Federal Court Cour fédérale

Date: 20231106

Docket: IMM-6322-22

Citation: 2023 FC 1473

Ottawa, Ontario, November 6, 2023

PRESENT: Mr. Justice Norris

BETWEEN:

ALI MEHDIKHANI

Applicant

and

MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The applicant is a 32-year-old citizen of Iran. He was accepted into a two-year post-baccalaureate diploma program in Technical Management and Services at Kwantlen Polytechnic University in British Columbia. However, a visa officer with Immigration, Refugees and Citizenship Canada refused his application for a study permit.

[2] The applicant now applies for judicial review of this decision under subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (*IRPA*). He submits that the decision is unreasonable and that it was made in breach of the requirements of procedural fairness.

[3] As I will explain, I agree that the decision must be set aside because it is unreasonable. As a result, it is not necessary to address the procedural fairness issues the applicant has raised.

[4] The parties agree, as do I, that the substance of the officer's decision is to be reviewed on a reasonableness standard. A reasonable decision "is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker" (*Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 85). A decision will be unreasonable when the reasons "fail to provide a transparent and intelligible justification" for the result (*Vavilov*, at para 136). To set aside the decision on the basis that it is unreasonable, the reviewing court must be satisfied that "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency" (*Vavilov*, at para 100).

[5] In *Nesarzadeh v Canada (Citizenship and Immigration)*, 2023 FC 568 at paras 5-9, Justice Pentney provided a helpful summary of the key principles that guide judicial review of study permit decisions. Drawing on this summary and the jurisprudence cited in *Nesarzadeh*, I would state these principles as follows:

- A reasonable decision must explain the result, in view of the law and the key facts.

- *Vavilov* seeks to reinforce a "culture of justification" requiring the decision maker to provide a logical explanation for the result and to be responsive to the parties' submissions.

- The administrative context in which the decision was made must be taken into account. Visa officers face a deluge of applications, and their reasons do not need to be lengthy or detailed. However, the reasons do need to set out the key elements of the officer's line of analysis and be responsive to the central aspects of the application.

- The onus is on the applicant to satisfy the officer that they meet the legal requirements for obtaining a study permit, including that they will leave Canada at the end of their authorized stay.

- Visa officers must consider the "push" and "pull" factors that could lead an applicant to overstay their visa and stay in Canada, or that would, on the other hand, encourage them to return to their home country when required to.

[6] In the present case, the officer refused the application because the officer was not satisfied that the applicant had demonstrated that he is a genuine student who is actively pursuing studies. Rather, the officer had concerns that the applicant "may be seeking entry [to Canada] for reasons other than educational advancement" and would therefore not depart Canada at the end of his authorized stay.

[7] The officer drew this conclusion for the following reasons. First, the applicant's assets and financial situation were insufficient to support the proposed course of study because of "the

unstable economic climate in Iran and fluctuations within international exchange rates." Second, the officer was not satisfied that the proposed course of study was a reasonable expense given the applicant's previous education and current employment. Third, while the applicant stated that he had recently been offered a promotion at work, this was not confirmed in his employment letter. In any event, the applicant had not explained how his current employer would manage his two-year absence or how the proposed course of study would improve his employment prospects in Iran.

[8] The applicant challenges the reasonableness of the decision in a number of respects. It is not necessary to address all of the grounds for review the applicant has raised because I agree that the decision is unreasonable in two key respects.

[9] First, the officer failed to provide a transparent and intelligible basis for the conclusion that the applicant lacked sufficient means to finance his studies in Canada. The applicant provided documentation to establish that, based on current exchange rates, he had sufficient funds. The officer placed "less value on the purported funds available" because of "the unstable economic climate in Iran and fluctuations within international exchange rates." The exact same phrase is found in the decision under review in *Roudehchianahmadi v Canada (Citizenship and Immigration)*, 2023 FC 626. In that case, Justice Mosley concluded (at paras 17 and 23) that the officer's findings regarding the applicant's available funds were not reasonable based on the reasons provided because, among other things, the singular emphasis on this factor failed to take into account other factors that may have made it feasible for the applicant to fund her studies notwithstanding the economic uncertainties. The same conclusion applies here.

[10] Second, the conclusion that the applicant would not return to Iran at the end of his authorized stay in Canada failed to take relevant circumstances into account. The applicant addressed this issue directly in his study permit application. He provided several reasons why he would return to Iran at the conclusion of his studies. His family, best friends, and relatives are all in Iran. His parents are aging and caring for them is a top priority for him. He has assets in Iran. He has a job to return to. He has insurance coverage in Iran and will receive a pension after retirement. In addition to these factors, it would also have been apparent from other information in the application that the applicant has a positive travel history, he would be coming to Canada alone, and he has no family here.

[11] The officer was not required to accept that these factors (either individually or in combination) would ensure that the applicant will return to Iran at the conclusion of his studies. However, having evidently concluded that they were insufficient to do so, the officer was required to explain why. Instead, the decision is silent on this point. The reasons fail to engage meaningfully – or even at all – with the information provided by the applicant relating to this central issue. This, too, undermines the reasonableness of the decision.

[12] For these reasons, the decision will be set aside and the matter will be remitted to a different decision maker for redetermination.

[13] Finally, neither party proposed a serious question of general importance for certification under paragraph 74(d) of the *IRPA*. I agree that no question arises.

JUDGMENT IN IMM-6322-22

THIS COURT'S JUDGMENT is that

1. The application for judicial review is allowed.
2. The decision of the visa officer dated June 13, 2022, is set aside and the matter is remitted for redetermination by a different decision maker.
3. No question of general importance is stated.

"John Norris"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-6322-22
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