

The Authority of Administration in Withdrawing Void and Null Decisions

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Abstract

This study focuses on the topic of administrative authority in withdrawing void and null decisions, aiming to understand the mechanisms and powers of administration in this regard through an analytical approach to legal texts and judicial decisions. The study provides a detailed analysis of the foundations and principles governing the administrative authority in withdrawing void decisions, and it reviews the available mechanisms for executing this withdrawal and their practical application. Furthermore, the study also examines the administrative authority in withdrawing null decisions, with an emphasis on analyzing relevant legal texts and judicial rulings to gain a deeper understanding of this authority. The research concludes with important findings regarding the role and authority of administration in this context, along with recommendations for future improvements and the development of administrative policies in this area.

Keywords: *Withdrawal Authority, Void Decisions, Null Decisions*

INTRODUCTION

The withdrawal by administration of its decision that contradicts regulations is an inherent right of the administration and, as previously mentioned, a means of presidential oversight. This occurs when the administration identifies a flaw in the decision it has issued, leading it to retract and directly withdraw this decision with retrospective effect.

Administrative decisions, as previously mentioned, have various types. However, what concerns us in this research is the classification of administrative decisions in terms of generality and abstraction, which we have previously divided into two categories: individual administrative decisions and regulatory administrative decisions. Since the principle is not to withdraw correct administrative decisions due to the rights, benefits, and legal positions that arise from them, and to preserve individuals' rights, this study will explore the administrative authority's power to withdraw administrative decisions, whether individual or regulatory, that contradict regulations. This will be discussed in two sections:

The first section: The withdrawal of void administrative decisions. The second section: The withdrawal of null administrative decisions.

RESEARCH METHODOLOGY

In this study, the analytical method will be applied to legal texts and judicial rulings with the objective of deeply understanding their content. This involves analyzing the concepts and legal principles related to the administrative authority's power to withdraw void and null decisions.

The First Section: Withdrawal of Void Administrative Decisions

The legality and correctness of a decision prevent its withdrawal by the administration, whether the decision is individual or regulatory.

Conversely, if an administrative decision is marred by any defects, such as a minor or serious flaw in jurisdiction, including usurpation of authority, form, violation of regulations, flaw in rationale, or if the decision was made

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with the intent of misusing or deviating authority, it is incumbent upon the administration to retract and annul this decision both retroactively and for the future, treating it as if it never existed.

This is affirmed by Cabinet Decision No. (27) dated 10/2/1404H, which included procedures for compensating an employee dismissed in violation of regulations. Article three states: "If the administrative authority decides to cancel a dismissal decision due to its violation of regulations and treats it as non-existent, and the employee's absence from work does not exceed a year, then his full salaries for the period between his dismissal and his return to work shall be paid, provided that he did not occupy a position in the state or elsewhere during the absence" (Audit Bureau, 2014).

The aforementioned decision underscores the administrative authority's right to withdraw its flawed decision, to be effective retroactively from the date of the withdrawn decision and its consequences.

Similarly, an administrative court ruling included that the administration, having erred in dismissing an employee, aimed to correct its wrongful decision by issuing a decision that annuls the dismissal and reinstates the dismissed employee.

This entails returning the employee to service, treating his dismissal as if it had never happened, and counting his service period, including the time between the withdrawal and the withdrawn decision (Board of Grievances, 2012). *Timing for Withdrawal of Void Administrative Decisions:* Previously, the administration's withdrawal of its void decision was not confined by statutory periods and was unrestricted regardless of the elapsed time, giving the administrative authority the right to withdraw the void administrative decision without a specific deadline. This was based on the judicial principle issued by the Audit Bureau in its plenary session No. (9) for the year 1423H (Audit Bureau, 2011), which decreed that administrative decisions violating regulations are not protected by lapse of time for the issuing administrative authority, and several judicial rulings have been issued based on this principle, allowing the administration to withdraw its regulation-violating decision regardless of the period, based on this principle. However, this principle was only upheld for a few years before the Audit Bureau plenary session shifted to another principle, which generally considers administrative decisions as protected from withdrawal, emphasizing the principle of stabilizing legal statuses and conditions (Audit Bureau, 2013).

