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IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON
ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Initial reports submitted by States parties to the Covenant
concerning rights covered by articles 6-9 in accordance
with the first stage of the programme established by the
Economic and Social Council in its resolution 1988 (LX)

Addendum

IRAQ**

[21 February 1985]

INTRODUCTION TO BE ADDED TO THE PERIODIC REPORT PREPARED BY IRAQ
IN RESPONSE TO THE REQUEST OF THE ECONOMIC AND SOCIAL COUNCIL

1. The Government of the glorious revolution of 17 to 30 July 1968 has accorded attention to the working class and has made the renovation of labour legislation in Iraq one of its first tasks, because labour legislation is the primary true mirror that clearly reflects the content of the revolution and the intellectual, social, economic and political trends within that content.

* E/1985/30.

** The present document contains supplementary information submitted by the Government of Iraq with regard to its initial report concerning rights covered by articles 6 to 9 of the Covenant which was reproduced in document E/1984/6/Add.3. Copies of the legislation referred to in this report, as furnished by the Government of Iraq, are available for consultation in the original (Arabic) language in the files of the Secretariat.

2. Iraqi labour legislation approaches work from a scientific revolutionary viewpoint, inasmuch as it is the typical and distinctive activity involving human qualities and the source of all production, wealth, civilization and good. It has made work a right which must be provided for every individual capable of it on equal terms and with equal opportunities, without any distinction on grounds of sex, race, language or religion, and it is regarded as an honour and a sacred duty for every individual capable of it.

3. Committed to this view, the revolutionary Government enacted the Iraqi Labour Code (Act No. 151 of 1970), as amended, which is currently in force. The Code regards the working class from a scientific revolutionary viewpoint and as the first custodian of labour rights and guarantees and the basic partner in the planning of production, the administration of work projects, the execution of work plans and decision making in respect of any disputes arising therefrom. The Code defines "wages" as the society's just remuneration for work, assessed on the basis of the quantity and quality of production, so that wages are assessed and measured by the level of development of the national economy and social production. The Code has ensured the serious and responsible participation of labour unions in workers' termination boards, wage-fixing boards and joint boards to organize the administration of projects. The Code also called for the creation of a general establishment in which the main responsibility was assigned to the working class and gave it competence in matters pertaining to the employment and vocational training of workers. The Code also laid down that the necessary measures should be taken for the protection of workers on the job from damage to health and work and machinery hazards and contains provisions to safeguard the rights of women and youth in accordance with the nature of each category. It established the principle that all workers should be covered by its provisions and by social security provisions, laid down provisions concerning workers in the socialist sector and decreed the establishment of a system of labour courts.

4. The revolutionary Government has also promulgated the Workers' Pension and Social Security Act (Act No. 39 of 1971), as amended, which is currently in force and in which objective expression is given to the responsibility of the State and society as a whole for ensuring the health and well-being of the toiling masses, a more broadly based future livelihood for them and the provision of social security covering all members of the working class. The above-mentioned Act contains provisions guaranteeing a decent livelihood for the working class and their families in the face of life's hazards and putting an end to poverty and destitution through a guaranteed income to replace wages lost by reason of illness, disability, injury, old age or death (where a family loses its bread winner) or financial assistance to meet extraordinary needs in the event of childbirth, marriage or the death of a family member, in addition to indirect social services.

5. The above-mentioned Workers' Pension and Social Security Act covers four areas, namely:

- (a) Illness;
- (b) Employment injury;

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(c) Retirement;

(d) Social security.

The above-mentioned Act makes the criterion for entitlement to service, compensation, indemnity or a stipend the existence of an actual need for social protection, not the amount saved by the worker while he was capable of working.

6. We attach annex I containing the numbers of all the laws, regulations and decisions mentioned in the report.

7. We attach annex II containing the substance of the court decisions referred to in the report concerning articles 6, 7.A, B, C and D and 9 of the Covenant.

8. We attach annex III giving information on Social Security projects in the country and on the extent of the leadership's concern for such matters.

9. With regard to the provisions in article 8 of the Covenant concerning trade union rights, we wish to add that the Republic of Iraq has ratified International Labour Organization Convention No. 11 of 1921 concerning the rights of association and congregation of agricultural workers by Act No. 3 of 1985.

