Federal Court  Cour fédérale

Date: 20221129

Docket: IMM-3693-20

Citation: 2022 FC 1643

Toronto, Ontario, November 29, 2022

PRESENT: Justice Andrew D. Little

BETWEEN:

KULDEEP SINGH

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The applicant, Kuldeep Singh, is a citizen of India. He began studying the Sikh faith at the age of 14 and eventually became a priest at the Golden Temple in Amritsar, India. He was invited to work at a series of temples in Southwestern Ontario beginning in 2007. He began living and working full time in Canada in 2012. He has been employed as a Granthi at the Golden Triangle Sikh Association (the "GTSA") since March 2015.

[2] The applicant applied for judicial review of an immigration officer's decision to refuse his application to restore his status as a temporary resident and issue a visitor record under the *Immigration and Refugee Protection Act*, SC 2001, c 27 (the *"IRPA"*). Mr Singh submitted that the officer's decision was unreasonable under the principles described in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, [2019] 4 SCR 653.

[3] I agree. For the reasons that follow, the officer's decision will be set aside and the matter will be returned to another officer for prompt redetermination.

I. Events Leading to this Application

[4] Mr Singh first entered Canada in April of 2007. His visitor status authorized him to work as clergy, without a work permit, under paragraph 186(l) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (*"IRPR"*).

[5] The applicant's most recent temporary resident visa and visitor record were both set to expire on February 18, 2019.

[6] In January 2018, the applicant applied to extend his stay in Canada. He was advised on March 19, 2019 that his application was refused, at which time he ceased working.

[7] By letter dated May 16, 2019, the applicant made a request to restore his status under subsection 182(1) of the *IRPR*. The request detailed the applicant's history of compliance with Canadian immigration law and indicated that he wished to extend his temporary status in Canada

by one year in order to continue his employment, fulfill his religious duty and serve his congregation. The applicant noted his strong family ties to India, where his wife and two children continued to reside and where he owned property. He also disclosed his outstanding application for permanent residency on humanitarian and compassionate grounds. The request was accompanied by a letter of support from the GTSA describing the applicant's value to the community, agreeing to provide Mr Singh with an honorarium as well as food and lodging during his stay, and assuring that the applicant would return to India before the expiry of his visa.

[8] The applicant's request was refused by letter dated June 24, 2019. The Global Case Management System ("GCMS") entry associated with the refusal stated, in part: "I'm satisfied Client has been granted long enough time to fulfill purpose of visit. I'm not satisfied Client is a bona fide visitor and will leave CA by the end of authorized stay. Application refused as per R179. Beyond restoration."

[9] The applicant applied to this Court for leave and for judicial review. The respondent agreed to a redetermination and the file was discontinued in October 2019.

[10] On October 28, 2019, a second reviewing officer also refused the applicant's request. The GCMS entry associated with the second refusal provided a series of considerations to justify why the officer was not satisfied that the applicant would leave Canada at the end of an authorized stay, including that he: had failed to comply with the March 2019 refusal of his visitor record; was without status and not authorized to perform his religious duties; and had applied for permanent residency.

[11] The applicant challenged the second refusal in this Court. The respondent again agreed to a redetermination. The second court proceeding was discontinued in March 2020.

II. The Decision under Review

[12] On August 6, 2020, an officer refused the applicant's restoration request under *IRPR* subsection 182(1). According to the GCMS entry:

> Client last entered Canada 2018JAN18. Client is requesting a VR extension as a religious worker. Client has submitted a copy of ordinance certificate and invitation letter from the golden triangle Sikh association.
>
> According to rep submission, client has been working at the Golden Triangle association since 2015. Details of employment do indicate a bona fide religious worker. However, with the submission of passport stamps as well as travel history, client has spent a significant time in Canada since July 2010. In addition rep submission states that client "has been living continuously in Canada since 2012."
>
> As client has been residing in Canada since 2010/2012 and is now requesting an additional extension of stay. Based on the length of stay, I am not satisfied that client will leave at the end of authorized stay. Client has had sufficient time to fulfill purpose of stay. Application is refused as per R179(b).

III. Analysis

[13] On this application for judicial review, the applicant submitted that the officer's decision should be set aside as unreasonable. He also seeks a specific remedy and a costs award.

