

Federal Court



Cour fédérale

Date: 20240617

Docket: IMM-4006-23

Citation: 2024 FC 926

Ottawa, Ontario, June 17, 2024

PRESENT: The Honourable Mr. Justice Ahmed

BETWEEN:

CHANTAL RAZAFINTSALAMA

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Chantal Razafintsalama, seeks judicial review of a decision refusing her application to restore her temporary resident status under section 182 of the *Immigration and Refugee Protection Regulations*, SOR/2002-22 (“*IRPR*”).

[2] The Applicant is a citizen of Madagascar who entered Canada in 2019 and was authorized to remain until July 25, 2022, whereupon her temporary status expired. The

Applicant had a 90-day window to submit an application for restoration, that window being from July 26, 2022, to October 23, 2022.

[3] In the decision rendered by an officer (the “Officer”) of Immigration, Refugees and Citizenship Canada (“IRCC”) dated March 13, 2023, the Officer states that IRCC received the Applicant’s application for restoration on October 24, 2022. The Officer therefore refused her restoration application for failing to meet the requirements under section 182 of the *IRPR*, and given that she did not have status in Canada, refused her work permit application as well.

[4] The sole issue in this application is whether the Officer’s decision is reasonable (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 (“*Vavilov*”) at paras 16–17, 23–25).

[5] The Applicant submits that a representative submitted the restoration application on October 23, 2022, there having been a “glitch” in the IRCC’s system. The Respondent disagrees, submitting that there is no evidence to support this submission.

[6] I agree with the Applicant. There are various pieces of evidence to support that the Applicant’s application was submitted before October 24, 2024. This first includes affidavit evidence filed by the Respondent stating that “[t]here is a time-difference glitch that sometimes happen [*sic*], which will show the main received date as the day after. That said, in 100% of those cases the date under the History tab in [the Global Case Management System (“GCMS”)] will show the correct date. In this case, the date is October 24th.”

[7] Furthermore, counsel for the Applicant pointed out two pieces of evidence that, in my view, support that the application was sent to IRCC before October 24, 2022. The first is that the date in the time-stamp for the GCMS history, as provided in the affidavit, is 6:21 PM on October 24, 2022. However, an automated message from IRCC shows an email sent regarding the application that was sent at 5:43 PM on October 24, 2022, rather than 6:21 PM. There is a further, different time in the record for October 24, 2022: In the GMCS notes, under the “Created Date,” the time is listed for various entries as 4:21 PM. Additionally, there is a letter from counsel dated October 24, 2022, seeking to add an approved Labour Market Impact Assessment to the extant application. This supports the statement that the application had already been submitted.

[8] I am prepared to find that all of this evidence supports the Applicant’s submission that this was, indeed, one such situation where the “time-difference glitch” occurred in the application. As such, the Officer’s decision finding that the application had not been submitted on time is not justified in relation to its factual constraints (*Vavilov* at para 101).

[9] This application for judicial review is granted. The decision is quashed and the matter remitted to a different officer for redetermination. The style of cause is amended to replace the Minister of Citizenship and Immigration of Canada with the Minister of Citizenship and Immigration as the Respondent, effective immediately.

[10] No question for certification was proposed, and I agree that none arises.

JUDGMENT in IMM-4006-23

THIS COURT’S JUDGMENT is that:

1. This application for judicial review is granted, the decision quashed, and the matter remitted to a different officer for redetermination.

2. The style of cause is amended to include the Minister of Citizenship and Immigration as the Respondent.

3. There is no question to certify.

“Shirzad A.”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4006-23

STYLE OF CAUSE: CHANTAL RAZAFINTSALAMA v THE MINISTER
OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: JUNE 10, 2024

JUDGMENT AND REASONS: AHMED J.

DATED: JUNE 17, 2024

APPEARANCES:

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Stephen Jarvis FOR THE RESPONDENT

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