) Item (71) of the Federal General Budget Law of the Republic of Iraq for the fiscal years (2023 - 2024 - 2025) No. 13 of 2023 instructs that "The government is obligated, by a date no later than (11/30/2023), concerning the responsibility of stopping all economic portions and governmental influences while they endure after the above-mentioned epoch and the Council of Ministers are about to drive them to apportion for the position of the Presidency and exceptional ranks (1-B), and so the position gathers in a line before the Federal Supreme Court No. 223/Federal/2023 has not been decided so far. ]].

During the rise of parliament, the first obligation is to confirm the organizer of running those political positions of the 2019 such as the Federal General Budget Law (2019) according to the lawful text (58). Therefore, due to the fact that the Federal General Budget Law lacks any solutions about this point and it is inadequate to "matters of the budget, expenditures and revenues" besides being far from the details nature of its effort. In accordance, some interruptions of the representatives about acting the obligations of the place are apportioned not to fire such contract association, and so the member of the parliament may return for the originality of election before the lawful duty. If it is done, it will be possible to demand or question the allocated representative concerning the errors and mistakes that may occur within this occupation duty as well as accepting the letter of resignation while submitting text or dismiss the representative's duty ([]) Ruling of the Supreme Administrative Court in Egypt No. 972 of 30 Q. Supreme, in the session of 2/27/1988.]).



According to what is mentioned earlier, one can see that the Iraqi Council of Ministers presents numerous administrative instructions such as the removal of undersecretaries as well as the over-all chiefs regarding many governments. Some of these ministries maybe raised to sequestration according to the orders hand out by the General Secretariat of the Council of Ministers. Therefore, the Civil Service Law ([ ]) Civil Service Law No. (24) of 1960, as amended. ]), and the State and Public Sector Employees Discipline Law No. (14) of 1991, as amended, do not contain the issue of removal from office.

Accordingly, the Law of Governorates Not Organized into a Region No. (21) of 2008 ([ ]) Article (7/Ninth/2) involves that: "The dismissal of holders of senior positions in the governorate by an absolute majority of the council members based on the request of one-fifth of the council members or based on a proposal from the governor. The Council of Ministers has the right to dismiss at the proposal of the minister based on the reasons stated in the text of paragraph (8) of this article." ]). So, such a fact approves that the lawful duty of assigning the presidency or firing him from governmental sites may leads to nothing just a system of occupying any high-ranking positions devoid of any stoppage or interruption of any public relationship or other power.

In time of the Revolutionary Command Council Resolution No. 12 of 1997, even though its operational management of satisfying a high-ranking place by representation, the purpose of the rank of the Over-All Administrator develops unoccupying via any cause. Additionally, the president of any ministry cannot join any ministry or occupy any high-ranking positions without having, at least, a bachelor degree till the time that the Over-All Administrator is chosen to occupy this job, and thus the performing Leader will appreciate all the authorities of the Government. In this way, the place of the Iraqi legislator authorizes the administration's capacity to govern high-ranking administrators functioning for the government, and the concentration of the operative and his release from the place with lacking actuality to be asked about or reconnoitered. This means that it should be there lawful explanations about the firing from the political positions.

## **2. Section Two**

### **2.1 The Contrivance for the Exception of Governmental Positions and the Governmental Law Guides Oversight**

As everyone knows that the public agency means the national project which aims to offer different services to serve the nations within the appropriate rules and applicable laws. Item (3) of the State and Public Sector Employees Discipline Law No. (14) of 1991, as amended, claims: "Public office is a national assignment and a social service, the person performing it aims to serve the public interest and serve citizens, in light of the applicable legal rules.", and built on the manuscript of the above-mentioned item, the government has the right to allocate civic organizations responsibilities for many of the high-ranking governmental



places, such as Presidency Seats' Position, particularly if this situation is allocated "in person or via representation". So, one can see that the effect of allocating the Presidency via the lawful duty that are gave to him "in person or by representation" on the government's power to dismiss his task to the lawful responsibilities of the political high-ranking position. In this way, the government has the privilege of enjoying wide-ranging flexible authority above the operative who is allocated to the political seat by demonstration. Thus, it will dismiss his task basically by supplying a governmental instruction to be pleased of the location at whatever time the government realizes its judgement on the firing dependable with the appropriate effective of the civic facility repeatedly and regularly confirmed that the allocated representative devoted occupation abuses. However, the lawful duties can be divided into two divisions. The first division talks about the contrivance of firing from governmental sites while the second one talks about the mistakes of the governmental and lawful judges above the firing of the representatives who occupy the governmental ranks.

