Federal Court Cour fédérale

Date: 20250604

Docket: IMM-379-24

Citation: 2025 FC 1003

Ottawa, Ontario, June 4, 2025

PRESENT: Madam Justice Sadrehashemi

BETWEEN:

GEORGE K MERIJOHN

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, George Merijohn, applied for permanent residence under the Federal Skilled Worker Class ("Skilled Worker Application"). An officer at Immigration, Refugees and Citizenship Canada ("the Officer") refused Mr. Merijohn's Skilled Worker Application. He challenges this refusal on judicial review.

[2] Mr. Merijohn argues that the Officer's decision is unreasonable because: i) it is internally incoherent; ii) it requires all duties listed in the National Occupational Classification ("NOC") to be part of the job; and iii) it considers his job duties against the wrong NOC subgroup.

[3] I do not agree that the Officer's decision is internally incoherent or requires that all duties be performed as set out in the NOC. Though I agree with the Applicant that the Officer referenced the wrong NOC subgroup, the Officer's core concern applied to both NOC subgroups which both involved senior manager level positions. The Officer found that Mr. Merijohn had no employees and that this was inconsistent with being a senior manager. Mr. Merijohn has not raised any sufficiently serious shortcoming with key basis on which the Officer refused the application. Accordingly, I dismiss the judicial review.

II. Procedural History

[4] Mr. Merijohn, a dentist trained in the United States, set up a company in B.C. to provide health consulting services. Mr. Merijohn was President/CEO for the company and in February 2021 obtained a positive Labour Market Impact Assessment ("LMIA") for this position under the NOC 0013 – Senior managers – financial, communications and other business services. In June 2021, he was issued a work permit to work as the President/CEO of his company.

[5] Approximately a year later, Mr. Merijohn entered the express entry pool of candidates for the Federal Skilled Worker program. As part of his request to be invited to apply, Mr. Merijohn included 200 additional points under the Comprehensive Ranking System ("CRS") for having an

“arranged employment”. In July 2022, based on his points, Mr. Merijohn received an invitation to apply for permanent residence.

[6] In reviewing his application for permanent residence, the Officer had concerns about the nature of the “arranged employment” for which Mr. Merijohn received 200 additional points in the express entry pool. On December 23, 2023, the Officer sent him a procedural fairness letter that expressed concern with the limited information provided on the nature of the work he was doing and intended to do – the basis for receiving 200 points for “arranged employment”. The Officer noted:

> You claimed 200 CRS points for this job offer, however you have not submitted sufficient documentary evidence to support this level of declared NOC. A review of your immigration history indicates you are working on a LMIA based work permit, but you have provided very limited information about your current employment and job offer.

[7] The Officer then requested a series of documents regarding Mr. Merijohn’s “arranged employment” including financial documents, an organizational chart, and forms for employees in 2021 and 2022. Mr. Merijohn responded to the procedural fairness letter and provided further documentation.

[8] On January 3, 2024, the Officer refused Mr. Merijohn’s Skilled Worker Application under paragraph 11.2(1)(b) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]. The Officer was not satisfied that there was sufficient evidence to indicate that Mr. Merijohn “possesses a qualifying offer of arranged employment under Major Group 00 of the NOC matrix”. The Officer found that Mr. Merijohn was invited to apply for permanent residence

based on having "a qualifying offer of arranged employment under Major Group 00 of the NOC matrix" and that, without these additional points for arranged employment in this category (200 points), he would not have been invited to apply at that time based on his score.

[9] Following the refusal decision, Mr. Merijohn submitted additional documentation that was reviewed by the Officer on January 10, 2024. The Officer noted that these documents "align[ed] consistently with the financial documentation previously submitted…" and therefore did not change their decision.

III. Issue and Standard of Review

[10] Mr. Merijohn is not challenging the procedure followed by the Officer. Mr. Merijohn centres his arguments on the substance of the decision. The parties agree, as do I, that I ought to review the merits of the Officer's decision on a reasonableness standard.

[11] The Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] described a reasonable decision as "one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker" (*Vavilov* at para 85). Administrative decision-makers must ensure that their exercise of public power is "justified, intelligible and transparent, not in the abstract, but to the individuals subject to it" (*Vavilov* at para 95).

