Federal Court  Cour fédérale

Date: 20250428

Docket: IMM-4946-24

Citation: 2025 FC 758

Toronto, Ontario, April 28, 2025

PRESENT: Justice Andrew D. Little

BETWEEN:

MUHAMMAD FAISAL KHAN
SHEHER BANO
HANIA KHAN
BISMAH KHAN

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The applicants are citizens of Pakistan. They are four members of a family: a father, a mother and two of their four children.

[2] The applicants applied for temporary resident visas ("TRVs") to visit Canada for about a month. They advised that the purpose of their trip to Canada was to visit the father's sister, a citizen of Canada, who had recently been diagnosed with cancer.

[3] By letter dated February 20, 2024, an immigration officer denied their requests for TRVs.

[4] In this application for judicial review, the applicants request that the negative decisions be set aside as unreasonable under the principles in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, [2019] 4 SCR 653.

[5] I agree that the decisions were unreasonable and must be set aside.

[6] Justice Pentney recently summarized the relevant legal principles in *Motahari v. Canada (Citizenship and Immigration)*, 2025 FC 395, at paragraph 7:

> - A reasonable decision must explain the result, in view of the law and the key facts.
> - *Vavilov* seeks to reinforce a "culture of justification", requiring the decision-maker to provide a logical explanation for the result and to be responsive to the parties' submissions, but it also requires the context for decision-making to be taken into account.
> - Visa Officers face a deluge of applications, and their reasons do not need to be lengthy or detailed. While "boilerplate" language is not inherently unreasonable, reasons must show an actual engagement with the specific situation of the applicant: *Saad v Canada (Citizenship and Immigration)*, 2024 FC 1302 at para 16. The reasons, when viewed in light of the record, must set out the key elements of the Officer's line of analysis and be responsive to the core of the claimant's submissions on the most relevant points.
> - The onus is on the applicant to satisfy the officer that they meet the requirements for a TRV, including that they will leave at the end of their authorized stay.
> - Visa Officers must consider the "push" and "pull" factors that could lead an Applicant to overstay their visa and stay

> in Canada, or that would encourage them to return to their home country.
>
> - The decision must be assessed in light of the context for decision-making, including the high volume of applications to be processed and the nature of the interests involved.
>
> - It is not open to the Minister's counsel or the Court to fashion their own reasons to buttress or supplement the Officer's decision: see *Ajdadi v Canada (Citizenship and Immigration)*, 2024 FC 754 at para 6.

[7] Justice Pentney also confirmed that visa officers considering a TRV application may consider a host of factors including the details provided in the application documents, their knowledge of relevant country conditions and/or travel or other patterns. On a judicial review application, the Court applies a deferential standard of review that includes a requirement for a responsive justification, as described in *Vavilov.* In addition, there are many reasons why people request TRVs and the reason for the request is relevant to the reasonableness analysis. See *Motahari*, at paras 8-9; *Vavilov*, at paras 127-128, 133.

[8] In this case, the decisions rested on the application by the father. The decision letter to the father dated February 20, 2024, advised that the officer was not satisfied that he would leave Canada at the end of his authorized stay under paragraph 179(b) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227, based on two factors: (a) the purpose of the visit to Canada was not consistent with a temporary stay given the details provided in the application; and (b) the father's current employment situation did not show that he was financially established in Pakistan.

[9] The officer's entry in the Global Case Management System ("GCMS") stated, in its entirety:

> I have reviewed the application. I have considered the following factors in my decision. The purpose of the applicant's visit to Canada is not consistent with a temporary stay given the details provided in the application. The applicant's current employment situation does not show that they are financially established in their country of residence. Weighing the factors in this application. I am not satisfied that the applicant will depart Canada at the end of the period authorized for their stay. For the reasons above, I have refused this application.

[10] In his application, the father applicant provided documents confirming the family's purpose in proposing to visit Canada, including the father's personal statement, a statutory declaration from his sister and a letter from the sister's Canadian physician. These documents confirmed the sister's cancer diagnosis and that she needed help and support. The sister's husband could not support her because he had recently a double lung transplant.

[11] The sister also noted in her statutory declaration that she was willing and able to provide for travel and lodging expenses for the family members during the trip.

