

Federal Court



Cour fédérale

Date: 20250725

Docket: IMM-7326-24

Citation: 2025 FC 1326

Ottawa, Ontario, July 25, 2025

**PRESENT:** The Honourable Madam Justice Turley

**BETWEEN:**

**MUHAMMAD NAEEM ASIF**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] The Applicant seeks judicial review of a decision by an Immigration, Refugees and Citizenship Canada [IRCC] officer rejecting his application for permanent residency under the Provincial Nominee Program and finding him inadmissible for misrepresentation under paragraph 40(1)(a) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]. I am allowing this application because the Applicant did not have an opportunity to address credibility concerns with

documentation he submitted in response to a procedural fairness letter. It was incumbent on the IRCC officer to issue a further procedural fairness letter and allow the Applicant a chance to be heard on these new concerns.

## **II. Background**

[2] The Applicant was nominated by Saskatchewan as a bricklayer and applied for permanent residence in November 2018. The visa he was issued in January 2020 was cancelled in February 2020, and his application was re-opened, due to a tip about “commonalities across other applications”: Global Case Management System [GCMS] note dated February 6, 2020, Certified Tribunal Record [CTR] at 60.

[3] IRCC proceeded to further examine the Applicant’s employment history, and the Canadian job offer. An officer with the Risk Assessment Unit [RAU] visited the Applicant’s previous workplace in Pakistan in March 2022, and spoke with the employer by telephone in April 2022.

[4] On May 11, 2022, an IRCC officer sent the Applicant a procedural fairness letter advising that they had concerns about his prior employment:

Specifically, I have concerns that your claimed employment at Zeeshan Builders has been falsified. A site visit to the location of your claimed employment in April 2022 revealed that Zeeshan Builders is not and has not been in operation at that location or near to it. Verifications conducted with the owners / operators of the business in operation at that location (Zeeshan Estate) revealed that there were no records of employees in your name or consistent with the documentation submitted with your application. Phone verifications with the alleged signatory of your letter of reference from Zeeshan Builders confirmed that he does **not** have any employees with your name. The signatory indicated that Zeeshan

Builders had shifted operations to just behind office #3. However, a site visit did not reveal evidence of Zeeshan Builders operating at that location.

[Emphasis in original]

Letter dated May 11, 2022, CTR at 75.

[5] The Applicant responded with evidence and submissions about the genuineness of his previous employment. In particular, he provided his own declaration, a letter from the owner of Zeeshan Builders (his former employer), Zeeshan Builder's salary records from November 2018 to December 2019, and photographs of the workplace.

[6] After reviewing the RAU's verification report and the Applicant's documentation, the IRCC officer was not satisfied that the Applicant had "the work experience as stated". Further, the officer noted that "[i]t appears that the [Applicant] has provided fraudulent documents to support his application for permanent residence": GCMS note dated March 14, 2024, CTR at 15–16.

[7] The matter was then referred to a delegated decision-maker for possible misrepresentation under section 40 of the *IRPA*. An IRCC Migration Unit manager determined that the Applicant had misrepresented material facts that could have induced an error in the administration of the *IRPA*. His application for permanent residence was thus refused and he was rendered inadmissible to Canada for a period of five years: Letter dated March 18, 2024, CTR at 64–65.

### III. Analysis

[8] Where breaches of procedural fairness are alleged, no standard of review is applied but the Court's reviewing exercise is "best reflected on a correctness standard": *Canadian Hardwood Plywood and Veneer Association v Canada (Attorney General)*, 2023 FCA 74 at para 57; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54 [*CPR*]. When assessing whether procedural fairness was met, a reviewing court asks whether the "procedure was fair having regard to all of the circumstances": *CPR* at para 54.

[9] The degree of procedural fairness required for permanent residence applications is at the lower end of the spectrum: *Sayekan v Canada (Citizenship and Immigration)*, 2025 FC 97 at para 12; *Mohammadzadeh v Canada (Citizenship and Immigration)*, 2022 FC 75 at para 22; *Lv v Canada (Citizenship and Immigration)*, 2018 FC 935 at para 22. However, in cases such as this, where an applicant is rendered inadmissible for five years due to misrepresentation, the degree of procedural fairness increases to reflect the stakes: *Alhadje Issa v Canada (Citizenship and Immigration)*, 2024 FC 154 at para 16; *Akintunde v Canada (Citizenship and Immigration)*, 2022 FC 977 at para 29; *Likhi v Canada (Citizenship and Immigration)*, 2020 FC 171 at paras 26–27.

[10] I agree with the Respondent that an officer has no obligation to advise applicants about concerns with the sufficiency of supporting materials: *Haghshenas v Canada (Citizenship and Immigration)*, 2023 FC 464 at para 21; *Al Aridi v Canada (Citizenship and Immigration)*, 2019 FC 381 at para 20; *Grewal v Canada (Citizenship and Immigration)*, 2017 FC 955 at para 17 [*Grewal*]; *Sulce v Canada (Citizenship and Immigration)*, 2015 FC 1132 at para 16.