A. **Standard of Review**

[14] The parties agree that reasonableness is the standard of review that applies to a visa officer's decision.

[15] Reasonableness review is a deferential and disciplined evaluation of whether an administrative decision is transparent, intelligible and justified: *Vavilov*, at paras 12-13 and 15. The starting point is the reasons provided by the decision maker, which are read holistically and contextually, and in conjunction with the record that was before the decision maker: *Vavilov*, at paras 91-96, 97, and 103; *Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67, at paras 28-33. A reasonable decision is based on an internally coherent and rational chain of analysis and is justified in relation to the facts and law that constrained the decision maker: *Vavilov*, esp. at paras 85, 99, 101, 105-106 and 194.

[16] It is not the Court's role to determine whether the officer came to the correct decision or whether it agrees with its reasoning on the merits of the application for restoration. The Court's focus is on the reasoning process used by the officer and the outcome: *Vavilov*, at para 83.

B. **Relevant *IRPA* and *IRPR* Provisions**

[17] Below are excerpts of the relevant provisions of the *IRPR*:

179 An officer shall issue a temporary resident visa to a foreign national if, following an examination, it is established that the foreign national	**179** L'agent délivre un visa de résident temporaire à l'étranger si, à l'issue d'un contrôle, les éléments suivants sont établis :
…	…

(b) will leave Canada by the end of the period authorized for their stay under Division 2;

182 (1) On application made by a visitor, worker or student within 90 days after losing temporary resident status as a result of failing to comply with a condition imposed under paragraph 185(a), any of subparagraphs 185(b)(i) to (iii) or paragraph 185(c), an officer shall restore that status if, following an examination, it is established that the visitor, worker or student meets the initial requirements for their stay, has not failed to comply with any other conditions imposed and is not the subject of a declaration made under subsection 22.1(1) of the Act.

No permit required

186 A foreign national may work in Canada without a work permit

[…]

(l) as a person who is responsible for assisting a congregation or group in the achievement of its spiritual goals and whose main duties are to preach doctrine, perform functions related to gatherings of the congregation or group or provide spiritual counselling;

b) il quittera le Canada à la fin de la période de séjour autorisée qui lui est applicable au titre de la section 2;

182 (1) Sur demande faite par le visiteur, le travailleur ou l'étudiant dans les quatre-vingt-dix jours suivant la perte de son statut de résident temporaire parce qu'il ne s'est pas conformé à l'une des conditions prévues à l'alinéa 185a), aux sous-alinéas 185b)(i) à (iii) ou à l'alinéa 185c), l'agent rétablit ce statut si, à l'issue d'un contrôle, il est établi que l'intéressé satisfait aux exigences initiales de sa période de séjour, qu'il s'est conformé à toute autre condition imposée à cette occasion et qu'il ne fait pas l'objet d'une déclaration visée au paragraphe 22.1(1) de la Loi.

Permis non exigé

186 L'étranger peut travailler au Canada sans permis de travail :

[…]

l) à titre de personne chargée d'aider une communauté ou un groupe à atteindre ses objectifs spirituels et dont les fonctions consistent principalement à prêcher une doctrine, à exercer des fonctions relatives aux rencontres de cette communauté ou de ce groupe

ou à donner des conseils
d'ordre spirituel;

C. ***Was the officer's decision unreasonable?***

[18] The applicant submitted that the officer's decision was unreasonable because:

a) The officer provided no explanation about why the restoration application was denied, as there was no chain of analysis explaining why the applicant had fulfilled the purpose of his stay and why the length of the applicant's stay in Canada leads to an inference that he would not leave Canada when his visa expired;

b) The officer did not consider relevant evidence, namely, the applicant's family and property ties to India and his compliance with all Canadian immigration rules in the past.

[19] The applicant also submitted that by relying entirely on the length of the applicant's stay in Canada, to the exclusion of all the other relevant facts provided in his application, the officer unreasonably fettered their discretion. In support, the applicant relies on *Kenig v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 8855 (FC), 158 FTR 249, at paragraph 13, where an officer was found to have erred by relying entirely on a single factor without considering the other evidence that was before him.

