

Federal Court



Cour fédérale

Date: 20250424

Docket: IMM-5703-24

Citation: 2025 FC 738

Ottawa, Ontario, April 24, 2025

PRESENT: The Honourable Mr. Justice Manson

BETWEEN:

HANNA KIFLE DEGEFU

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] This is an application for judicial review of a decision (the “Decision”) by an Immigration Officer at Immigration, Refugees and Citizenship Canada (the “Officer”). The Decision refused an application for a Work Permit (“WP”) under the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (the “Regulations”).

II. Background

[2] The Applicant, Hanna Kifle Degefu, is an Ethiopian citizen. She came to Canada in August 2015 to attend Columbia International College to complete her last year of high school. She then obtained her undergraduate degree at York University in 2020.

[3] In November 2020, she was approved for a post-graduation work permit (“PGWP”) valid until November 4, 2023.

[4] On March 20, 2023, the Immigration, Refugees and Citizenship Canada (“IRCC”) announced a new policy that international graduates with a recently expired or expiring PGWP would qualify for an additional or extended work permit for up to 18 months. The policy was called “The Public Policy Facilitating the Issuance of an Open Work Permit to Certain Post-Graduation Work Permit Holders” (“TPP”).

[5] On March 31, 2023, the Applicant received an email from the IRCC indicating that she may be eligible to stay and work in Canada for up to an additional 18 months and providing information on how and when to apply for the work permit (“WP”) extension. This email further informed the Applicant that beginning April 6, 2023, PGWP holders who are eligible for a simplified, faster process and who want to extend their WP under this initiative must act before May 20, 2023. The PGWP holders who choose not to “opt-in”, or do not meet the criteria for the simplified WP process may still be eligible for an open WP if they apply for this special measure by submitting a WP application between April 6, 2023, and December 31, 2023.

[6] On April 6, 2023, the IRCC released further details and guidelines about the TPP, including the following eligibility requirements:

To be eligible under this public policy, the foreign national must meet the criteria below.

The foreign national:

- held or holds a PGWP with an expiry date between September 20, 2021, and December 31, 2023
- applied online for an open work permit between April 6, 2023, and December 31, 2023. Applicants can only apply on paper if they can't apply online because of a disability or a problem with the online application
- has requested both
 - a maximum duration of 18 months
 - consideration under this public policy
- has applied for restoration of temporary resident status, under subsection 182(1) of the Immigration and Refugee Protection Regulations, if applicable

[7] On April 5, 2023, IRCC sent the Applicant another email informing her that as a PGWP holder, she may be eligible for a special facilitation measure, an interim work authorization (“IWA”), to allow her to continue working in Canada until May 31, 2024, while she applies for an extended WP under the recently announced special measure.

[8] For the Applicant, because her passport was set to expire past the eligibility requirement, she could not “opt-in” to the special measure, and therefore had to apply by submitting a WP application between April 6, 2023 and December 31, 2023, under the instructions provided in the email she received March 31, 2023.

[9] After receiving her renewed passport at the end of October 2023, the Applicant submitted her PGWP extension application. In an application dated October 30, 2023, the Applicant applied for an open WP to work with her same employer for an unspecified duration. In the “[d]etails of intended work in Canada” section and “[m]y occupation in Canada will be” subsection, the Applicant left blank “[j]ob title” and “[b]rief description of duties”. The Applicant also left blank “[d]uration of expected employment”.

III. The Decision

[10] By letter dated March 19, 2024, the Applicant was advised that her application for a WP was refused. The letter stated as follows:

You have not demonstrated that you are eligible to apply for an Open Work Permit under the Immigration and Refugee Protection Regulations. Your prospective employer is responsible for obtaining a valid Labour Market Impact Assessment and Confirmation from Employment and Social Development Canada.

[11] The Global Case Management System (“GCMS”) notes provide some additional context:

Client has not provided sufficient documentation to be eligible for an open work permit under R205. Noted that one of the Requirements for 2023 PGWP PP is to request consideration under the Policy. Application refused, letter sent advising restoration.

IV. Issues

[12] Was the Decision reasonable?

V. Analysis

[13] The standard of review with respect to the Officer's substantive findings is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at para 25).

[14] The Applicant argues that the Decision refusing her request citing a lack of documentation and failure to mention the TPP in her application is unreasonable because the Officer failed to provide any detail regarding what documents were lacking.

[15] The Applicant asserts that she submitted all the required documents: a copy of her renewed passport; her application to change conditions, extend her stay, or remain in Canada as a worker; and proof of payment. In the Applicant's opinion, the Officer's references to section 205 of the *Regulations* is unclear since the TPP for extending PGWP specifies the necessary documentation.

[16] Further, the Applicant submits that she has fulfilled the four eligibility requirements as set out by the TPP:

- A. The Applicant held a PGWP that was set to expire on November 4, 2023, which falls between the relevant policy dates of September 20, 2021 and December 31, 2023;

- B. The Applicant applied online for an open work permit on making her PGWP extension application on October 31, 2023, before her PGWP expiration date on November 4, 2023, and two months earlier from the expiry of the TPP on December 31, 2023;
- C. The Applicant asserts that she requested an extension of up to 18 months and “implied” that the consideration was per the TPP;
- D. The last requirement did not apply to the Applicant since her PGWP was still valid and her Temporary Resident Visa was valid until March 19, 2024 so she did not need to apply for restoration of her Temporary Resident status.