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Annex I

LIST OF LAWS, REGULATIONS AND DECISIONS REFERRED TO IN THE REPORT

1. Labour Code (Act No. 151 of 1970).
2. Workers' Pension and Social Security Act (Act No. 39 of 1971).
3. Act fixing workers grades and wages in the construction sector (Act No. 12 of 1978).
4. Public Health Act (Act No. 89 of 1981).
5. Act on the equality of women with men (Act No. 191 of 1975).
6. Revolutionary Command Council Decision No. 747 of 1976.
7. Revolutionary Command Council Decision No. 953 of 15 July 1978.
8. Revolutionary Command Council Decision No. 1019 of 1979.
9. Revolutionary Command Council Decision No. 652 of 18 May 1981.
10. Payment of Contributions Statute (Act No. 31 of 1978).
11. Insured Service Statute (Act No. 5 of 1966), as amended.
12. Decision of the Ministry of Labour and Social Affairs No. 21 of 1975.

Annex II

SUBSTANCE OF THE COURT DECISIONS REFERRED TO IN THE REPORT
CONCERNING ARTICLES 6, 7.A, B AND C AND 9.A OF THE COVENANT

Article 6: The Right to Work

Objection to dismissal of an absentee worker: decision of the President of the Court of Cassation of Iraq, Dossier No. 248/Labour/1982, Serial No. 101

1. Upon scrutiny and deliberation, it was found that article 34 (e) of the Labour Code (Act No. 151 of 1970), as amended, provided as follows: "If the worker absents himself from work without lawful excuse for a period of 8 consecutive days or 10 days in all in any period of one month's employment, or 30 days in all in a given year of employment, a warning in writing shall be served on the worker ..." and that, whereas the provisions of article 34 of the Labour Code allow the management or employer to terminate the contract of employment unilaterally without being bound by the provisions of article 26 of the Code, the exercise of this right is restricted by the requirement under paragraph (e) of service of a warning in writing. Inasmuch as the Court noted from the statements made by the counsel for the appellant before the Labour Court that neither the appellant nor his representative served a warning on the respondent as required under article 34 (e) of the Labour Code, that rendered the termination of the respondent's employment before the service of a warning legally incorrect because it contravened the provisions of the aforesaid Code. Therefore the appealed judgement enjoining reinstatement of the respondent in his post was legally valid. The objections raised before the Court of Cassation were declared not receivable, and it was ruled that they should be rejected and the appealed judgement confirmed. The decision was issued unanimously on 22 May 1980.

Objection to subjection to period of probation: decision of the President of the Court of Cassation of Iraq, Dossier No. 208/Labour/1982, Serial No. 237

2. Upon scrutiny and deliberation, it was found that the appealed judgement requiring the defendant and his office (appellant), to reinstate the plaintiff (respondent) in his former post and to pay his wages as from the date on which he instituted the action, 17 November 1981, in accordance with the law, inasmuch as the respondent, as is confirmed by the records of the Health Superintendency of the Governorate of Najaf, had successfully completed the inoculation course at the said superintendency and been ranked first in his class and inasmuch as he held the vocational certificate presented, the appellant could not subject him to the probation period as provided in the contract displayed and the statement in the said contract to that effect should be disregarded, because the legal authorization for an employer to impose a probation period, as provided in article 15 of the Labour Code (Act No. 151 of 1970), as amended, was restricted solely to the case where a worker did not hold a vocational certificate proving his competence in the work for which he was contracted. Since his subjection to the probation period was contrary to the law and, since the respondent was not served a warning and there was nothing to justify his separation in the absence of any of the situations

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specified in article 16 of the Labour Code, the objections raised before the Court were declared not receivable, and it was ruled that they should be rejected and the appealed judgement confirmed. The decision was issued unanimously on 5 June 1982.