### **2.2 Instrument of firing from performing high-ranking governmental positions**

In Iraq, the matter of firing instrument, no matter if it is local or principal governments according to the federal organism, are involved in the Iraqi Constitution of 2005 and the law create exceptional ways for holding representatives responsible for irreverent the necessities of the establishment and the lawful duties. Reading the Constitution of the Republic of Iraq for the year 2005 text, it is found that the copy of Item (61/Eighth/e) and the copy of Item (61/Eighth/e) of the Iraqi Constitution for the year 2005 shapes that "The Council of Representatives has the right to question the officials of independent bodies in accordance with the procedures relating to ministers, and it has the right to dismiss them by an absolute majority.", giving the Iraqi Council of Representatives full authority to query them and fire them from the political positions they are allocated to conquer, regardless that if they affect the presidents. Therefore, the lawful text mentioned above referred to within its item as "A member of the Council of Representatives, with the approval of twenty-five members, may direct an interpellation to the Prime Minister or the ministers, to hold them accountable in matters that fall within their jurisdiction. Discussion of the interpellation shall not take place until at least seven days after its submission.", to be led to the importance of the authority of the interpellation of the Prime Minister or the ministers and the plan of seven days.

### **2.3 Administrative and Constitutional Judicial Oversight of the Dismissal of Administrative Positions**

When high-ranking running maneuvers jurisdictional lapse above a firing order allotted by the proficient power, whether removal or obligation, and within the agenda of keeping fit its lawful duties to recurrently and dependably accomplish civic services, it may assign certain teams to governmental positions, based on its discretionary authority and several principles, such as "competence and experience." This may be for lawful and political teams



who have acquired experience and whose suitability for the position has been confirmed by the administration, whether acting or in person. The administrative judge's oversight is represented by the dismissal of administrative positions and any impact on their enjoyment of the job privileges they are entitled to. In this case, recourse is to the Civil Service Court to appeal administrative decisions, requesting that the court, which has jurisdiction over administrative disputes, provide redress against the abuse of the administrative authority. This is confirmed by State Shura Council Law No. 56 of 1979, as amended.

Upon reviewing the legal texts in the above law, I found a text that included a number of paragraphs that are extremely important item (7/Fifth/1) of the above law states that "the order or decision must include a breach or violation of the law, regulations, instructions, or internal regulations." The item confirms to us that in the event of an appeal against the exemption order, it must include a breach or violation of the text of the law.

As it is mentioned in the previous text, item (2), which refers to the item (7/Fifth/2 and 3) of the State Shura Council Law No. 65 of 1979, as amended), any instruction or judgement have to be allotted in abuse of the instructions of authority or being out of order in relation to its procedures, techniques, habitation, as well as its aim. Accordingly, the last item of the same piece give emphasis to the fact of "the order or decision must include an error in the application or interpretation of laws, regulations, instructions, or internal regulations, or include an abuse or arbitrary use of power or deviation therefrom." Therefore, it is so obvious that from the manuscript of the previous item with its three pieces, there is an emphasis on a vital idea that is the obligation of a mistake or a destruction issuance concerning the procedures of dominion or an any fault in use leads to apply the commands to be fascinated beforehand the Governmental Court and the Civil Service Court. In this context, the governmental judge advocate may display the judgement to fire those conquering governmental high-ranking positions by representation, in case the flexible authority allowed and granted generally in time that the governmental organization adores liberty for taking lawful duties or keeping fit with its authorities.

Dr. Essam Abdel Wahab Al-Barzanji, The Discretionary Power of Administration and Judicial Oversight, Dar Al-Nahda Al-Arabiya, Cairo, 1970, p. 61.

Generally, one can see that the unrestricted authority given to the government, particularly concerning to the members who conquer senior governmental high-ranking positions and also the running power in the control position has not been obliged in many situations to keep an eye on the approaches tackled in the promotion. This means that the circumstances of selection maybe assumed whomever it considers suitable to occupy cruel governmental places .

Dr. Badawi Abdel-Alim Sayed Muhammad, The Principle of Competence in Public Positions and Guarantees for Its Application, 1st ed., Dar Al-Nahda Al-Arabiya, Cairo, p.



In this way, the government should follow the most lawful method and its requirements in addition to the rules of the main positions. As such, one can see that in the situation that all these causes are gathered, the result may comprise greater than before production concerning the political jobs and their achievement for the civic concentration.

Moreover, the State Shura Council decides to confirm the freedom of the government in conveying and firing members to governmental high-ranking positions on a temporary base, depending on its flexible power. In light of this, the Supreme Administrative Court creates a lawful standard to stress the idea of the "lack of judicial oversight over decisions to dismiss employees from leadership positions on an interim basis." Supreme Administrative Court Ruling No. 727/728/Employee Judiciary - Cassation/2016) dated January 12, 2017, Decisions and Fatwas of the Iraqi Council of State for the year 2017, p. 441.