Given that the principle in the Board of Grievances became the general protection of administrative decisions from withdrawal, if the decision intended for withdrawal exceeds the statutory period for judicial appeal without being withdrawn by the administration, it becomes protected and cannot be withdrawn under any circumstances. In accordance with the above, an administrative court ruling stated: "Given that it is established in jurisprudence and administrative judiciary that it is permissible to correct a void administrative decision through a subsequent action that removes its flaw by terminating its legal force through withdrawal, whether wholly or partially, explicitly or implicitly, by adopting a decision that can only be rationalized by its termination, unless it becomes protected by the lapse of the judicial appeal period for its withdrawal; therefore, it is possible to do so during an annulment lawsuit if it has indeed been raised" (Board of Grievances, 2016).

The aforementioned ruling restricted the possibility of withdrawing a void administrative decision to the annulment period, thus, the withdrawal of the administrative decision is subject to the same conditions as the annulment lawsuit, whether concerning the start of the annulment period or its extension through suspension or interruption. It is noted that the administration can withdraw its void decision as long as it has filed an annulment lawsuit with the Board of Grievances, but only before a verdict is reached, and the requests in the lawsuit must match the opponent's without any addition or omission.

A ruling by the administrative court differentiated the timing between individual decisions and regulatory decisions, stating that the administrative judiciary has settled on the permissibility of withdrawing regulatory decisions at any time as required by the public interest. However, individual decisions cannot be withdrawn except within the legally specified period for challenging them.

If this period ends, the decision becomes protected from withdrawal. This judgment is subject to scrutiny for two reasons: The first reason is that regulatory provisions violating regulations, like administrative decisions, cannot be withdrawn once they are applied individually and individuals derive their legal positions through

them, except within the period allowed for filing an annulment lawsuit with the judicial authority (Al-Tamawy, 2013).

The second reason is that the judgment stated this as settled by the administrative judiciary, which is incorrect. The principle issued by the Audit Bureau in its plenary session No. (84) contradicts this judgment by stating that the principle is the protection of administrative decisions from withdrawal and others, whether against individuals or the administration, without excluding regulatory decisions. Therefore, I believe it is necessary to differentiate between regulatory decisions in two cases: The first case: If these regulatory decisions do not involve individual rights, in this case, if the administration finds its decisions in violation of regulations, it should annul rather than withdraw them; since such decisions originally did not generate legal effects, and this case is referred to by judicial rulings at the Board of Grievances, which are not restricted by statutory periods.

The second case: When individual rights are involved, the administration has the right to withdraw these decisions, but must adhere to statutory periods. If the decision exceeds the judicial appeal period without being withdrawn, it becomes protected from withdrawal, just like an individual administrative decision. Starting the Countdown for Withdrawal In regulatory decisions, the period is counted from the date of publication, considering the publication date as the date that constitutes evidence for the addressed individuals. For individual decisions, the period starts from the date the individual is informed (Al-Sinary, 1994). Thus, the withdrawal of void administrative decisions becomes protected after sixty days from the date the decision owner becomes aware of it, or within the judicial appeal period if the aggrieved party files an annulment lawsuit with the Board of Grievances, where the period extends until a judicial ruling is issued.

While the principle is the protection of administrative decisions from withdrawal, there are exceptions to this protection, such as decisions issued due to fraud or deceit for the benefit of the person for whom the decision was made, flawed decisions that were not published and unknown to their owners, actions that the regulations permit or obligate to be withdrawn without adhering to statutory periods, executive decisions (Al-Tamawy, 2013), decisions resulting from judicially annulled decisions that have become final due to the lack of basis they rely on, if the basis falls, it is natural that the derivatives follow it regardless of the elapsed time, and finally, decisions regarding salary adjustments, bonuses, benefits, etc.; since the employee is bound by general regulatory rules governing him, if the administration errs, it is considered an executive error and deviation from its restricted authority, requiring it to revert to the regulatory rule without specifying adherence to the judicial appeal periods for administrative decisions (Audit Bureau, 2017).

Withdrawal Procedures: It is not required that withdrawal procedures be completed within the sixty-day period; it suffices that the administration begins the withdrawal process. Once started, the periods are considered null, meaning that if the administration delays issuing the withdrawal decision after the sixty-day period, its action is valid and correct as long as it began before the decision became protected from withdrawal (Fouda, 2012).