[11] However, where an officer questions the credibility, veracity, or genuineness of documentary evidence, applicants must be given an opportunity to respond: *Obasi v Canada (Citizenship and Immigration)*, 2024 FC 746 at para 17; *El Ayachi v Canada (Citizenship and Immigration)*, 2022 FC 609 at para 17; *Patel v Canada (Citizenship and Immigration)*, 2020 FC 77 at para 10; *Uwitonze v Canada (Citizenship and Immigration)*, 2017 FC 245 at para 18; *Mursalim v Canada (Citizenship and Immigration)*, 2016 FC 264 at paras 18, 23 [*Mursalim*]; *Kuhathasan v Canada (Citizenship and Immigration)*, 2008 FC 457 at para 37; *Olorunshola v Canada (Citizenship and Immigration)*, 2007 FC 1056 at paras 33–34.

[12] In this case, I find that the IRCC officer made a credibility finding, not a sufficiency determination, concerning the payroll records. The officer thus breached procedural fairness by failing to give the Applicant an opportunity to address the credibility concerns arising from the salary records submitted in response to the procedural fairness letter: *Kaur v Canada (Immigration, Refugees and Citizenship)*, 2025 FC 360 at para 25; *Zubova v Canada (Citizenship and Immigration)*, 2019 FC 444 at para 19; *Hammad v Canada (Citizenship and Immigration)*, 2018 FC 459 at para 50; *Grewal* at paras 19–20; *Mursalim* at paras 16–17, 23.

[13] The Applicant had submitted payroll records to substantiate the authenticity of his prior employment in response to the procedural fairness letter. The IRCC officer discounted this evidence for the following reasons:

In response to the [procedural fairness letter] he has provided a number of salary bills (these are a list of employees paid each month) for the period November 2018 to December 2019. These are not particularly good quality documents. They appears [*sic*] to have been made in MS Word and completed by hand rather than by a payroll/accounting system. Given that the documents are poor

quality, I give them little weight. I also note that the [Applicant] has not provided any secondary supporting documents such as evidence of the payment of his salary into his bank account or tax documents.

GCMS note dated March 14, 2024, CTR at 14.

[14] The IRCC officer then clearly states that they do not find the salary records credible:

Having reviewed all the information before me, including RAU's verification and the documentation submitted by the [Applicant], I am not satisfied the [Applicant] has the work experience as stated. It appears that the [Applicant] has provided fraudulent documents to support his application for permanent residence.

[Emphasis added]

GCMS note dated March 14, 2024, CTR at 15–16.

[15] I do not agree with the Respondent that the IRCC officer's concerns were simply a reiteration of the initial concerns cited in the procedural fairness letter. I acknowledge that the letter notified the Applicant about concerns that his previous employment had been "falsified": Letter dated May 11, 2022, CTR at 75. However, the Applicant could not have anticipated the IRCC officer's fresh concerns about the "credibility, accuracy, veracity or genuineness" of the payroll records: *Mursalim* at para 23. In the circumstances, a second procedural fairness letter was required.

[16] Notably, on judicial review, the Applicant offered the following explanation in response to the IRCC officer's reasons for finding the payroll records were fraudulent:

[...] handwritten signatures were required from the employees to confirm receipt of salary as we were given our salary in cash. I could have explained that payslips could not be prepared and sent electronically as not all of the employees have emails or are even literate. I could have explained that this is supported by the fact that

some of the employees provided a fingerprint rather than a signature, which is common practice for people who are illiterate in Pakistan.

Affidavit of Muhammad Naeem Asif, affirmed June 14, 2024, at para 12, Applicant's Record at 27.

[17] Ultimately, it is for a new decision-maker to assess the Applicant's explanation and determine whether it assuages any concerns about the genuineness of his prior employment.

[18] At the hearing, I raised a concern about the absence of the RAU verification report in the CTR. As I noted, the GCMS notes indicate that this report was relied upon to refuse the Applicant's permanent residence application and to find that he had misrepresented his employment. It would seem to follow that the RAU verification report (and any documents contained therein) should have been included in the CTR for the purposes of this judicial review, in accordance with Rule 17 of the *Federal Courts Citizenship, Immigration and Refugee Protection Rules*, SOR/93-22. Given this issue was only raised at the hearing, I stated that I would give the parties an opportunity to file post-hearing written submissions on the subject. However, it is unnecessary to adjudicate the completeness of the CTR since I am allowing the application based on procedural fairness.

#### **IV. Conclusion**

[19] For these reasons, the application is allowed. The IRCC officer's decision is set aside, and the matter is remitted to another officer for redetermination. The Applicant must be given the opportunity to submit further evidence and submissions about the payroll records.

[20] The parties did not propose any certified questions, and I agree that none arise.

**JUDGMENT in IMM-7326-24**

**THIS COURT’S JUDGMENT is that:**

1. The application for judicial review is allowed.
2. The decision dated March 18, 2024, is set aside and the matter is remitted to another officer for redetermination.
3. The Applicant will be given an opportunity to submit further evidence and submissions concerning the payroll records.
4. No question is certified for appeal.

“Anne M. Turley”

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-7326-24

**STYLE OF CAUSE:** MUHAMMAD NAEEM ASIF v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** JULY 23, 2025

**JUDGMENT AND REASONS:** TURLEY J.

**DATED:** JULY 25, 2025

**APPEARANCES:**

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