[12] The TRV applications also confirmed, with supporting evidence, that two of the parents' children (aged 11 and 6 at the time of the decision) would accompany them to Canada. However, their other two children (then aged 14 and 18) would remain in Pakistan. The application also noted other members of the father's immediate family, including his parents, lived in Pakistan. In addition, the father provided financial information about his business.

[13] An administrative decision-maker is presumed to have considered all the evidence before them. That presumption can be rebutted where there is evidence, not mentioned by the decision-maker, that sufficiently contradicts the decision such that the Court can infer the evidence was overlooked: see e.g., *Rehan v. Canada (Citizenship and Immigration)*, 2025 FC 246, at para 17.

[14] On judicial review, the Court may set aside a decision if it fundamentally misapprehended or misunderstood the evidence, or ignored critical evidence before the officer. A decision letter or GCMS notes should, even if briefly, indicate that the officer was aware of the key facts and provide some assessment of or reaction to them: see e.g., *Arodu v. Canada (Citizenship and Immigration)*, 2024 FC 1476, at para 30, 37-40.

[15] Looking at the contents of both the decision letter and the GCMS notes, the officer did not engage with the evidence of the applicant's purpose for seeking the TRVs. There is no mention of the sister's cancer diagnosis or her need for support. There is no reference to the children and other family members that might cause the family to return to Pakistan at the end of their authorized stay. Nor is there any mention of any of the business or financial information provided by the applicant father, which may be a "pull" factor back to Pakistan.

[16] While the GCMS notes referred to the "details provided in the application", we do not know what "details" the officer appeared to consider. Indeed, the letter and the GCMS notes give no indication that the officer considered the contents of this particular applicant's request for a TRV at all. The generic or boilerplate contents of the decision letter and GCMS notes could

apply to any number of TRV applications. This gives rise to concerns about transparency and justification, two of the critical hallmarks of a reasonable decision: *Vavilov,* at paras 12-15.

[17] There may be circumstances in which an applicant, or a family of applicants, has requested a TRV with a very thin record disclosing no obvious purpose for their visit and few ongoing ties to their home nation. In such a case, it might be clear and obvious to the Court, in light of the record, why an officer reasonably decided to deny a TRV. That is not the case here. In this case, there was sufficient evidence in the record before the officer about a specific purpose for the applicants' proposed visit, and about factors that would pull the applicants to return to Pakistan at the conclusion of their authorized stay. That evidence was central to the father's application and constrained the officer to provide an explanation, even if brief, for any decision reached that was inconsistent with it. See *Motahari,* at paras 7 (especially bullets 2-3), 12-14, 18.

[18] As the respondent properly recognized, the Court cannot provide additional reasons to supplement or buttress the reasons provided by the officer in the decision letter and the GCMS notes: *Vavilov,* at paras 96-97. Nor can the Court conduct its own review of the record to decide what it would do on the merits of the TRV application: *Vavilov,* at para 83.

[19] Absent any reference to the material evidence running contrary to the officer's conclusions, and finding no explanation for the negative decision in light of that evidence, I must conclude that the decision was unreasonable for failing to respect the factual constraints bearing

on the decision and failing to provide a responsive justification to the father applicant's request for a TRV: *Vavilov,* at paras 99-100, 104, 125-128.

[20] As the TRV decision on the father's application must be set aside as unreasonable, it follows that the negative decisions for the other applicants' TRV applications must also be set aside.

[21] I recognize and appreciate the capable and responsible submissions made on this application by the lawyers for both the applicants and the respondent.

[22] The application for judicial review is allowed and the TRV applications are remitted for redetermination. There is no question to certify for appeal.

JUDGMENT in IMM-4946-24

1. The application for judicial review is allowed.

2. The decisions in respect of the applicants' applications for temporary resident visas dated February 20, 2024, are set aside.

3. All of the applicants' applications are remitted for redetermination by another officer.

4. No question is certified for appeal under paragraph 74(*d*) of the *Immigration and Refugee Protection Act.*

"Andrew D. Little"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-4946-24
STYLE OF CAUSE:	MUHAMMAD FAISAL KHAN, SHEHER BANO, HANIA KHAN, BISMAH KHAN v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	TORONTO, ONTARIO
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