Federal Court Cour fédérale

Date: 20260123

Docket: IMM-18690-24

Citation: 2026 FC 105

Ottawa, Ontario, January 23, 2026

PRESENT: The Honourable Mr. Justice Zinn

BETWEEN:

DILWINDER SINGH

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] Mr. Dilwinder Singh [Applicant] asks the Court to set aside a decision of a visa officer refusing his work permit application under the Temporary Foreign Worker Program for the position of construction electrical helper. The Officer was not satisfied that Mr. Singh would be able to adequately perform the proposed work and that he would depart Canada at the end of the period authorized for his stay.

[2] For the reasons set out below, I am granting this application for judicial review. Although I find the decision was procedurally fair, its reasons do not permit the Court to understand the basis for the conclusion(s) reached.

I. Background

[3] The Applicant is an Indian national. Prior to the work permit application at issue, Mr. Singh was employed in a similar role as an electrical helper at SINGLA ELECTRONICS in Faridkot, Punjab, India since January 2022. He had no other work experience in India.

II. Decision Below

[4] By letter dated August 13, 2024, the Officer refused the Applicant's work permit application. The reasons for refusal are contained in the decision letter and the Global Case Management System [GCMS] notes, which provide the substantive basis for the Officer's conclusion.

[5] The refusal letter states that the application was refused on the basis that Mr. Singh did not demonstrate an ability to adequately perform the proposed work. The GCMS notes explain the basis for that conclusion. The Officer found that Mr. Singh's "limited years of experience and experience fall short of meeting the work experience requirement essential for fulfilling the duties of the job." [emphasis added]

[6] The Officer also noted that Mr. Singh did not provide bank statements showing salary deposits or financial transactions corresponding to the period reflected in his pay slips.

[7] The Officer, weighing the evidentiary concerns, concluded that Mr. Singh had not provided sufficient evidence to demonstrate that he would depart Canada at the end of his authorized stay. The Officer's conclusion on departure appears in both the refusal letter and the GCMS notes. The refusal letter states: "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."

III. Issue

[8] Before me are challenges to both the procedural fairness and the reasonableness of the Officer's decision.

[9] The Applicant submits that the Officer breached the duty of procedural fairness by failing to provide a meaningful opportunity to respond to a concern said to relate to credibility, specifically the veracity of his claimed work experience. The question for the Court is whether, in the circumstances, the Officer was required to put that concern to Mr. Singh before refusing the application.

[10] The Applicant also challenges the reasonableness of the decision. The Applicant submits that the Officer's conclusion on work experience lacks justification in the evidentiary record and that the reasons, when read as a whole, do not reveal a rational chain of analysis. The question for the Court is whether the reasons permit the Court to trace the path from the evidence to the outcome reached, having regard to Mr. Singh's prior work in a role within the same National Occupational Classification [NOC] as the position for which the permit was sought.

IV. Standard of Review

[11] For questions of procedural fairness, the standard of review is akin to correctness. Justice Pentney in *Kambasaya v Canada (Minister of Citizenship and Immigration)*, 2022 FC 31 at paragraph 19, aptly described that standard:

> Questions of procedural fairness require an approach resembling the correctness standard of review that inquires "whether the procedure was fair having regard to all of the circumstances" (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54 [*Canadian Pacific*]; *Heiltsuk Horizon Maritime Services Ltd v Atlantic Towing Limited*, 2021 FCA 26 at para 107). As noted in *Canadian Pacific* at paragraph 56, "the ultimate question remains whether the applicant knew the case to meet and had a full and fair chance to respond", and at paragraph 54, "[a] reviewing court... asks, with a sharp focus on the nature of the substantive rights involved and the consequences for an individual, whether a fair and just process was followed".

[12] I agree with the parties that the Officer's decision is reviewable on the standard of reasonableness, as articulated by the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*].

[13] I also accept that the reasons stated for decisions made by visa officers need not be extensive for the decision to be reasonable: *Vavilov* at paras 91 and 128; *Kumar v Canada (Citizenship and Immigration)*, 2024 FC 81 at para 21; *Hajiyeva v Canada (Citizenship and Immigration)*, 2020 FC 71 at para 6 [*Hajiyeva*]. This is because of the "enormous pressures [visa officers] face to produce a large volume of decisions every day": *Patel v Canada (Citizenship and Immigration)*, 2020 FC 672 at para 10. Further, visa officers are afforded considerable deference, given the level of expertise they bring to these matters: *Vavilov* at para 93; *Hajiyeva* at

para 4; *Solopova v Canada (Citizenship and Immigration)*, 2016 FC 690 at para 12. The onus is on the applicant who seeks a work permit to satisfy a visa officer that they meet the requirements outlined in the Regulations.

