

Federal Court



Cour fédérale

Date: 20260119

Docket: IMM-7224-24

Citation: 2026 FC 79

Ottawa, Ontario, January 19, 2026

PRESENT: **Madam Justice Conroy**

BETWEEN:

GURJEET KAUR

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] Ms. Gurjeet Kaur applied for permanent residency under the Canadian Experience Class. Her application was refused on October 4, 2023 [Initial Decision]. A request for reconsideration was refused on April 3, 2024 [Reconsideration].

[2] The Application for Leave and Judicial [ALJR] identified only the Reconsideration. The Applicant's written and oral submissions, however, challenge both decisions.

[3] I consider the Applicant's arguments in relation to both the Initial Decision and the Reconsideration and conclude there is no basis for the Court to intervene in either. The judicial review is dismissed.

I. **Background**

[4] Ms. Kaur is a citizen of India.

[5] In January 2023, she applied for permanent residency through the Canadian Experience Class [CEC]. The CEC is governed by s. 87.1 of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR] and provides that a foreign national may become a permanent resident if they meet certain criteria including, amongst other things, qualifying Canadian skilled work experience.

[6] Ms. Kaur's application included evidence that she worked as a full-time employee for a transport company from October 2020 to November 2021 as Transport or Dispatch Supervisor for \$15/hour. At the time, she possessed an Open-Work Permit.

[7] In September 2023, Immigration, Refugees and Citizenship Canada [IRCC] sent the Applicant a procedural fairness letter [PFL] expressing concerns about the credibility of her declared Canadian work experience. The PFL set out four concerns: (1) the address listed in the employment letter was a residential address; (2) the Officer was unable to verify the identity of the employer; (3) that the Applicant did not have the requisite skills to perform the duties of a Dispatch Supervisor and as she had no experience in the industry, and (4) the Applicant's wage

(\$15/hour) was inconsistent with salaries for similar positions (the median wage was \$32 per hour).

[8] The Applicant's representative responded to the PFL as follows:

1. The operational centre of the business was located in the basement of the residential address;
2. Corporate registry documents were provided for the employer company, including information that the individual named in her application was a director of the company;
3. The position in question did not require specific work history under the National Occupation Classification [NOC]. The "applicant possesses a strong skill set, including leadership and organizational abilities, gained from education program in Business at St. Clair College that included courses related to supply chain management, recruitment and selection, Organizational behavior, Business communications etc. that helped her to perform the duties of a Dispatch Supervisor. Diploma certificate and transcripts are already enclosed with the application."
4. The Applicant's wage was above the minimum wage in the province. Also due to the pandemic situation and being "being fresher in the field, the applicant accepted the job at this wage rate".

A. *Initial Decision*

[9] The Initial Decision refused her application on the basis that it did not find it credible that she performed the duties under the identified NOC position. The Officer provided the following reasons for the Initial Decision:

On September 20, 2023 a procedural fairness letter was sent to you to address concerns about your Canadian work experience. The response provided by you does not alleviate my concerns about the credibility of your declared employment. You state your education in Business assisted you with the skills needed to preform [sic] the duties of this job. However, I note you have no previous work experience in the transportation industry and no previous supervisory experience at any of your previous jobs. While I note that work experience is not obligatory as per the employment

requirements on the NOC website, however, with no previous work experience (in this field) you have not demonstrated that your education in Business provided you with the needed skills to perform [sic] the duties of this NOC. I further note, the wage rate that you received at this position is significantly lower and is not consistent with salaries for similar positions, as per the job bank. Upon review of all information available along with your response to my concerns, I am not satisfied on the balance of probabilities that you have performed the actions described in the lead statement and/or the main duties of a Dispatch supervisor as set out in the occupational description of this NOC (72024), therefore I am not satisfied that you have accumulated at least one year of full-time (or equivalent part-time) work experience in a NOC 0, A or B level occupation in Canada [sic]

B. *Reconsideration*

[10] The IRCC also refused the Applicant's reconsideration request. The reasons provided for refusing the Reconsideration are as follows:

This refers to your recent communication received at our office, requesting reconsideration of the negative decision rendered on your application.

Your application was considered against the requirements of the Immigration and Refugee Protection Act and Regulations and was refused. A letter explaining the reasons for the refusal was sent to you on October 4, 2023. Your request for reconsideration has been reviewed and there are insufficient reasons for re-opening your application.