So, according to this lawful growth, one can notice that nothing lawful or legal organization is found to fire a temporary lawful duty. Nevertheless, the governmental power gives various decisions, by the Administrative Judiciary Court, such as the privilege to fire a temporary lawful duty. In this way, it Administrative Judiciary Court has no inaccuracy above the government's effort regarding this matter, and so it is decreased via its unrestricted power to confirm the balanced and smooth job concerning the civic facility.

Furthermore, due to the judgement of the Supreme Administrative Court, it finds that the accuser apprehended the highest ranking position of Director General of the Legal Department at the Ministry of Agriculture to be temporary, not forever, operative. Therefore, this is measured a transitory situation with the right of the government to fire it whenever it wants, regardless of its consuming loyal occupation within its imposed the expiry of its job. The clarification of the court about this matter is that the government's privilege for firing anyone of the highest ranking position is not providing according to the appropriate Civil Service Law. Supreme Administrative Court Ruling No. 301/Civil Service Judiciary - Cassation/2019 dated April 11, 2019, published on the website of the Administrative Court.

The government should follow the law and its requirements and the rules of leading these position and then the circumstances for identifying circumstances within requirement help the civic notice as an entire by raising the level of occupation presentation in the position's governmental contraption. It is noted that different reasons and factors are happened, all the coming maybe improved efficiency in terms of effort and attaining the civic concern. The Iraqi State Shura Council takes self-confessed of the independence of the government in conveying and firing the members of the governmental situations according to the temporary foundation, built on its unrestricted power. Thus, the court establishes a lawful duty attitude highlighting the "lack of judicial oversight over decisions to dismiss employees from leadership positions on an interim basis." Supreme Administrative Court Ruling No.



727/728/Employee Judiciary - Cassation/2016) dated January 12, 2017, Decisions and Fatwas of the Iraqi Council of State for the year 2017, p. 441.

Accordingly, and relating to this evolution, one can see that it is impossible to find any lawful establishment for firing a temporary lawful duty. Nevertheless, the Administrative Judiciary Court is able to establish a firm obstruction supporting by several strong judgements yielding the governmental power the precise to dismiss a temporary mission. Therefore, the governmental judges have not to be mistaken above the government's effort, then this decreases its unrestricted power, confirming the level and balanced procedure of the civic provision.

### 3. Conclusion

As a result, "The Lawfulness of Assuming the Presidency of the Parliament via the Temporary Base," the researcher finds many assumptions and commendations:

#### First/ Conclusions:

1. Governmental work can be considered as a temporary position related to via the government in time that the chief operative is absentminded or his political and lawful situation is unoccupied. So, to confirm the charming administration of the civic duties, it will be engaged as a representative.
2. The administration's lack of the ability to accomplish and decide the supervision of the public establishments by demonstration within a particular dated of a while that is owing to the disappointment to handpicked proficient and skilled people to achieve the situations in a precise era. And thus, it is focused on how the régime power can construct the corrupt first-class authority due to the time limits.
3. As such, it is so absenteeism of the organization between the government and rule since the foundation of the service of the Iraqi Constitution of 2005 till this instant. One has not grasped succeeding rules existing their runners for high-ranking situations to the Iraqi Parliament excepting the restricted mode. So, this leads to fall in a substantial threat to the fate of the rule which may lead to get a complete lawful obligation to achieve the right selection. Therefore, Iraqi law has no any unequivocally to instruct circumstances according to them that the high-ranking governmental positions may be ended concerning any organization.
- 4- The temporary operative revels in all the influences approved to the chief ruler.

#### Second / Recommendations:

- 1- The study presents a recommendation in terms of how the Iraqi government can expeditiously modify item (58) of the Federal General Budget Law for the fiscal year (2023-2024-2025). Here, there is a necessity to remove the matter of a stage boundary from the all-purpose reasonable. So, the difficulty in such a situation must be restricted to the



occupation of the administration for addressing and resolving this problem among all governmental societies and close the governmental public establishments by performing.

2- As such, it is recommended that the régime decides to control the matter of acting the temporary government to confirm the level and dependable procedure of civic services in order to elude the disorder and the wide-ranging paralysis of governmental establishments while the public establishments are directed by performing.

3- finally, it is recommended that the Iraqi lawmaker comprises a modification to the present-day Civil Service Law No. 24 of 1960, which takes account of a wide-ranging management of the satisfying and filling of a high-ranking governmental positions by representation. Therefore, the government's rulings and decisions concerning the cessation of lawful duty to be an issue to the management of the governmental lawful judges so that the government will not misuse its unrestricted authority.