IV. Analysis

[12] The Officer refused the application because they found that at the time of the invitation, Mr. Merijohn "[did] not have the qualifications on the basis of which they were ranked under an instruction given under paragraph 10.3(1)(h) and [was] consequently issued the invitation" (*IRPA*, paragraph 11.2(1)(b)). Reading the Officer's decision as a whole, their key concern is that Mr. Merijohn's arranged work did not involve the management of other employees and therefore was not appropriately classified as part of the "Major Group 00 of the NOC matrix" as a "senior manager" who had to supervise the work of "middle managers".

[13] Mr. Merijohn makes several arguments challenging the decision. First, he argues that the decision is internally incoherent. At the outset of the decision the Officer states that Mr. Merijohn met the "minimal entry criteria" of the Federal Skilled Worker Class as set out in section 75 of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR]. Later in the decision the Officer explains their concerns with Mr. Merijohn's "arranged employment" in reference to the criteria in paragraphs 75(b) and (c) of IRPR, considering the lead statement for the NOC and the duties listed for the NOC.

[14] While the Officer's decision could have been worded more clearly, read holistically, there is no doubt that the Officer had concerns about Mr. Merijohn's "arranged employment" and whether it was consistent with a senior manager NOC. This is clear throughout the decision. Reasons are not reviewed against a "standard of perfection" (*Vavilov* at para 91).

[15] Mr. Merijohn also argues that the Officer was unreasonable in requiring that he meet all of the job duties listed in the NOC. Mr. Merijohn asserts that by commenting that three of the six job duties were not being performed, the Officer was requiring that he do all the job duties listed in the NOC. Yet, the NOC itself states that "some or all" of the duties may be performed.

[16] In my view, the Officer was pointing to these particular three duties because they illustrate their central concern – that Mr. Merijohn does not manage other employees and this was inconsistent with the nature of a senior manager NOC. This requirement to manage others is set out by the lead statement, whether considering the NOC under which Mr. Merijohn applied (NOC 0013 – senior manager in finance) or the NOC the Officer considered (NOC 00013 – senior manager in health).

[17] This leads to the last argument advanced by Mr. Merijohn – the decision should be set aside because the Officer considered Mr. Merijohn's employment against a NOC under which he did not apply or receive his LMIA. I agree with Mr. Merijohn that the Officer did not acknowledge nor explain why they were referencing a different NOC.

[18] However, in the particular circumstances of this case, I cannot see how remedying this error would have made a difference to the Officer's decision. I say this being mindful that it is not the Court's role to fill in the gaps of the Officer's decision and that we must, on reasonableness review, engage with the reasons that the decision-maker actually provided (*Vavilov* at paras 84-87).

[19] The Officer's concern about the evidence filed in relation to the "arranged employment" is clear. As stated by the Officer:

> The PA's representative highlights the last sentences of [the] lead statement of the declared NOC emphasizing that …[he] may own and operate their own business. While the applicant can own and operate their business as self-employed person, it is important to acknowledge the need for directing and coordinating employees' work to align with CEO/President role. Based on the evidence, … [the Applicant] is [a] self-employed person managing a small consulting business that provides services for dental health professionals. However, the evidence does not demonstrate substantial human resources and organizational structure essential for fulfilling senior management duties under NOC 00013.

[20] This concern is not unique to the specific NOC the Officer considered. In fact, the Officer indicated throughout the decision that their concern was that the Applicant received an invitation based on having an "arranged employment" "under the Major Group 00 of the NOC matrix". In other words, a senior management position, not particular to a specific NOC subgroup. As I have already indicated, the lead statements for both NOCs (the one declared by the Applicant and the Officer's reference) state that senior manager roles involve organizing and planning "through middle managers".

[21] The Officer provided Mr. Merijohn an opportunity to respond to their concerns about his "arranged employment" and then thoroughly reviewed his responding documents and provided a clear rationale for their refusal. I am not satisfied that Mr. Merijohn has raised any sufficiently serious shortcoming in the Officer's decision requiring the Court's intervention (*Vavilov* at para 100). I dismiss the application for judicial review. Neither party raised a question for certification and I agree none arises.

JUDGMENT in IMM-379-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed; and

2. No serious question of general importance is certified.

"Lobat Sadrehashemi"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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