

Federal Court



Cour fédérale

Date: 20250407

Docket: IMM-7428-24

Citation: 2025 FC 640

Toronto, Ontario, April 7, 2025

PRESENT: The Honourable Madam Justice Turley

BETWEEN:

**MOHAMMAD SHAMIM KHAN
YASMEEN KHATOON
MOHAMMAD RAZA
MAHENOOR
ASRA FATIMA**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicants, citizens of India, seek judicial review of a decision by an Immigration, Refugees and Citizenship Canada officer [Officer] rejecting the Principal Applicant's work permit application. The Officer was not satisfied that the Principal Applicant would leave Canada at the end of his stay in accordance with paragraph 200(1)(b) of the *Immigration and Refugee Protection*

Regulations, SOR/2002-227 [*IRPR*]. Based on this refusal, the visa applications of his spouse and children were also refused.

[2] I am dismissing the application. The Applicants have failed to establish that the Officer's decision is unreasonable. The onus was on them to establish that they would leave Canada at the end of the Principal Applicant's work permit: *IRPR*, ss 179(b) and 200(1)(b); *Immigration and Refugee Protection Act*, SC 2001, c 27, s 20(1)(b). Indeed, the Applicants concede that they failed to demonstrate that the Principal Applicant has any education or employment commitments in, or any strong financial or familial ties to, India.

[3] The Applicants argue that despite this lack of evidence, the Officer's failure to examine their history of compliance with immigration laws renders the decision unreasonable. They assert that even though they did not raise this factor in the work permit renewal application, it was incumbent on the Officer to take compliance into consideration in making their decision. The jurisprudence cited by the Applicants in support of this argument does not explicitly state that an officer is obliged to consider this factor when it is not raised by an applicant. The Respondent's position is that the onus was on the Applicants to specifically advance compliance as a factor in favour of granting their applications. No jurisprudence was cited in support of the Respondent's argument.

[4] I need not resolve this issue here. While an applicant's immigration compliance history is relevant to the assessment of whether they will leave Canada at the end of their authorized stay, it is but one factor: *Singh v Canada (Citizenship and Immigration)*, 2022 FC 1643 at para 24 [*Singh*

2022]; *Quraishi v Canada (Citizenship and Immigration)*, 2021 FC 1145 at para 13. Absent other shortcomings in an officer's decision, failure to consider an applicant's positive immigration history will not vitiate the decision: *Badhan v Canada (Citizenship and Immigration)*, 2018 FC 704 at para 21; *Singh v Canada (Citizenship and Immigration)*, 2017 FC 894 at para 24. Thus, even if the Officer erred by failing to consider compliance on their own initiative, I have not found any other reviewable errors in their decision.

[5] The Applicants further argue that the Officer erred in failing to explain why they were not satisfied that the Principal Applicant was a "genuine worker". I do not agree that the Officer was questioning the genuineness of the Principal Applicant's employment and that this was another reason for refusing the work permit renewal.

[6] As the Supreme Court has made clear, administrative decision-maker's reasons "must be read holistically and contextually": *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 97 [*Vavilov*]. Further, it is not a "line-by-line treasure hunt for error": *Vavilov* at para 102.

[7] The Officer's Global Case Management System [GCMS] notes read as follows:

Client is requesting a LMIA-E based work permit for position as a Clergy at spiritualsocietycanadainc [*sic*]. I am not satisfied that subject is a genuine worker that will leave Canada at the end of their authorized stay. Client has received multiple extensions since their arrival to Canada as a clergy with Spiritual society Canada Inc. Client does not have any education or employment in home country that they are committed to. Client has not demonstrated any strong financial or familial ties to home country. The onus is on the client to provide proof to satisfy officer that the client will leave Canada

by end of the period authorized for their stay. Application refused as per R200(1)(b) and letter sent advising client to leave Canada.

GCMS notes dated April 17, 2024, Certified Tribunal Record at 2

[8] I agree with the Respondent that, read in context, the second sentence above states that the Officer was not satisfied that the Principal Applicant would leave Canada at the end of his work permit. Reading the decision as a whole, I am satisfied that the Officer did not question the genuineness of the Principal Applicant's employment. Rather, the GCMS notes make clear that the Applicants failed to discharge their onus that they would leave Canada at the end of their stay.

[9] Furthermore, there is no reference in the Officer's decision to the *IRPR* provisions dealing with the genuineness of the job offer: *IRPR*, s 200(5). By contrast, the Officer cites the *IRPR* provision providing that a work permit applicant must establish that they "will leave Canada by the end of the period authorized for their stay": *IRPR*, s 200(1)(b).

[10] Finally, the Applicants argue that the Officer unreasonably used the Principal Applicant's multiple work permit extensions against him. Again, I disagree. Read in context, the statement "Client has received multiple extensions since their arrival to Canada as a clergy with Spiritual society Canada Inc." is simply a statement of fact. Unlike other cases, there is no indication that the Officer relied upon this fact in concluding that the Applicants would not leave Canada at the end of the Principal Applicant's work period: *Singh 2022* at para 30; *Momi v Canada (Citizenship and Immigration)*, 2013 FC 162 at para 24; *Gu v Canada (Citizenship and Immigration)*, 2010 FC 522 at para 21.

[11] Based on the foregoing, the application is dismissed. The Applicants have failed to establish that the Officer's refusal of their applications was unreasonable.

[12] The parties did not propose a question for certification and I agree that none arise.

JUDGMENT in IMM-7428-24

THIS COURT’S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. There is no question for certification.

“Anne M. Turley”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-7428-24

STYLE OF CAUSE: MOHAMMAD SHAMIM KHAN, YASMEEN
KHATOON, MOHAMMAD RAZA, MAHENOOR,
ASRA FATIMA v THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: MARCH 26, 2025

JUDGMENT AND REASONS: TURLEY J.

DATED: APRIL 7, 2025

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