

Federal Court



Cour fédérale

Date: 20231205

Docket: IMM-9883-22

Citation: 2023 FC 1639

Montréal, Quebec, December 5, 2023

PRESENT: Mr. Justice Sébastien Grammond

BETWEEN:

LOURDES DAGUMBAL

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] Ms. Dagumbal seeks judicial review of the decision to deny her application for a temporary resident permit [TRP]. She submits that the decision was unreasonable and argues that the officer did not consider important evidence supporting her main arguments for establishing that she has a compelling case.

[2] The officer considered the evidence provided as well as Ms. Dagumbal's immigration history. They found that the grounds she alleged and the factors presented were not sufficiently compelling, on a balance of probabilities, and therefore denied her application. I find this decision to be reasonable.

[3] Subsection 24(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27, provides that an officer may grant a TRP if "it is justified in the circumstances." It is generally accepted that a TRP may only be granted if the applicant has shown "compelling reasons" for entering or remaining in Canada: *Farhat v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1275 at paragraph 22. In other words, a TRP is an exceptional remedy. On judicial review, my role is not to reweigh the evidence or decide the matter afresh, but simply to verify that the officer turned their mind to the relevant factors and gave them due consideration.

[4] To challenge the decision, Ms. Dagumbal first argues that the officer fettered their discretion or based their decision on irrelevant considerations, by finding that she could return to the Philippines and reapply for a work permit from there. In her written submissions, she argues that this would involve significant waiting times. She also relies on the unfavourable living conditions in the Philippines. However, in the context of an application for a TRP, it was reasonable for the officer to find that this does not give rise to compelling reasons to remain in Canada.

[5] Second, Ms. Dagumbal argues that the officer failed to grapple with significant aspects of the evidence she provided. In particular, the officer would have neglected to analyze reference letters from previous employers.

[6] In reality, Ms. Dagumbal's application for a TRP was largely based on the importance of her work as a live-in caregiver for the health and safety of Canadians. While I recognize the importance of this work, it was reasonable for the officer to find that this does not give rise to compelling reasons to remain in Canada. If a labour shortage gave rise to compelling reasons, the TRP would lose its exceptional character and become an "alternative immigration scheme": *Kanhasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61 at paragraph 23, [2015] 3 SCR 909.

[7] In giving their reasons for refusing the TRP, the officer was not required to analyse each letter in detail or separately. The officer listed the reference letters provided by past employers and prospective employers in their decision letter. This gives rise to a presumption that they were duly considered. The lack of a more fulsome analysis may simply be due to the fact that the letters dealt only with Ms. Dagumbal's employment, which did not give rise to compelling reasons.

[8] Ms. Dagumbal further submitted that the Officer did not analyze the letter tendered as evidence that her sisters and parents are in Canada. However, the officer's reasons demonstrate that they did consider this factor when considering whether her siblings would be able to care for her parents following her departure from Canada.

[9] For these reasons, I find that Ms. Dagumbal failed to demonstrate that the officer's decision was unreasonable. I will therefore dismiss the application for judicial review.

JUDGMENT in IMM-9883-22

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed.
2. No question is certified.

"Sébastien Grammond"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-9883-22

STYLE OF CAUSE: LOURDES DAGUMBAL v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: MONTRÉAL, QUEBEC

DATE OF HEARING: DECEMBER 5, 2023

JUDGMENT AND REASONS: GRAMMOND J.

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