

Federal Court



Cour fédérale

Date: 20150410

Docket: IMM-904-14

Citation: 2015 FC 452

Ottawa, Ontario, April 10, 2015

PRESENT: The Honourable Mr. Justice O'Reilly

BETWEEN:

KULWANT KAUR GILL

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Ms Kulwant Kaur Gill applied for permanent residence as a skilled worker to the Canadian High Commission in New Delhi. An officer at the High Commission found that Ms Gill was inadmissible to Canada because she had misrepresented or withheld material facts about her work experience.

[2] Ms Gill's application (her second) was submitted in 2007. Since then, there have been dozens of contacts between her and officials at the High Commission. In essence, officials have tried to verify Ms Gill's representations about her qualifications and work experience as a seamstress or tailor. Ms Gill provided substantial documentation, yet officials were not satisfied with her evidence.

[3] Further, given the concerns about Ms Gill's employment history, two officials attended at the tailor shop where Ms Gill said she worked. They did not find her there. Rather, the proprietor, Mr Bedi (her uncle), said that Ms Gill was unwell and had gone to the doctor. One of the officials telephoned Ms Gill, who said she was shopping for buttons. Ms Gill then telephoned Mr Bedi and told him that, if asked, he should confirm to the Canadian officials that she was out shopping. Mr Bedi asked Ms Gill if she had obtained her medicine. She said "What medicine, uncle, I am in the market". The officials also questioned persons who worked nearby. None of them recognized Ms Gill.

[4] In 2013, an officer at the High Commission denied Ms Gill's application for permanent residence, concluding that she had misrepresented or withheld material facts relating to her employment that could have led to an error in the administration of Canada's immigration laws. Accordingly, the officer found that Ms Gill was inadmissible to Canada for a period of two years.

[5] Ms Gill argues that the officer's decision was unreasonable because the officer failed to take account of evidence that would have answered any concerns about her employment. In

addition, she maintains that she was treated unfairly because she was not given an adequate opportunity to address the officer's concerns. In particular, she was not provided with all of the documents in the officer's possession, including certain so-called "poison pen" letters, sent by persons who alleged that Ms Gill's application was based on fraudulent documents. She asks me to quash the officer's decision and order another officer to reconsider her application.

[6] In my view, the officer's decision was not unreasonable as it was based on genuine concerns about the evidence relating to Ms Gill's application. Further, I cannot conclude that Ms Gill was treated unfairly. While she was not provided all of the documentation relied on by the officer, she was informed, multiple times, of the officer's concerns and given more than an adequate opportunity to respond to those concerns. Accordingly, I have no basis for overturning the officer's decision and must dismiss this application for judicial review.

II. Did the Officer render an unreasonable decision or treat Ms Gill unfairly?

[7] The issues of unreasonableness and unfairness are related, so I will deal with them together.

[8] Ms Gill argues that the officer's decision was unreasonable because the officer appeared not to take account of evidence she supplied in response to the officer's concerns. In addition, she maintains that the officer did not give her sufficient opportunity to meet those concerns.

[9] In my view, the officer treated Ms Gill fairly and rendered a reasonable decision.

[10] Ms Gill received two letters setting out concerns arising from her application. She responded to them with numerous documents, photos, test scores, and affidavits. She also requested an in-person interview.

[11] However, Ms Gill's evidence did not address the main concerns about her application. For example, she was unable to provide satisfactory proof that her trade certificates were genuine. Most importantly, Ms Gill never disputed that she had asked her employer "what medicine Uncle, I am in the market" during Canadian officials' visit to her alleged workplace. Nor did she provide a plausible explanation for her statement. On the evidence, I see no basis for concluding that the officer failed to give appropriate weight to the documentation Ms Gill provided or for finding that the officer's conclusion was unreasonable. On the contrary, the record shows that all of the evidence Ms Gill provided was duly considered.

[12] Similarly, on the issue of fairness, Ms Gill was made aware of the numerous concerns about her application. She was entitled to receive notice of those concerns but not, as she argues, to disclosure of all of the documents that gave rise to them (*Li v Canada (Minister of Citizenship and Immigration)* (1998), 155 FTR 102 at para 23; *Talpur v Canada (Minister of Citizenship and Immigration)*, 2012 FC 25 at para 21; *Fang v Canada (Minister of Citizenship and Immigration)*, 2014 FC 196 at para 19-20).

[13] Accordingly, I see no basis for concluding that the officer's decision was unreasonable. Nor can I find that Ms Gill was treated unfairly.

III. Conclusion and Disposition

[14] Ms Gill was neither treated unfairly nor subjected to an unreasonable decision by Canadian immigration officials. I must, therefore, dismiss this application for judicial review. Neither party proposed a question of general importance for me to certify, and none is stated.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed.

No question of general importance is stated.

"James W. O'Reilly"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-904-14

STYLE OF CAUSE: KULWANT KAUR GILL v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: WINNIPEG, MANITOBA

DATE OF HEARING: OCTOBER 6, 2014

JUDGMENT AND REASONS: O'REILLY J.

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