V. Legal Framework

[14] While subsections 30(1) and (1.1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 establish the groundwork for the issuance of work permits, the specific requirements are set out in section 200 of the *Immigration and Refugee Protection Regulations*, SOR/2002-227. Paragraph 200(1)(b) establishes the requirement that foreign nationals must leave Canada upon the expiration of their authorized stay:

Work permits	**Permis de travail — demande préalable à l'entrée au Canada**
200 (1) Subject to subsections (2) and (3) — and, in respect of a foreign national who makes an application for a work permit before entering Canada, subject to section 87.3 of the Act — an officer shall issue a work permit to a foreign national if, following an examination, it is established that	**200 (1)** Sous réserve des paragraphes (2) et (3), et de l'article 87.3 de la Loi dans le cas de l'étranger qui fait la demande préalablement à son entrée au Canada, l'agent délivre un permis de travail à l'étranger si, à l'issue d'un contrôle, les éléments ci-après sont établis :
...	[...]
(b) the foreign national will leave Canada by the end of the period authorized for their stay under Division 2 of Part 9;	**b)** il quittera le Canada à la fin de la période de séjour qui lui est applicable au titre de la section 2 de la partie 9;

[15] Paragraph 200(3)(a) grants visa officers the discretion to refuse applications based on their assessment of the applicants' ability to do the intended work:

Exceptions	**Exceptions**
200 (3) An officer shall not issue a work permit to a foreign national if	**200 (3)** Le permis de travail ne peut être délivré à l'étranger dans les cas suivants :
(a) there are reasonable grounds to believe that the foreign national is unable to perform the work sought;	**a)** l'agent a des motifs raisonnables de croire que l'étranger est incapable d'exercer l'emploi pour lequel le permis de travail est demandé;

VI. Analysis

A. Preliminary Issue: Typographical Error in the Officer's GCMS Notes

[16] The parties agree that the Officer misstated the start date of the Applicant's employment at SINGLA ELECTRONICS as January 2021, rather than January 2022. The Applicant submits that the error reflects a casual review of the record and warrants a redetermination conducted by a different visa officer.

[17] With respect, the Applicant is asking the Court to draw an inference that the record does not support. The error is minor and typographical. The error therefore does not demonstrate inattention, nor does it show that the Officer failed to assess the evidence. A minor typographical error that would have favoured the Applicant, had it been true, cannot reasonably justify that extraordinary direction.

[18] This is not a reviewable error.

B. The Officer did not breach procedural fairness

[19] Procedural fairness requires a visa officer to conduct a process that is transparent, responsive, and anchored to the matters that could affect the result. An applicant must be told of concerns that are material, and must be given the chance to answer them, before the decision is reached. Those concerns include inconsistencies said to exist in the application record, concerns regarding the genuineness or reliability of documents, credibility concerns that could affect the outcome, or the Officer's intended reliance on evidence not found in the record: *Bui v Canada (Minister of Citizenship and Immigration)*, 2019 FC 440 at para 27.

[20] The Applicant submits that the Officer reached a veiled credibility conclusion regarding the authenticity of his claimed work experience, without first providing an opportunity to respond. The Applicant says that if the Officer doubted the genuineness of his experience, procedural fairness required that the concern be put to him, with sufficient clarity to permit a real opportunity to respond, before the decision was made. The Applicant argues this did not occur. The issue for the Court is whether the Officer's reasons or notes disclose a credibility concern, veiled or otherwise, that was material to the outcome, and whether the duty to put that concern was triggered in the circumstances.

[21] The Respondent submits that the Applicant mischaracterizes the Officer's concern as one of credibility rather than sufficiency. The Respondent says that, on a plain reading, the work permit was refused because the Officer was not satisfied that the evidence demonstrated the Applicant's ability to perform the proposed work. The Respondent argues that a finding based

on insufficiency of evidence, without more, does not trigger procedural safeguards beyond those ordinarily afforded in the assessment of a permit application.

[22] Indeed, the jurisprudence establishes that visa applicants must "put their best foot forward" and provide "all necessary information in support of the application:" *Goyal v Canada (Citizenship and Immigration)*, 2025 FC 905 at para 44.