[20] The applicant relied on *Quraishi v Canada (Citizenship and Immigration)*, 2021 FC 1145, at paragraphs 22, 27. The applicant argued that in *Quraishi*, the Court held that the decision failed to meet the minimum requirements of responsiveness and justification under

similar circumstances, including a statement by the visa officer that the applicant in that case had had sufficient time to fulfill the purpose of his visit. In paragraph 26 of *Quraishi*, Justice McHaffie explained:

> [26] The Minister notes that the officer confirmed they had "carefully considered all information" and considered "all the circumstances of your case." They also underscore that an officer is presumed to have considered all of the evidence on the record: *Rahman* at para 17. Despite this presumption, in my view a blanket or boilerplate statement that all information or all circumstances have been considered cannot reasonably take the place of explaining how those circumstances were considered and why the conclusion was reached. To conclude otherwise would run contrary to the Supreme Court's emphasis on the importance of meaningfully accounting for and responding to key issues or central arguments: *Vavilov* at paras 127–128.

[21] The respondent submitted that the officer's reasoning can be traced and was more extensive than the underlying reasons under review in *Quraishi.* The respondent argued that it was implicit from the reference to "passport stamps" in the GCMS notes that the officer was not satisfied that the applicant would leave Canada at the expiry of his visa. The respondent distinguished *Quraishi* on its facts, noting the shorter period of time that Mr Quraishi had spent in Canada and that the purpose of his visit (tending to an ill relative) had not been fulfilled.

[22] The respondent noted that the applicant's request concerned continued temporary residence, but in the applicant's case, "temporary" was not so temporary given how many years he had lived and worked in Canada. The respondent relied on *Badhan v Canada (Citizenship and Immigration)*, 2018 FC 704, at paragraphs 19-21, in which an applicant applied for a restoration of his visitor visa while he awaited a work permit application decision. The work permit was denied prior to the officer refusing the visa, which led the officer to find that the purpose of Mr

Badhan's visit had been fulfilled. The Court found no reviewable error in the officer's reasoning. The respondent also argued that an officer's failure to consider the applicant's history of compliance with immigration laws does not, in itself, render a decision unreasonable (citing *Badhan*, at para 21, which relied on *Singh v Canada (Citizenship and Immigration)*, 2017 FC 894, at para 24).

[23] For the reasons that follow, I conclude that the applicant has shown that the officer's decision was unreasonable in relation to the reasoning process that led to the conclusion that the applicant would not leave Canada at the end of his authorized stay.

[24] The Court has recognized a number of factors as relevant to the assessment of whether an applicant will leave Canada by the end of their authorized stay. Among the recognized factors are the purpose of the visit, its length, the applicant's ties to Canada and to their own country, their financial ability, their travel and immigration compliance history, and their capacity and willingness to leave Canada at the end of the stay: *Quraishi,* at para 13 (citing *Kheradpazhooh v Canada (Citizenship and Immigration),* 2018 FC 1097, at para 4; *Bunsathitkul v Canada (Citizenship and Immigration),* 2019 FC 376, at para 19; *Rudder v Canada (Citizenship and Immigration),* 2009 FC 689, at paras 11–12).

[25] First, the officer did not consider material evidence in the record related to the applicant's ties to India and Canada. The applicant had significant family ties to India (his wife and two children living there). He also owns property there. There was no evidence of family members residing in Canada or that the applicant owned property here. While the officer is presumed to

have considered all of the evidence, the evidence of family and property ties to India and a corresponding absence of such ties to Canada were sufficiently important factors running contrary to the officer's conclusion under paragraph 179(*b*) that the officer had to account for them. The absence of any mention of these facts suggests that the officer overlooked them: see e.g., *Valencia v Canada (Citizenship and Immigration),* 2022 FC 386, at paras 26-27; *D Souza v Canada (Citizenship and Immigration),* 2021 FC 1430, at paras 23-24 and 30; *Quraishi,* at para 25; *Aghaalikhani v Canada (Citizenship and Immigration),* 2019 FC 1080, at para 24; and *Badhan,* at para 19, describing the principles in *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration),* [1999] 1 FC 53, [1998] FCJ No 1425, at paras 16-17**.**

[26] Second, the officer did not consider the applicant's history of compliance with Canadian immigration law. As Justice Diner recently noted, the weight to give to the history of compliance was for the officer, but that history had to be considered: *Singh v Canada (Citizenship and Immigration),* 2022 FC 692, at paras 18-20. I do not agree with the respondent's submission that the reference to "passport stamps as well as travel history" in the GCMS notes indicated that the officer considered the immigration compliance history. In fact, those references expressly led to a different finding about how long the applicant had spent in Canada. Nothing else in the GCMS notes indicates that the officer considered the applicant's history of compliance. Consistent with *Badhan*, at paragraph 21, and *Singh* (2017), at paragraph 24, this failure is a relevant factor, but is not necessarily determinative, in the reasonableness analysis.