II. **Preliminary Issue**

[11] The Respondent asserts that only the Reconsideration is under review in this application, noting that the ALJR refers only to the Reconsideration and not the Initial Decision. Further, the Respondent argues that it is improper and an abuse of process for the Application to challenge

the Initial Decision, noting that any application against it was time-barred by the time the ALJR was filed.

[12] The Applicant argues that the Initial Decision ought to be considered on this judicial review since it is “part of the same application”. She submits:

- “Finality of decision was reached on April 3, 2024.”
- The Respondent’s material provided in response to Rule 9 of the *Federal Courts Citizenship Immigration and Refugee Protection Rules*, SOR/93-22, includes the record for Initial Decision and the request for reconsideration, but no other material or decision on the Reconsideration.
- The Application number for the Initial Decision and the Reconsideration are the same.

[13] The case law on this issue is divided.

[14] This Court has recognized that, in certain circumstances, compelling an applicant to bifurcate proceedings by filing separate applications for judicial review, such that the initial decision and the reconsideration are heard independently, may be contrary to the interests of justice: *Marr v Canada (Citizenship and Immigration)*, 2011 FC 367 at para 56; *Naderika v Canada (Citizenship and Immigration)*, 2015 FC 788 at para 29; *Ghanbari v Canada (Citizenship and Immigration)*, 2024 FC 1880 at paras 4–6; *Agbhonkese v Canada (Citizenship and Immigration)*, 2021 FC 1065 at para 13.

[15] In other cases, this Court has held that an initial refusal and the subsequent reconsideration are separate decisions, each of which must be challenged by way of a separate

application for judicial review: *Medina v Canada (Minister of Citizenship and Immigration)*, 2010 FC 504 at para 32; *Kosolapova v Canada (Minister of Citizenship and Immigration)*, 2014 FC 458 at para 8–9; *Harms-Barbour v Canada (Public Safety and Emergency Preparedness)*, 2021 FC 59 at para 64; *Krivykh v Canada (Citizenship and Immigration)*, 2022 FC 124 at para 4; *Goyal v. Canada (Citizenship and Immigration)*, 2025 FC 905.

[16] In the particular circumstances of this case, I conclude that it is in the interests of justice and judicial economy to consider both the Initial Decision and the Reconsideration together. Counsel for the Respondent provided written and oral submissions on the Initial Decision and the Reconsideration, so no fairness concerns arise. As noted by the Applicant, the CTR includes the complete record for the Initial Decision, but, inexplicably, not the full record for the Reconsideration. I agree with the Applicant: considering the Initial Decision and the Reconsideration by way of separate applications for judicial review in these circumstances would serve no useful purpose and result in an unnecessary duplication of work for the parties and the Court.

[17] I now turn to the merits of the judicial review.

III. Issues and Standard of Review

[18] The Applicant’s issues can be summarized as follows:

1. Is the Initial Decision reasonable?
2. Did the Officer breach procedural fairness by
 - a. refusing the application on a ground that was not raised in the PFL, and

- b. by not calling the Applicant for an interview?
3. Is the Reconsideration reasonable?

[19] The applicable standard of review for issues 1 and 3 is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 23, 25 [Vavilov].

[20] For the procedural fairness issue, the standard of review is akin to correctness: *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54.

IV. Analysis

A. *The Initial Decision Is Reasonable*

[21] As set out above, the Initial Decision turned on the credibility of the employment declared by the Applicant. The Officer was not satisfied that she performed the duties of a Dispatch Supervisor. According to the reasons, the Officer based their conclusion on the following:

- Insufficient evidence of the Applicant's skills for the occupation identified, including her lack of supervisory experience and lack of experience in the transport industry;
- Insufficient evidence that her Business Diploma would have provided her with the necessary skills for the position; and
- Her low wage rate was inconsistent with salaries for comparable positions for this NOC.

[22] The Applicant submits that because the response to the PFL resolved the concern about her education, and prior experience was not required under the relevant NOC, the refusal was

based solely on the Applicant’s wage rate. She argues that this is a reviewable error, relying on *Patil v Canada (Citizenship and Immigration)*, 2020 FC 495 at paragraph 44 [*Patil*].