Reinstatement of a worker whose employment was terminated because of absence:
decision of the Labour Court of the Governorate of Baghdad, No. 666/Justice/1982,
dated 17 February 1983

3. Upon scrutiny, it was found that the plaintiff restricted his claim to the requirement that the defendant, the head of the State organization for the Distribution of Petroleum Products and Gas, and his office should revoke the order terminating his employment and reinstate him in his post for the reasons stated in his submission. The defendant's counsel moved rejection of the action on the grounds that the matter of the termination was in accordance with the law and based on the provisions of article 34 (e) and (d) of the Labour Code in force. In the course of the pleadings, the Court found that the plaintiff had been bound by a work contract as an employee of the defendant on the basis of the many administrative orders contained in his private file. The defendant had then issued his administrative order for the termination of the employment of the plaintiff, effective 3 July 1982, on the grounds of his absence from work as from that date. In spite of service of a warning and the fact that his services were not needed and on the basis of the provisions of article 34 (e) and (d) of the Labour Code in force, the Court noted that the conditions set forth in the said subparagraphs of the said article were not met in the case of the termination of the employment of the plaintiff. Accordingly, the Court did not find from the data in the plaintiff's private file anything to prove that the plaintiff had been served with the aforesaid warning about his absence. Similarly, it did not find anything to prove that he had been served with a warning about his failure to comply with the work rules and had refused to comply with the written and publicized instructions. Therefore, the order for termination of the employment of the plaintiff was declared invalid, making it incumbent upon the defendant to revoke it and to reinstate the plaintiff in his former post at his former wage, on the basis of the provisions of article 30 (d) of the Labour Code, regard being had to the concept of contravention of the provisions of article 26 (d) of the Code. For all the aforesaid reasons, the judgement ruled that the defendant and his office should be compelled to revoke the aforementioned order for termination of employment and to reinstate the plaintiff in his former post at his former wage. The judgement was issued in the presence of the parties and was open to appeal. It was announced publicly on 17 February 1983.

Article 7: The Right to Just and Favourable Conditions of Work

A. Remuneration

Driving allowance: decision of the President of the Court of Cassation of Iraq,
Dossier No. 113/Labour/T/1982-1983, Serial No. 555

4. The plaintiff (respondent) instituted his action before the Labour Court of the Governorate of Baghdad requesting that the defendant, the Director-General of the State Company for Construction Contracts, in his official capacity, should be compelled to adjust his wage in accordance with Revolutionary Command Council

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Decision No. 1172 of 29 October 1977 and to pay the accumulated difference in the wage as from 1 January 1978.

5. After the conduct of the pleadings, before the said Court, on 3 June 1982 a decision was issued that the defendant, in his official capacity, should be compelled to pay the plaintiff the sum of 395.250 dinars.

6. Because the defendant, in his official capacity, was not satisfied with the said decision, his counsel instituted cassation proceedings within the statutory period requesting the quashing of the decision.

7. Upon scrutiny and deliberation, it was found that the appealed judgement, regard being had to the legal grounds on which it was based, was deemed to be in accordance with the law and that the objections of the appellant were declared not receivable. It was ruled that they should be rejected and the disputed judgement confirmed and that the appellant should be made to bear the costs of the cassation proceedings. The decision was issued unanimously on 19 December 1982.

Objection to a decision to reduce wages: decision of the Labour Court of the Governorate of Baghdad No. 1465/L/1982 of 16 February 1983

