Federal Court  Cour fédérale

Date: 20260116

Docket: IMM-18555-24

Citation: 2026 FC 75

Ottawa, Ontario, January 16, 2026

PRESENT: Madam Justice Azmudeh

BETWEEN:

GUOQIANG XING

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Guoqiang Xing, seeks judicial review of a decision denying his work permit application as an intra-company transferee under the International Mobility Program (IMP). The visa officer (Officer) found that the Applicant had not demonstrated that he met one of the program's prerequisites, namely specialized knowledge.

[2] Under the IMP, a work permit candidate is exempt from the requirement to obtain a Labour Market Impact Assessment (LMIA), and officers consult the relevant operational instructions and guideline to assess whether they qualify for the exemption [International Mobility Program: Canadian interests -Significant benefit - Intra-company transferees [R205(a)] (exemption code C12), hereinafter referred to as the "Guidelines"].

[3] The Applicant's work permit application (Application) was for employment as an instructor with Success Solutions Home Care Agency Ltd. (Success Solutions Canada). Success Solutions Canada is affiliated with his current employer, Success Solutions Career Training School (Success Solutions China).

[4] The Application was submitted in Canada pursuant to the Respondent's temporary policy allowing certain visitors to apply for employer-specific work permits in Canada. The Applicant submitted supporting documentation, including his curriculum vitae (CV), and an Employer Support letter (Letter) from Success Solutions Canada on how the Applicant met the program's requirements. The Letter expressed the following:

> Mr. Xing possesses specialized and proprietary knowledge of our training material and methodology, having been responsible for the curriculum development and implementation at Success Solutions China for the past decade. His expertise has ensured that caregivers trained in China were equipped with the necessary skills and knowledge to excel in Canada.
>
> During his tenure at Success Solutions China, Mr. Xing developed and refined a comprehensive training program tailored specifically to meet the stringent requirements of the Canadian caregiving market. This program encompasses a detailed understanding of both the technical skills and cultural competencies needed for caregivers to thrive in Canadian households. His role involved creating training modules that cover a wide range of caregiving

> aspects, from personal care and household management to effective communication and cultural adaptation.

[5] The Applicant's CV also stated that he had worked as an academic director since May 2014. In that role, he had designed and developed educational programs and curricula that aligned with the school's goals, industry and accreditation standards. He had recruited, hired and supervised teachers and had provided guidance for them.

II. Decision

[6] For the following reasons, I find that the decision was unreasonable. I therefore allow the Applicant's application for judicial review.

III. The Issues and Standard of Review

[7] The parties submit and I agree that the only issue is whether the Officer's decision was reasonable.

[8] The standard of review applicable to visa decisions is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 23 [*Vavilov*]; *Singh v Canada (Citizenship and Immigration)*, 2022 FC 1645 at para 13; S*hah v Canada (Citizenship and Immigration)*, 2022 FC 1741 at para 15). A reasonable decision is "based on an internally coherent and rational chain of analysis" and "is justified in relation to the facts and law that constrain the decision maker" (*Vavilov* at para 85). The reviewing court must ensure that the decision is justifiable, intelligible, and transparent (*Vavilov* at para 95). Justifiable and

transparent decisions account for central issues and concerns raised in the parties' submissions to the decision maker (*Vavilov* at para 127).

IV. Analysis

A. *Was the Officer's Decision Reasonable?*

[9] Under the Guidelines, applicants seeking the LMIA exemption are required to demonstrate both advanced proprietary knowledge required to establish specialized knowledge, and an advanced level of expertise (Guidelines).

[10] The Officer acknowledged that the Respondent demonstrated that he had extensive experience to establish an advanced level of expertise but found that he had not established an advanced proprietary knowledge that would constitute specialized knowledge. As reflected in the Global Case Management System (GCMS) notes, the Officer had stated the following:

> As per client's resume, client has been employed by Success Solutions since May 2014 and submissions indicate they have knowledge of a number of proprietary tools. Submissions offer great detail regarding the use and value of each tool and how they will be utilized for the proposed assignment in Canada. However, with regard to the client's specific experience with the aforementioned tools, documentation does not indicate that client was involved in the development or extensive customization of any of these tools. Submissions further indicate that client has extensive knowledge of a number of operating systems, however none of these appear to be company-specific tools or information. To have specialized knowledge, clients must demonstrate, on a balance of probabilities, a high degree of both proprietary knowledge and advanced expertise. The onus is on the client to support their application with credible documentation to show that they are key personnel, not merely highly skilled. After reviewing the application in its entirety, I am not satisfied that sufficient evidence of specialized knowledge has been presented.