[23] The Applicant says that the Officer should have contacted his employer to verify his experience. With respect, that is not what the duty entails. Visa officers are not required to solicit better evidence, fill gaps in the record, or seek out information that the Applicant did not provide. An officer is also not required to signal evidentiary concerns or seek supplementary documentation to help meet the burden of proof: *Ikeji v Canada (Citizenship and Immigration)*, 2016 FC 1422 at para 50; *Aghvamiamoli v Canada (Citizenship and Immigration)*, 2023 FC 1613 at paras 19–20.

[24] As articulated by Justice Gascon in *Solopova v Canada (Citizenship and Immigration)*, 2016 FC 690 at paragraph 38:

> It is well established that a visa officer has no legal obligation to seek to clarify a deficient application, to reach out and make the applicant's case, to apprise an applicant of concerns relating to whether the requirements set out in the legislation have been met, or to provide the applicant with a running score at every step of the application process (*Sharma v Canada (Citizenship and Immigration)*, 2009 FC 786 at para 8; *Fernandez v Canada (Minister of Citizenship and Immigration)*, [1999] FCJ No 994 (QL) at para 13; *Lam v Canada (Minister of Citizenship and Immigration)* (1998), 152 FTR 316 (FCTD) at para 4).

[25] In my view, the record does not support the Applicant's assertion that the Officer made veiled credibility findings without an opportunity to respond. The Officer's key conclusions were drawn from the evidence provided by the Applicant, particularly the employer reference letter and the pay slips. The Officer identified concerns regarding the sufficiency of that evidence. Those concerns were not expressed as, and did not amount to, a finding that the documents or the Applicant's experience were inauthentic.

[26] There is no breach of procedural fairness.

C. The decision is unreasonable

[27] The Applicant asserts that the decision is unreasonable because the Officer substituted their own criteria for employment requirements set out under the National Occupational Classification [NOC] Guidelines. The Applicant states, and the Respondent acknowledges, that the applicable NOC 75110 for Construction Trades Helpers and Labourers provides that only "some experience" as a general construction labourer "may be required" for the occupation. The Applicant asserts that his two years of work experience as an electrical helper in a role falling within the same NOC met the "some experience" criterion. The Applicant argues that the reasons do not explain why that experience, when measured against the NOC standard, was found to be insufficient.

[28] The Respondent counters that it was open to the Officer to assess the Applicant's work experience on the record before him, and to conclude that the evidence did not satisfy the requirements of the Regulations. The Respondent further submits that NOC criteria are

guidelines, not binding requirements, and that an officer is not required to strictly apply them or confine the assessment to only those criteria: *Wu v Canada (Citizenship and Immigration)*, 2025 FC 1589 at para 26.

[29] The Respondent is correct that an officer is not strictly bound by NOC criteria. That said, the Officer's reasons must still permit review of the conclusion reached. The Officer stated that the Applicant's two years of prior experience as an electrical helper was insufficient, but the reasons do not say why the duties previously performed did not meet the duties of the position for which the permit was sought, nor do they explain why two years of experience was considered limited when the classification contains no quantified minimum. A stated conclusion, without an explained basis, is not a conclusion the Court can assess or review.

[30] I find that the Officer's reasons fail to reveal why the Applicant's prior work experience was found to be insufficient. As Justice McHaffie observed, "[e]ven where the obligation to give reasons is minimal, the Court cannot be left to speculate as to the reasons for a decision, or attempt to fill in those reasons on behalf of a decision-maker where they are not clear from the decision read in light of the record:" *Afuah v Canada (Citizenship and Immigration)*, 2021 FC 596 at para 17.

[31] The decision is unreasonable and shall be remitted back to a different decision-maker for redetermination.

[32] There is no question proposed by either party for certification.

JUDGMENT in IMM-18690-24

THIS COURT'S JUDGMENT is that:

1. The application is allowed;
2. The decision under review is set aside and the application is to be determined anew by a different officer; and
3. No question is certified.

"Russel W. Zinn"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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APPEARANCES:

KAPILKUMAR RATHOD	FOR THE APPLICANT
ELI LO RE	FOR THE RESPONDENT

SOLICITORS OF RECORD:

KAPILKUMAR P. RATHOD CALEDON EAST, ON	FOR THE APPLICANT
ATTORNEY GENERAL OF CANADA TORONTO, ON	FOR THE RESPONDENT