8. Upon scrutiny, it was found that the plaintiff demands that the defendant, in his official capacity, be compelled to restore the amounts deducted from his wages as from 1 January 1978 up to the time of the rendering of the decision at the rate of 20 dinars per month and that he be compelled to bear the costs and charges and legal fees on the grounds stated in the pleading. The counsel for the defendant moved rejection of the action on the grounds stated in her pleading, namely, that the monthly remuneration of the plaintiff was reduced pursuant to Revolutionary Command Council Decision No. 1172 of 29 October 1977 on the procedure for calculating allowances payable to drivers. The counsel submitted a summary of the plaintiff's employment record since the date on which he took up employment, 26 October 1970 and requested the Deputy Public Prosecutor to rule rejection of the action. From the contradictory public pleadings in person and scrutiny of the statements and of the parties and the documents and official papers displayed concerning the action and after taking cognizance of the plaintiff's dossier and the statement of the selected expert, the Court found that the plaintiff took up employment as a driver at the State Agency for Trade in Foodstuffs and continued in that post until his monthly remuneration amounted to 71.020 dinars and that the Agency decided, on 1 January 1978, to reduce his remuneration to 40 dinars, in contravention of Revolutionary Command Council Decision No. 1172 of 29 October 1977, regardless of the fact that his remuneration was personal and an acquired right. Whereas it was proven before the Court that the defendant, in his official capacity, withheld from the plaintiff allowances in the amount of 20 dinars a month, in contravention of the aforementioned Revolutionary Command Council Decision, whereas the reduction of the monthly remuneration which he had received formerly and the withholding of his allowance from him at the rate of 20 dinars a month in erroneous implementation of the Revolutionary Command Council Decision on which the defendant, in his official capacity, rested his case and on the basis of the foregoing, the Court decided that the defendant, in his official capacity, should be required to revoke the decision to reduce the remuneration of

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the plaintiff and to add the allowance to which the plaintiff was entitled, totalling 20 dinars a month, to the remuneration which he received before 1 January 1978 for the entire period of his entitlement thereto from 1 January 1978 up to the time of the issuance of the decision on 16 February 1983. The decision was issued as a judgement rendered before the parties and admitting of cassation and was publicly announced on 16 February 1983.

Finding a vacancy suitable to the worker: decision of the President of the Court of Cassation of Iraq, Dossier No. 427/Labour/1982, Serial No. 89

9. Upon scrutiny and deliberation, it was found that the appealed judgement issued by the Labour Court of the Governorate of Baghdad, with regard to its ruling and to the sound grounds on which it was based, was in accordance with the law and that the appellant's objections to it were not valid, because the facts established during the proceedings, supported by official records, showed that the appellant, namely, the defendant company, failed to enable the plaintiff to practise his occupation with it consistently with his title, although he had been ready and willing to do the required work since 17 August 1981. The administration of the Capital Construction Project likewise refused to enable the plaintiff to practise his occupation in its employ, on the pretext that it did not require his services, as was established in the pertinent record issued within that administration, the number and date of which are given in the judgement before the Court, making the appellant's objections non-receivable for the reasons mentioned. Therefore, it was ruled that they should be rejected, that the appealed judgement should be confirmed and that the appellant, in his official capacity, should be made to bear the costs of the proceedings. The decision was issued unanimously on 20 May 1982.

Claim to wages for the remainder of the term of the contract: decision of the President of the Court of Cassation of Iraq, Dossier No. 555/Labour/T/1982-1983, Serial No. 539

10. The plaintiff (appellant) instituted his action before the Labour Court of the Governorate of Baghdad requesting that the defendant (respondent), in his official capacity, should be summoned to pay the wages due to him for the remainder of the term of the contract and be made to pay all fees and costs.

11. After hearing the pleadings, the Court issued a decision rejecting the claim. Because the plaintiff was not satisfied with the judgement, he appealed it.

12. Upon scrutiny and deliberation, it was found that the appealed judgement was contrary to the law, because the fact that the respondent company came under the provisions of the Act on the Implementation of Major Projects (Act No. 157 of 1973) and enjoyed the exemptions and privileges provided for therein with regard to the employment and termination of employment of workers in no way meant that the action claiming wages was outside the competence of the labour courts, since that exemption constituted an exception to the general principle and was to be interpreted in accordance with the circumstances in which the exception occurred, under the first paragraph of article 151 of the Labour Code, which provided that a labour court should examine all matters submitted by the parties concerned in connection with a difference of opinion resulting from the implementation of the

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Labour Code, the regulations thereunder, collective agreements and individual contracts of employment, irrespective of whether such differences concerned individual rights or related fines and penalties, where such matters arose out of labour contracts or the interpretation or implementation of the Labour Code and the regulations thereunder. The present action therefore fell within the competence of the Court, which was bound to decide on the merits of the case as it saw fit, on the basis of the pleadings. To issue a judgement rejecting the action on the grounds set forth in the appealed judgement was contrary to law. Accordingly, it was decided that that judgement should be quashed, that the action should be referred back to the competent court to be dealt with in the manner indicated and that a legal judgement should be issued in the light of the contract and the statements and pleadings of the parties. The decision was issued unanimously on 9 December 1982.