The Second Section: Withdrawal of Null Administrative Decisions

Just as the administration has the right to withdraw its void decisions, it also has the preeminent right to withdraw its null decisions due to the grave and significant violations against the administration involved. This is supported by an administrative court ruling, which included that appointing an employee during a period in which his appointment is prohibited makes the decision severely flawed, reducing it to nullity and stripping it of any immunity, thus allowing its withdrawal at any time (Board of Grievances, 2003).

Administrative Applications: (Al-Lahem, 2001) Withdrawal of Civil Service Council Decision No. 90 dated 17/1/1399H, which decreed that appointing a group of muezzins in the Ministry of Islamic Affairs after they had surpassed the age of sixty was a violation of regulations. Consequently, a decision was issued to withdraw these muezzins' appointments due to the violation.

Another administrative application involved the withdrawal of a promotion decision for a member of Riyadh University to a financial controller position; since he was unqualified and did not meet the conditions for the role, a decision was issued to revert him to his previous position, nullifying any rights gained from the void promotion.

Similarly, the issuance of Cabinet Decision No. 1338 dated 18-19/10/1388H, which involved withdrawing Saudi nationality from an individual because it was acquired through irregular means, demonstrates the withdrawal of the decision under which this person obtained Saudi nationality. By withdrawing nationality, all effects resulting from obtaining Saudi nationality are nullified.

While the administration has the right to withdraw its void and null decisions, whether individual or regulatory, this right is not absolute but initially defined by a specific period. The Board of Grievances has restricted this right by necessitating the withdrawal of the administrative decision violating regulations within the judicial appeal period and also during the judicial cancellation periods if the interested party filed a legal lawsuit to challenge the decision (Al-Sinary, 2008).

Timing for Withdrawal of Null Administrative Decisions: As previously mentioned, the Board of Grievances established the principle that administrative decisions, whether regulatory or individual, are generally protected to preserve legal stability. However, it made several exceptions to this principle, among which the null administrative decision is of interest here. The Board of Grievances decided that a null decision is exempt from this principle, stating: "Decisions that do not gain protection over time include, first, null decisions which involve a grave violation of regulations stripping them of their administrative character, because these decisions contain a flaw so severe that it strips them of their administrative nature and reduces them to nonexistence. Thus, they do not acquire the established immunity, and the administrative entity has the right to withdraw them at any time" (Al-Tamawy, 2008).

Applying this principle, the Board of Grievances in its administrative rulings decided that if an administrative decision is null, it is not protected by statutory periods (Board of Grievances, 2013). Therefore, the administration may withdraw a null decision at any time to correct the error it made; since a null administrative decision does not establish any legal statuses or conditions, regardless of how much time has passed.

The Authority to Withdraw Void Administrative Decisions The authority to withdraw an administrative decision belongs to the same administration that issued the decision violating the regulations, whether the violation was grave or minor, or to the higher authority relative to it (Al-Tamawy, 2013).

This is supported by several administrative rulings, including a judgment from the administrative court, which stated: "Especially since the withdrawal of the decision is a power granted to the administrative authority whenever it sees fit" (Board of Grievances, 2007).

RESULTS

The study concluded the following results:

The withdrawal of a correct and valid administrative decision is prohibited, but it is permissible if the decision suffers from flaws such as lack of jurisdiction of the administrative authority or violation of regulations.

The old legal policy allowed the withdrawal of void decisions at any time, but it changed to make the protection of the decision the norm.

In addition to withdrawing void decisions, the administration may also withdraw null decisions that demonstrate a serious deviation in the use of authority.

The withdrawal of decisions depends on the legal evaluation of the decision and circumstances, and the administration takes appropriate measures to withdraw and annul them in a way that preserves the stability of legal statuses and the rights of citizens.

RECOMMENDATIONS

Based on the findings derived from the study of the administrative authority in withdrawing void and null decisions, the following recommendations can be proposed:

Regulatory authorities should define clear procedures for withdrawing void and null decisions, clarifying the criteria and specific timings for this process.

Appropriate training should be provided to administrative staff to understand the laws and judicial rulings related to the withdrawal of decisions, in addition to providing guidance and awareness about the necessary standards for making correct decisions.

Administrations should enhance internal review mechanisms to ensure decisions comply with laws and regulations, verifying their validity and correctness before issuance.

It is essential to enhance the transparency of administrative decision-making processes, including clarifying the bases and criteria used in making decisions, to foster trust in the administrative system and ensure accountability.

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