

Federal Court



Cour fédérale

Date: 20151014

Docket: IMM-139-15

Citation: 2015 FC 1160

Ottawa, Ontario, October 14, 2015

PRESENT: The Honourable Mr. Justice Harrington

BETWEEN:

RABIA ABID

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] Ms. Abid, a single mother with two minor children, sought to emigrate from Pakistan as a permanent resident. She applied within the federal skilled worker class of the *Immigration and Refugee Protection Regulations*, more particularly as a member of a subset thereof, the Provincial Nominee Class. She had been approved by the Government of Alberta and issued a Certificate of Nomination under the *Alberta Immigrant Nominee Program-Family Stream*. In accordance with section 87 of the *Regulations*, this class is “prescribed as a class of persons who

may become permanent residents on the basis of their ability to become economically established in Canada”.

[2] Although approved by Alberta, the Federal Government has the final say in the matter. Subsection 87(3) of the *Regulations* provides that if the certificate is not a sufficient indicator of economic establishment and the officer has consulted with the provincial government in question, the officer may substitute his or her own evaluation to that of the province. The visa officer had concerns, and despite consulting with Alberta – which maintained its position – nevertheless concluded that Ms. Abid would likely fail to become economically established.

[3] This is the judicial review of that decision.

[4] Although some of the visa officer’s opinions were somewhat problematic, if not outright wrong, one cannot say that it was unreasonable for him to hold that a single mother with the custody of two minor children, who had a job offer as a kitchen helper at a salary of \$10.50 per hour on a 37.5-hour week, did not have the ability to become economically established.

[5] Ms. Abid’s original plan, which was accepted by the Alberta authorities, was that her brother would accommodate her and her children for six months in Calgary, without charge, that her brother had friends who owned restaurants in Calgary and would arrange a job as a cook because of her knowledge of Pakistani and Indian foods. She could also apply for a job at the iconic Tim Hortons coffee and donut shop, which did not require much training.

[6] Ms. Abid's ultimate goal was to become a teacher in Alberta, as she was in Pakistan. On arrival in Alberta, she would have had approximately \$21,000 in cash. She would upgrade her bachelor's degree, obtain Canadian educational credentials and become a teacher. However, it is common ground that Ms. Abid's knowledge of the English language was woefully inadequate and came nowhere near the standard required in order to teach in Alberta.

[7] The visa officer was of the initial opinion that "I am not satisfied that you would be able to become employed in Canada or, if you did find employment, that it would be of a sufficient level for you to become economically established." Apart from language considerations, she did not have the credentials to become a professional cook.

[8] The Alberta authorities were consulted and were optimistic that Ms. Abid would be successful in her proposed course of action.

[9] Ms. Abid then submitted a revised plan in two respects. Her English had improved as per a report from the International English Language Testing System, but still it was nowhere near the standard needed in order to teach. The other change was that she now had an offer of employment at Fritou Fried Chicken in Calgary as a "kitchen helper" at a wage of \$10.50 per hour for 37.5 hours a week. The offer acknowledged her limited English language ability but the employment did not require her to have knowledge of English since she would be working in the kitchen and would not have any interaction with the general public. Moreover, she would have a four-week training for which she would not be paid. Her duties would include cleaning kitchen

appliances, washing dishes and utensils, mopping the floor, brewing coffee and peeling vegetables.

[10] This offer came from Ms. Abid's brother's friend, as mentioned in the original proposal.

[11] The visa officer frowned upon this offer as being tailor-made to Ms. Abid's situation, but was of the view that her English was at a sufficient level to work as a "kitchen helper". He did not put this revised offer to the Alberta authorities.

[12] He consulted an Alberta employment website which was somewhat ambivalent on job training. In some instances, it would be illegal not to pay the worker.

[13] Ms. Abid submits a procedural fairness issue in that the visa officer consulted material which she says was not anticipated and which should have been brought to her attention in order to allow her to comment. Furthermore, it was incumbent upon the visa officer to go back to the Alberta authorities a second time.

[14] The concerns about the genuineness of the job offer and four weeks of work without pay are not germane. The revised plan is the same as the first plan except that she now had a job offer in hand, from her brother's friend. In the circumstances, there was no need to go back to the Alberta authorities. The unpaid aspect of the job offer is not relevant.

[15] At the core of the visa officer's decision, first, foremost and always, was that he was not satisfied Ms. Abid would become economically established in Alberta. This decision was not unreasonable, and so will not be set aside.

[16] The parties and the Court agree that there is no serious question of general importance to certify.

JUDGMENT

FOR REASONS GIVEN;

THIS COURT'S JUDGMENT is that:

1. The application for judicial review of the decision of the visa officer, dated 11 November 2014, denying the applicant's provincial nominee class permanent residence application is dismissed.
2. There is no serious question of general importance to certify.

“Sean Harrington”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-139-15

STYLE OF CAUSE: RABIA ABID v MCI

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: OCTOBER 6, 2015

JUDGMENT AND REASONS: HARRINGTON J.

DATED: OCTOBER 14, 2015

APPEARANCES:

Sunny N. Vincent

FOR THE APPLICANT

Stephen Jarvis

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Sunny Vincent Law Office
Barristers, Solicitors, Notary Public
Toronto, Ontario

FOR THE APPLICANT

William F. Pentney
Deputy Attorney General of
Canada
Toronto, Ontario

FOR THE RESPONDENT