B. Safe and healthy working conditions

Claim for hazard pay: decision of the Labour Court of the Governorate of Baghdad, No. 5554/Labour/1981, of 15 May 1982

13. From the action of the plaintiff and the pleadings, it was found that the plaintiff's request that the defendant, in his official capacity, should be made to pay the sum of 140 dinars as hazard pay for the period from 1 January 1977 to 30 May 1979 to him, in his capacity as a worker dealing with petroleum derivatives. From a scrutiny of the statements and pleadings of the parties and having taken cognizance of the documents presented in the case, the Court, upon consideration, found that the plaintiff was bound by a labour contract as a worker in the employ of the defendant, in his official capacity, and that the nature of his work was technical, inasmuch as he was dealing with petroleum derivatives throughout the period stated in the application. That was established from the statement of the counsel for the defendant in the record of the proceedings of 15 May 1982 and in the abstract of the employment record submitted by the counsel. The Court noted the issuing of directives by the Ministry of Labour and Social Affairs (Legal Affairs) based on the authorization of the Revolutionary Command Council contained in document 10/12/255 of 14 March 1976 concerning the payment of hazard pay (second class) in the amount of 5 dinars a month to any worker who was directly exposed to the harmful effects of petroleum through direct contact with that substance, as from 1 January 1977. The Court noted that, as confirmed by the counsel for the parties, that the respondent company paid such hazard pay to the plaintiff as from 1 May 1976 and withheld from him the hazard pay for the period from 1 January 1977 to 30 April 1979 and that the defendant's withholding of the hazard pay from the plaintiff for the said period contravened those directives. For the aforesaid reason, the Court decided to compel the defendant, in his official capacity, to pay the plaintiff the aforesaid amount claimed and to compel him to pay counsel's fees to the counsel of the plaintiff. The judgement was issued in the presence of the parties and was open to cassation. It was publicly announced on 20 May 1982.

Claim for hazard pay: decision of the Labour Court of the Governorate of Baghdad, No. 5556/Labour/1981 of 20 May 1982

14. The content of the above-mentioned decision is identical to that of Decision No. 5554/Labour/1981 of 15 May 1982.

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C. Other conditions of work

Claim for overtime pay and termination of employment indemnity: decision of the President of the Labour Court Third Bench Notice 1314, Dossier No. 126/Third/77 of 24 December 1977

15. Upon scrutiny and deliberation, the Court found that the plaintiff had instituted his action before the Labour Court of the Governorate of Baghdad/Private Sector claiming from the defendant in his official capacity's pay for overtime, holidays and Fridays, the termination of employment indemnity and customary leave, the total amounting to 7,724.400 dinars for the period from 1 July 1963 to 7 April 1975. While the decision on the case was pending, the plaintiff died and, at the session held on 17 April 1977, the heirs of the deceased worker presented the Shariah apportionment system of estates and private power of attorney granted by the son of the deceased, on his own behalf and on behalf of the other heirs, on the basis of the provisions of article 84 of the Code of Civil Procedure enforced, inasmuch as a decision on the case was pending. The Court issued its decision that the defendant, in his official capacity, should be compelled to pay the heirs the sum of 91.800 dinars. Owing to the dissatisfaction of the counsel for the heirs, he appealed the decision. Following the appeal pleadings, the hearing of the statements of the parties and the taking of cognizance of the dossier of the original case, it was found that the statistical forms sent by the defendant to the registrar of the companies corroborated that the deceased worker had been employed on 1 July 1963. The form was shown to the counsel of the appellant, and he confirmed that that document had been issued by the respondent for statistical information. The personal evidence also corroborated that the (appellant) worker had been in the employ of the respondent and his office and that the amount of his last remuneration had been 27 dinars. The expert was then charged to calculate the entitlements of the deceased worker as constituted by the termination of employment indemnity, customary leave and the remainder of his wages for the month of April 1975. The expert presented his report, and, on the basis of that report and of the foregoing, it was found that the decision of the Labour Court of the Governorate of Baghdad (Private Sector) issued as No. 439/Private/1975 and dated 18 July 1977, was sound and in accordance with the law. It was ruled that it should be confirmed in an amended form, as follows:

(a) The defendant (respondent), in his official capacity, should be compelled to pay the heirs of the deceased worker the sum of 104.400 dinars representing his entitlement to customary leave for the aforesaid period and the remainder of his wages for the first week of the month of April 1975;

(b) The defendant, in his official capacity, should be compelled to pay the termination of employment indemnity, in the amount of 117 dinars, to the Institution for Workers' Pension and Social Security in respect of the employment of the deceased worker;

(c) The defendant, in his official capacity, should be compelled to pay the sum of 22 dinars as the defence fees of the counsel for the plaintiff. The decision was issued unanimously in accordance with the provisions of article 193 of the Code of Civil Procedure (Act No. 82 of 1969), as amended, the judgement being delivered in the presence of the parties and announced publicly on 14 December 1977.

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Claim to legal rights: decision of the Labour Court of the Governorate of Baghdad,
No. 439/Private/1975 of 20 June 1976

16. From the allegation of the plaintiff and the public pleadings in the presence of the parties and upon scrutiny, it was observed that the plaintiff brought his action claiming from the defendant, in his official capacity, the sum of 7,724.400 dinars for all his legal entitlements. From the current pleadings, the statements of the counsel for the plaintiff, the pleas of the counsel for the defendant, the written prescriptions and the personal evidence heard by the Court and inasmuch as the counsel for the plaintiff submitted a petition for reactivation of the proceedings with a view to re-examination of the heirs, following the adoption of a decision to arrest the proceedings on grounds of the death of the plaintiff, the counsel for the plaintiff, the legal executor, presented his private power of attorney for the heirs of the plaintiff and requested that his client's claim should be restricted to the plaintiff's entitlements with regard to a 7-day's pay, pay for customary leave and length of employment compensation. After the Court had heard the statements of the parties, it took its preparatory decision concerning the authority with which the testator of the plaintiffs had been employed and the term of his employment. The Court decided to select the expert to calculate the entitlements of the testator of the plaintiffs. As a result of deep consideration of everything occurring in the statements of the parties, the regulations and other binding provisions and the content of the report of the expert, the Court ruled that the defendant, in his official capacity, should be compelled to pay to the heirs of the plaintiff the sum of 91.800 dinars and awarded to the counsel for the heirs of the plaintiff the sum of 9.180 dinars. The decision was issued unanimously as a judgement rendered in the presence of the parties and subject to appeal.

D. Rest, leisure, limitation of working hours, and holidays with pay

Claim for remuneration for annual holidays: decision of the President of the Court
of Cassation of Iraq, Dossier No. 446/Labour/T/1983, Serial No. 574

17. The plaintiff (respondent) presented his claim dated 28 April 1982, in which he stated that he had formerly instituted his action, No. 281/Labour/1981 on 27 April 1982 and that he was employed as a worker during the period 9 May 1958 to 1 October 1976, receiving no leave throughout that period and no remuneration for the last two months of his employment. He requested that the defendant should be summoned and a judgement delivered for payment to him of the accumulated remuneration for the leave and the two final months, in the same manner as his fellow workers. After the pleadings before the said Court, on 23 August 1982 the Court issued a decision ruling that the defendant, in his official capacity, should be compelled to pay the plaintiff his remuneration for his customary leave for the period from 9 May 1958 to 30 September 1976, in the amount of 160 dinars and to pay the fees of the experts.

18. Because the defendant, in his official capacity, was not satisfied with the decision, his counsel brought it before the Court of Cassation.

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Decision

19. Upon scrutiny and deliberation, it was found that the judgement before the Court of Cassation was based on legal grounds and the report of the expert, and, inasmuch as the appellant's objections were unfounded in law, it was decided that they should be rejected, since the appealed judgement was in accordance with the law, and that the judgement was confirmed. The decision was issued unanimously on 22 December 1982.