[23] With respect, that submission is not supported by the record, the reasons or the case law. Contrary to the position advanced by the Applicant’s counsel, it is apparent from the reasons the Officer considered and weighed multiple factors in making his credibility determination.

[24] The reasons disclose that the Officer considered, but did not accept the explanations provided by the Applicant in her response to the PFL. While the Officer accepted that relevant education could, in principle, compensate for a lack of related work experience, they concluded that the Applicant’s business education did not equip her with the skills required to perform the duties of a transport dispatch supervisor. Based on the record it was open to the Officer to come to this conclusion.

[25] Contrary to the situation in *Patil*, the Applicant’s low wage was one of multiple concerns that led to the refusal. In the present case, the record and the reasons do not support the assertion that the Officer used her low wage as a preliminary disqualifying factor or to perform a “gatekeeper function”. As explained in *Qin v Canada (Citizenship and Immigration)*, 2013 FC 147 [*Qin FC*], aff’d 2013 FCA 263 [*Qin FCA*], “there is a significant difference between requiring a minimum salary as the starting point for consideration—and weeding out those who do not earn the minimum salary—as compared to examining the salary paid as but one of the data points relevant to determining if an applicant possesses the requisite experience to qualify as a member of the [CEC]” (at para 33).

[26] As acknowledged by the Applicant, wages are one of many considerations that may be relevant in determining if a CEC applicant satisfies the work experience requirement: *Qin FCA* at para 48.

B. *The Initial Refusal Decision is Procedurally Fair*

[27] The Applicant raises two procedural fairness arguments.

[28] First, the Applicant submits that she was not given a meaningful opportunity to respond to the Officer’s concern that her business diploma did not equip her with the skills required for her employment. She says that that concern appears for the first time in the refusal letter dated October 4, 2023, and was not raised in the PFL.

[29] One of the concerns raised in the PFL was her lack of work experience in the transportation field. The Officer’s conclusion that the Applicant’s education did not assist in demonstrating the requisite skills arose directly from the Applicant’s own response to the PFL, in which she asserted that, notwithstanding her lack of work experience, she possessed “leadership and organizational abilities” derived from her Business program at St. Clair College. It was not unfair for the Officer to rely on the Applicant’s PFL response in this manner.

[30] Second, the Applicant argues that the Officer ought to have called the Applicant for an interview given the credibility concerns, relying on *Maklakov v Canada (Minister of Citizenship and Immigration)*, 2013 FC 242 [*Maklakov*].

[31] I agree with the Respondent, that the duty of procedural fairness here was met by the PFL and that no interview was required. The facts here bear no resemblance to those in *Maklakov*, where the credibility concerns could not be overcome in the absence of an interview (at para 17).

C. *The Reconsideration Decision is Reasonable*

[32] Reconsideration of a decision proceeds in two distinct stages. First, the decision-maker decides whether to reopen the prior decision. If it is determined that the case should be reopened, then at the second stage, there will be a substantive reconsideration on the merits: *Hussein v Canada (Citizenship and Immigration)*, 2018 FC 44 at para 55 [*Hussein*]. The onus is on the applicant to show that reconsideration is warranted in the interests of justice or because of the unusual circumstances of the case: *Hussein* at para 57.

[33] The Applicant argues that the Reconsideration was unreasonable and that it is not possible to determine that the Officer refused the reconsideration on the basis of the first or second stage of the analysis, citing *Katumbus v Minister of Citizenship and Immigration*, 2022 FC 428 at para 12.

[34] There is no merit to the Applicant's argument. It is abundantly clear from the reasons that the reconsideration did not proceed past the first stage. The reasons provide: “[y]our request for reconsideration has been reviewed and there are insufficient reasons for re-opening your application.”

[35] Furthermore, the reasons here demonstrate that the Officer was aware that they had the discretion to reopen the Initial Decision, but declined to do so: *Zhamila v Canada (MCI)*, 2018 FC 88 at para 45 citing *Canada (Citizenship and Immigration) v Kurukkal*, 2010 FCA 230 at paras 3–4.

JUDGMENT in IMM-7224-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is refused.
2. There is no question for certification.

"Meaghan M. Conroy"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-7224-24

STYLE OF CAUSE: GURJEET KAUR v THE MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: VANCOUVER, BRITISH COLUMBIA

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