[27] Third, the applicant raised issues related to the officer's consideration of the duration and purpose of his stay in Canada. The GCMS notes stated that "[b]ased on the length of stay" by the

applicant in Canada (since 2010 or 2012), the officer was not satisfied that the applicant would leave at the end of his authorized stay. That statement was immediately followed by a statement that the applicant "has had sufficient time to fulfill purpose of stay".

[28] The applicant referred to evidence in the record and the applicant's written submissions that could sustain a finding that Mr Singh's purpose had not been fulfilled and there was an ongoing need for Mr Singh to stay in Canada to continue his religious duties:

- Mr Singh requested to stay in Canada to allow him to fulfil his religious duty and serve others.
- A letter from the GTSA indicated that Mr Singh's duties continued to fall within *IRPR* paragraph 186(l) – as a Sikh priest, he led the congregation on daily morning and evening prayers, chanted religious hymns, conducted marriage ceremonies, funerals, birthday and new house opening prayers.
- Several letters from the GTSA confirmed that it provided opportunities for people of the Sikh faith to exercise their religion.
- That Association confirmed that it would continue to employ the applicant as their Granthi as long as he is permitted to work in Canada.
- The applicant, through a letter from counsel, advised that the Sikh community in the Kitchener-Waterloo area wanted him to continue in his role as a religious leader as there was a need for his services in areas of Ontario that did not typically attract Sikh religious leaders.

- In another letter, the GTSA advised that it wished to assure "the Canadian High Commission in New Delhi that [the applicant] shall return to India before the expiry of his visitor's visa".

[29] I do not agree with the applicant that the officer unreasonably failed to appreciate and state what the purpose of the applicant's stay was; the GCMS notes make it clear that officer agreed that the applicant was a *bona fide* religious worker. While the officer's GCMS notes also indicate that the officer was aware of correspondence from the GTSA, the officer did not expressly refer to the evidence above, or the applicant's written submissions, on the fulfilment of his purpose of working in Canada under *IRPR* paragraph 186(l).

[30] Unlike both *Quraishi* and *Badhan*, I do not read the GCMS notes to say that the applicant had in fact fulfilled the purpose of his stay in Canada. Rather, the applicant had already had sufficient time to do so. This leads to the following question: did the officer conclude, without saying so expressly, that the applicant had been in Canada long enough, his application was no longer an application for a "temporary" visa, and therefore he would not leave Canada at the end of his authorized stay under *IRPR* paragraph 179(*b*)? This line of reasoning would not sit easily with the officer's apparent failure to consider the applicant's history of compliance with Canadian immigration laws and the applicant's ties to India and Canada. In addition, restoration of the visitor record would allow the applicant to work under *IRPR* paragraph 186(l) which, on its face at least, contains no time limitations. The respondent did not refer to any regulation or policy that might have constrained the officer's ability to restore the applicant's visitor record and extend his time in Canada.

[31] In the context of this applicant's circumstances and the record, I find that the officer's GCMS entry would have benefited from some additional information about the duration and purpose of stay to support the conclusion that the applicant would not leave Canada at the end of his authorized stay under paragraph 179(*b*): see e.g. *Thavaratnam v Canada (Citizenship and Immigration)*, 2022 FC 967, at para 25; *Quraishi*, at paras 15, 24; *Asong Alem v Canada (Citizenship and Immigration)*, 2010 FC 148, at paras 13-15. However, considering the relative lack of legal constraints bearing on the officer's decision, and the administrative context (*Quraishi*, at para 14), I do not conclude that this shortcoming in the GCMS notes itself constitutes a separate reviewable error in this case. It is a factor in the overall analysis of reasonableness.