### **Work Cited**

#### **First:**

#### **Linguistic Dictionaries**

1. Gibran Masoud, Pioneer of Students, an Illustrated Modern Linguistic Dictionary, Dar Al-Ilm Lil-Malayin, Lebanon, 2005.
2. Dr. Ibrahim Anis and others, Al-Mu'jam Al-Wasit, Vol. 2, no edition, Dar Ihya' Al-Turath Al-Arabi, Beirut, no year of publication.
3. Muhammad ibn Abi Bakr Abd al-Qadir al-Razi, Mukhtar Al-Sihah, Dar Al-Sala, Kuwait, 1983.

#### **Second:**

#### **Legal Books**

1. Dr. Al-Tayeb Markaz Ali, Agency Contract, 1st ed., Publications of the Open University of Sudan, no place of publication, 2007.
  2. Dr. Badawi Abdel-Alim Sayed Mohammed, The Principle of Competence in Public Offices and Guarantees of Its Implementation, 1st ed., Dar Al-Nahda Al-Arabiya, Cairo.
  3. Muhammad Mahmoud Neda, The Expiration of Disciplinary Actions, Dar Al-Fikr Al-Arabi, Cairo, 1st ed., 1981.
- Dr. Essam Abdel-Wahab Al-Barzanji, The Discretionary Power of Administration and Judicial Oversight, Dar Al-Nahda Al-Arabiya, Cairo, 1970.

#### **Third:**

#### **University Theses and Dissertations:**

##### **1- Master's Theses.**

- 1- Haider Alawi Obaid, "The Legal Regulation of Acting Senior Positions in Iraq," Master's Thesis, University of Maysan, 2023.



#### **Fourth:**

#### **Constitutions and Laws**

##### **1- Constitutions:**

The Iraqi Constitution of 2005

- Laws, decisions, and legislative decrees.

1- Civil Service Law No. (24) of 1960, as amended.

2- Civil Service Law No. (24) of 1960, as amended.

3- Governorates Not Organized into Regions Law No. 21 of 2008.

Dissolved Revolutionary Command Council Resolution No. 12 of 1997, Clause One, published in the Iraqi Gazette, Issue No. 3659, on March 3, 1997

##### **C- Legal Texts:**

1- Text of Article (927) of the Iraqi Civil Code No. 40 of 1951, as amended.

2- Article (144) of the Executive Regulations of the Yemeni Civil Service Law No. 19 of 1991.

3- Article (44) of Legislative Decree No. 112 of 1959, as amended, concerning the Lebanese Civil Service System.

4- Article (93), Part (a) of the Jordanian Civil Service System No. 9 of 2020.

5- Text of Article (4/Second) of the Civil Service Law No. 23 of 2008.

6- Text of Article (10/Third) of the above law, and Text of Article (16/First).

7- Text of Article (3) of the State and Public Sector Employees Discipline Law No. (14) of 1991, as amended.

8- Text of Article (7/Fifth/2 and 3) of the State Shura Council Law No. 65 of 1979, as amended.

9- Text of Article (7/Fifth/1) of the above law.

10- Text of Article (71) of the Federal General Budget Law of the Republic of Iraq for the fiscal years (2023-2024-2025) No. 13 of 2023.

Text of Article (61/Eighth/e) of the Iraqi Constitution of 2005

#### **Fifth:**

##### **Court Rulings:**

1- Ruling of the Supreme Administrative Court of Iraq in Case No. 1566/Civil Service Court/Cassation/2018, dated November 29, 2018.

2- Ruling of the Supreme Administrative Court in Appeal No. 1115 of the 28th Supreme Court, in session dated May 24, 1986.

3- Ruling of the Supreme Administrative Court of Iraq in Case No. 1566/Civil Service Court-Cassation/2018, dated November 29, 2018, and State Council Decisions and Fatwas for 2018.



- 4- Ruling of the Supreme Administrative Court of Egypt in Case No. 972 of the 30th Supreme Court, in session dated February 27, 1988.
- 5- Ruling of the Supreme Administrative Court of Egypt in Case No. 5979 of the 44th Supreme Court, in session dated December 29, 2001.
- 6- Supreme Administrative Court Ruling No. 301/Civil Justice – Cassation/2019 dated April 11, 2019, published on the Administrative Court website.
- 7- Supreme Administrative Court Ruling No. 727/728/Civil Justice – Cassation/2016 dated January 12, 2017, and Iraqi Council of State Decisions and Fatwas for 2017.
- 8- The lawsuit filed before the Federal Supreme Court No. 223/Federal/2023 has not yet been resolved.