[11] I agree with the Applicant that without further explanation that would shed light on the Officer's thinking, one cannot reconcile a finding that the Applicant has knowledge of several proprietary tools with a finding that these tools are not "company specific".

[12] The Officer concludes that the Applicant "ha[s] knowledge of a number of proprietary tools" but that regarding these tools, the record does not show that the Applicant has experience with the "development or extensive customization" of these tools. On the other hand, the Officer also concludes that the Applicant has "extensive knowledge of a number of operating systems", and it appears that the Officer is suggesting that none of these tools (which are separate from the tools identified in the previous sentence) are proprietary.

[13] "[S]pecialized knowledge" as defined in the Guidelines and another guideline, C63 which serves as an interpretation tool [Qualifying job positions for specialized knowledge workers - Intra-company transferees [R20S(a) - C63] - Canadian interests - International Mobility Program], requires "a high degree" of "both proprietary knowledge and advanced expertise". The Officer seems to have decided while assuming that the Applicant's knowledge of proprietary tools needed to be advanced proprietary knowledge, as defined in the bulletin. The Guidelines defines proprietary knowledge, advanced proprietary knowledge, and an advanced level of expertise as follows:

> **Proprietary knowledge** is company-specific expertise related to a company's product or services. It implies that the company has not divulged specifications that would allow other companies to duplicate the product or service.
>
> **Advanced proprietary knowledge** would require an applicant to demonstrate:

> • uncommon knowledge of the host firm's products or services and its application in international markets; or
>
> • an advanced level of expertise or knowledge of the enterprise's processes and procedures such as its production, research, equipment, techniques or management.
>
> **An advanced level of expertise** is also required, which would require specialized knowledge gained through **significant** (meaning the longer the experience, the more likely the knowledge is indeed "specialized") and **recent** (within the last 5 years) experience with the organization and used by the individual to contribute significantly to the employer's productivity.

[14] It appears as though the Officer proceeded based on the assumption that the advanced expertise must be related to the same tools, such that “advanced proprietary knowledge” is necessary. However, nothing in the Guidelines expressly indicates that the proprietary knowledge and advanced level of expertise must be established with respect to the same tools. The Applicant could plausibly have demonstrated that they have both “proprietary knowledge” and “an advanced level of expertise”, as defined, each independently, without necessarily having “advanced proprietary knowledge”. The Officer’s reasons explained why the Applicant did not have advanced proprietary knowledge under C63; but they did not explain why the Applicant failed to establish that they had proprietary knowledge and an advanced level of expertise.

[15] Normally, this Court would owe deference to the administrator’s interpretation of its policy manuals. It is not open to the Court on judicial review to re-weigh the evidence before a decision-maker (*Vavilov* at para 125). However, the Officer’s lack of explanation on the issue and the failure to mention that the Applicant failed to establish proprietary knowledge and advanced expertise alone, point to a fundamental gap in the reasons (*Vavilov* at 96).

[16] Second, while the Guidelines do not demand that an Applicant be a developer of any of the tools, the Officer faulted him for his failure to establish that he was involved in the "development or extensive customization" of those tools. The Officer cannot create a moving goalpost and apply a higher standard than the program's. By creating their own standard and expectation, in effect, the Officer based their decision on an arbitrary criterion. The Officer based their decision on an irrelevant ground which rendered the decision unreasonable.

V. Conclusion

[17] The Application for judicial review is allowed.

[18] The parties did not propose a certified question, and I agree that none arises in this case.

JUDGMENT IN IMM-18555-24

THIS COURT'S JUDGMENT is that

1. The application for Judicial Review is allowed. This matter is remitted to be decided by a different officer.

2. There is no question for certification.

"Negar Azmudeh"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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