Article 9: Right to Social Security

Request for compensation for work injury: decision of the President of the Court of Cassation of Iraq, Dossier No. 416/Labour/982/1983, Serial No. 569

20. The plaintiff (respondent), in his official capacity, initiated his action before the Labour Court of the Governorate of Anbar, requesting that the defendant (applicant), in his official capacity, should be summoned and be ordered to pay the sum of 416.680 dinars as having been responsible for injury to the insured worker.

21. After the pleadings had been heard, the court issued a decision ruling that the defendant, in his official capacity, should be compelled to pay the said amount.

22. Because the defendant was not satisfied with the decision, he appealed it before the Court of Cassation.

23. Upon scrutiny and deliberation, it was found that the disputed judgement, with regard to the grounds on which it was based, was in accordance with the law and that the objections raised before the Court of Cassation were not in order. It was ruled that they should be rejected and the judgement confirmed. The decision was issued unanimously.

Claim for work injury compensation and sick leave pay: decision of the President of the Court of Cassation of Iraq, Dossier No. 166/Labour/1982, Serial No. 145

24. The plaintiff (respondent) initiated his action before the Labour Court of Baghdad, requesting a judgement to the effect that the defendant (appellant), in his official capacity, should be made to pay compensation in the amount of 156 dinars plus sick leave pay and the cost of transportation for the purpose of treatment, as laid down by the State Agency for Labour and Vocational Training, the defendant having refused to pay the said sum. The Labour Court issued a judgement ruling that the defendant, in his official capacity, should be made to pay the amount of the compensation to the plaintiff and rejecting the claim for the additional amounts. Because the defendant was not satisfied with the judgement, he appealed it before the Court of Cassation.

25. Upon scrutiny and deliberation, it was found that the counsel for the appellant had, at the session, limited the appeal to the estimated compensation and that the Court of Merits had ordered the appellant to pay that amount in accordance with its ruling. Cognizance having been taken of the dossier, from which it was

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clear that the respondent suffered 35 per cent disability in the course of his work, the appealed judgement was therefore based on legally sound grounds, and, inasmuch as the objections raised before the Court of Cassation were not receivable, the decision was taken to reject them and to confirm the judgement.

Application for disability pension: decision of the President of the Court of Cassation of Iraq, Dossier No. 66/67/Labour/1982, consolidated, Serial No. 149

26. The plaintiff (appellant) instituted his action before the Labour Court of Anbar requesting a judgement assigning him a pension because his disability was 100 per cent as assessed by the Medical Board of the Pensions and Social Security Bureau of Anbar. That application was rejected because the disability originated prior to his taking up employment. The Labour Court issued a judgement rejecting the claim of the plaintiff because the plaintiff had been blind and the disability had originated before his taking up the insured employment. That was evident from the fact that he had been exempted from military service because of affliction with the same disease which caused the loss of sight. Accordingly, the provisions of article 50 (b) of the Workers' Pension and Social Security Act in force were not met.

27. Because the plaintiff was not satisfied, he appealed the decision before the Court of Cassation.

28. Upon scrutiny and deliberation, it was found that the appealed judgement was not legally sound, inasmuch as it was established from the pleadings and the medical reports displayed that the appellant had been sent for an examination on 10 April 1971 and had been appointed on the basis of a physical fitness report and pursuant to an administrative order. That proved decisively that, at the time of his appointment, he was not totally blind. Inasmuch as the appellant continued in his employment until 2 October 1975 and during that time discharged his functions with nothing to indicate that he had lost his sight, verification of the fact that he lost his sight subsequently and during the term of his employment, as is established by the report of the permanent Medical Board, gave him the right to claim the pension as an entitlement. The argument based on the report that he was exempted from military service had no legal force, because it was stated in the said medical report that the appellant was suffering from thickening of the cornea in the right eye and that his vision was 6/6. In the circumstances, the appellant was not regarded as having lost his vision 100 per cent at the time of his entry on employment, total disability having occurred after appointment and during employment. It was therefore decided that the appeal should be rejected and that the case should be referred back to the Court of Merits to be proceeded with in the said manner and be made the subject of a legal judgement. The decision was issued unanimously.