[17] The Applicant submits that the following circumstances establish that it was “clear” that she applied under the TPP: the nature of the PGWP, as typically PGWP are not extendable, so if someone applies for an extension the only the only reason is if there is a policy exception; the email she received from IRCC on March 31, 2023 indicates that the IRCC “expected” the applicant to apply for an extension since she was eligible; and in her letter she wrote a brief note explaining the delay, which in her view, could only pertain to the time between the announcement of the TPP in March and her application in October 2023, although admittedly it did not mention the TPP.

[18] The Respondent argues that the Applicant failed to meet the mandatory eligibility requirements for a WP under the TPP because she failed to request consideration under this

public policy and failed to specify that her requested WP was for a maximum of 18 months. The Respondent submits the requirement to request consideration under the TPP is a mandatory condition that the Officer had no discretion to ignore, relax, or waive (*Entezami v Canada (Citizenship and Immigration)*, 2025 FC 38 at para 24).

[19] Further, the Respondent points out that in addition to not following the eligibility requirements, the Applicant failed to follow many of the instructions that she was given on how to apply for the extended WP under TPP, if you're in Canada and not "opting-in" to the simplified process, as was the case for the Applicant. These instructions include as follows:

Special instructions for this public policy

When you fill out the work permit application form

- select "Open Work Permit" as the type of work permit you're applying for in the Details of intended work in Canada section
 - Do not select "Post Graduation Work Permit."
- copy and paste "2023 PGWP PP open" as the Job title
- copy and paste "Open Work Permit" in the Brief description of duties field

[20] General instructions on documents to include in an application under the TPP stated:

Upload the correct documents

You need to include the documents listed in your application, including

- a letter that says you're applying for an open work permit under the 2023 Public Policy Facilitating the Issuance of an Open Work Permit to Certain Post Graduation Work Permit (PGWP) Holders

[21] The Applicant did not copy and paste “2023 PGWP PP open” as the job title, she did not copy and paste “Open Work Permit” in the brief description of duties field; and she did not provide a letter that said that she was applying for an open work permit under the 2023 Public Policy Facilitating the Issuance of an Open Work Permit to Certain Post-Graduation Work Permit (PGWP) Holders.

[22] It appears from the record that because the Applicant did not specify that she requested consideration under the TPP as required by the eligibility requirements and instructions, the Officer treated the Applicant’s application as a “standard” WP requiring a Labour Market Impact Assessment and Confirmation from Employment and Social Development Canada to prove eligibility under section 205 of the *Regulations*.

[23] While I empathize with the Applicant, as she was submitting this application without the assistance of counsel, I agree with the Respondent that applying a “less rigid interpretation” of the TPP would be shifting the onus to the Officer. The Applicant has the burden to put together an application that is not only complete but also relevant, convincing and unambiguous (*Azad v Canada (Citizenship and Immigration)*, 2024 FC 702 at para 2). There is no duty on the Officer to clarify or rectify a deficient application (*Shah v Canada (Citizenship and Immigration)*, 2020 FC 448 at para 12).

[24] The Minister issued the TPP for a new open WP for certain PGWP holders pursuant to section 25.2(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (“IRPA”). Subsection 25.2(1) of the IRPA provides that the Minister may, in examining the circumstances

concerning a foreign national who does not meet the requirements of the IRPA, grant that person an exemption from any applicable criteria or obligations of this Act if the foreign national complies with any conditions imposed by the Minister and the Minister is of the opinion that it is justified by public policy considerations [emphasis added].

[25] The eligibility requirements of requesting both (a) maximum duration of 18 months and (b) consideration under the policy are requirements constraining the Officer. As stated by Justice Southcott in *Rohani v Canada (Citizenship and Immigration)*, 2024 FC 1037 at paragraph 23:

Whether described as eligibility requirements or conditions, these represent prerequisites that the Minister is stating must be met in order for an IRCC officer to grant permanent residence pursuant to the Pathway Program. Officers' authority to grant permanent residence, as delegates of the Minister, is conferred by section 25.2 of *IRPA*, and that authority is constrained by the conditions imposed by the Minister as expressly contemplated by the language of that section.

[26] The Officer was bound by the factual and legal constraints to deny the Applicant's WP application. Again, I acknowledge that this is an unfortunate situation for the Applicant, but what seem to be minor administration errors in her view, are requirements imposed by the Minister that must be met before an officer can exercise their discretion. The Applicant has not established that the Officer possessed a discretion that they failed to exercise. For these reasons, the Decision is reasonable.

VI. Conclusion

[27] This application is dismissed.

[28] There is no question for certification.

JUDGMENT in IMM-5703-24

THIS COURT'S JUDGMENT is that:

1. This application is dismissed.
2. There is no question for certification.

"Michael D. Manson"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-5703-24

STYLE OF CAUSE: HANNA KIFLE DEFEFU v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

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