Annex III

INFORMATION ON SOCIAL SECURITY PROJECTS IN THE COUNTRY AND
ON THE EXTENT OF THE LEADERSHIP'S CONCERN FOR SUCH MATTERS

1. The Workers' Pension and Social Security Organization undertakes, in accordance with the provisions of the Workers' Pension and Social Security Act (Act No. 39 of 1971), as amended, the planning and implementation of general social services projects which redound to the benefit of the entire working class in the Republic of Iraq. In the forefront of such projects are: the establishment of social centres; the construction of hospitals, maternity homes, crèches, kindergartens, homes for the disabled, vocational schools, libraries, cultural, artistic and sports clubs, and the construction of vacation, convalescence and recreation centres etc.; and the provision to all such installations of the necessary specialists, technical staffs, and up-to-date scientific equipment and materials.

2. Among the most important projects completed by the Organization, from the date on which the above-mentioned Act entered into force up to 31 December 1984, are the following:

1. Two projects for the construction of 917 dwelling houses in Baghdad and Arbil Governorates.
2. Three schools in Baghdad.
3. Ten social centres, apportioned between Baghdad and the provinces.
4. Three co-operative markets in Baghdad.
5. The Al-Kindi Hospital in Baghdad.
6. Nine crèches, apportioned between Baghdad and the provinces.
7. Five kindergartens in the provinces.
8. Four office complexes for the Ministry of Labour and Social Affairs in Karbala, Babil, Anbar, and Ta'mim Governorates.
9. Two workers' clubs and libraries in Arbil and Nineveh Governorates.
10. Two buildings in Shari' al-Khulafa', Baghdad.
11. Two workers' hotels in Basra Governorate and Hadithah District.
12. Supplementary wings annexed to social centres for use as halls for crèches.
13. A health centre in Al-Madinah al-Ummaliyah (7 Nisan), Baghdad.
14. A kindergarten in Dohuk Governorate.

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15. A crèche in Arbil Governorate.
16. An office complex for the Ministry of Labour and Social Affairs in Diyala Governorate.
17. A workers' club and library in Diyala Governorate.
18. An out-patient clinic for the Social Security Hospital in Rusafah, Baghdad.
19. A crèche for the wool-spinning and -weaving factory (formerly Pattah Pasha) in Kazimiyah.
20. A crèche at the Al-Sikak shawl-making centre in Karkh, Baghdad.
21. A workers' club and library in Babil Governorate.
22. A crèche in Maisan Governorate.
23. An office complex for the Ministry of Labour and Social Affairs in the Basra Governorate.
24. Five out of an original six buildings in Shari' al-Kuwait in Ashar, Basra Governorate.
25. A crèche at the jute plant in Karkh, Baghdad Governorate.
26. The Za'faraniyah crèche in Rusafah, Baghdad Governorate.
27. A crèche at the Public Establishment for the Electrical Industries in Waziriyah, Baghdad Governorate.
28. The workers' hotel in Salahuddin.
29. A crèche in Nineveh Governorate.
30. A crèche in Diyala Governorate.
31. A workers' club and library in 7 Nisan, Baghdad.
32. A kindergarten in Waziriyah, Baghdad.
33. A crèche in Karbala Governorate.
34. A crèche in Najaf Governorate.
35. A workers' club and library in Maisan Governorate.
36. A workers' club and library in Basra Governorate.
37. Furnishing of the crèches.

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3. There are other projects which are presently in the course of being carried out, the most important of which are:

1. Office complexes for the Ministry of Labour and Social Affairs in Wasif, Arbil, Nineveh and Dohuk Governorates.

2. A workers' club and library in Qadisiyah Governorate, together with a multi-purpose hall.

3. A workers' club and library in Karbalah Governorate.

4. A workers' club and library in Basra Governorate.

5. A workers' club and library in Sulaymaniyah Governorate.

6. A vocational training centre in Arbil Governorate.

7. The workers' hotel in Basra Governorate.

8. The building of the State Agency for Labour and Vocational Training.

9. Social Security Building No. 3 in Baghdad Governorate.

10. Construction of 100 residential apartments in Karbala.

4. Studies and designs presently exist for other investment and service projects for the various provinces of the country.