[32] As noted above, it is not this Court's role to come to its own conclusion on the merits of the restoration application and I do not do so. The Court's focus is on the reasoning process used by the officer. Considering the three points above, cumulatively, I conclude that the applicant has demonstrated material transparency and justification concerns which, in light of the evidence in the record, undermine the decision. Applying the principles in *Vavilov* and *Canada Post*, I am persuaded that the decision was unreasonable.

D. ***Remedy***

[33] The applicant asked the Court to exercise its remedial discretion under paragraph 18.1(3)(*b*) of the *Federal Courts Act*, RSC 1985, c F-7. Rather than simply ordering that the matter be remitted to another officer for redetermination, the applicant requested that the Court instruct the officer on the outcome in his favour.

[34] The applicant noted that if the Court remits the matter to a new decision maker for redetermination, it will be the third decision on his application. He also noted that with each round of redetermination, he has responded to all requests for further information and verification, that the veracity of his materials has gone unchallenged, and the same errors have been repeated in each decision. He submitted that given the time that has passed since his initial application, and considering the public resources required to relitigate the matter, it would be appropriate for the Court to issue a specific Order in this case.

[35] The respondent submitted that the Court must be cautious in the directions or instructions it issues in order to ensure that subsequent decision makers are not unduly fettered in the exercise of their discretion. The respondent further submitted that the restoration of a visitor record is a fact-specific and discretionary decision that should be reserved to an officer, and that the passage of time means that the facts may have changed.

[36] The respondent relied on *Freeman v Canada (Citizenship and Immigration)*, 2013 FC 1065, at paragraphs 78-82, in which Justice Mactavish declined to make an Order in the nature of a directed verdict. She noted case law holding that the power to do so was exceptional and only exercised in the clearest of circumstances: *Freeman*, at para 78. She also found that the cases attracting such Orders tended to be straightforward cases, as opposed to disputes that are essentially factual. She concluded that the evidence in that case should be evaluated "in its totality by the officials who have been assigned the responsibility for making such assessments by Parliament": *Freeman*, at para 81. Justice Mactavish did not make an Order with specific

directions as to how the redetermination should be carried out in that matter, but did order that the decision be made within a specified period of time: see para 3 of the Judgment.

[37] On remedy, the Supreme Court stated in *Vavilov*:

> [141] … it will most often be appropriate to remit the matter to the decision maker to have it reconsider the decision, this time with the benefit of the court's reasons. In reconsidering its decision, the decision maker may arrive at the same, or a different, outcome: [citation omitted].
>
> [142] However, while courts should, as a general rule, respect the legislature's intention to entrust the matter to the administrative decision maker, there are limited scenarios in which remitting the matter would stymie the timely and effective resolution of matters in a manner that no legislature could have intended: *D'Errico v. Canada (Attorney General)*, 2014 FCA 95, […], at paras. 18-19. An intention that the administrative decision maker decide the matter at first instance cannot give rise to an endless merry-go-round of judicial reviews and subsequent reconsiderations. Declining to remit a matter to the decision maker may be appropriate where it becomes evident to the court, in the course of its review, that a particular outcome is inevitable and that remitting the case would therefore serve no useful purpose: [citations omitted]. Elements like concern for delay, fairness to the parties, urgency of providing a resolution to the dispute, the nature of the particular regulatory regime, whether the administrative decision maker had a genuine opportunity to weigh in on the issue in question, costs to the parties, and the efficient use of public resources may also influence the exercise of a court's discretion to remit a matter, just as they may influence the exercise of its discretion to quash a decision that is flawed…

[38] The following principles may be distilled from the recent appellate decisions on remedies in judicial review proceedings in the Federal Courts:

a) The Court has some discretion and latitude with respect to remedy: *Farrier v Canada (Attorney General)*, 2020 FCA 25, at para 21.

b) In some circumstances, it may be inappropriate to remit a matter to an administrative decision maker because it is evident that a particular outcome is inevitable or no purpose would be served by sending the matter back: *Canada (Attorney General) v Chu*, 2022 FCA 105, at para 9; *Farrier*, at para 21; *Vavilov*, at para 142; *Mobil Oil Canada Ltd v Canada-Newfoundland Offshore Petroleum Board*, [1994] 1 SCR 202, at pp. 228-230.

c) The discretion not to remit the matter for redetermination should be exercised only in the "clearest of circumstances" and if the evidence can lead only to one result: *Canada (Attorney General) v Impex Solutions Inc*, 2020 FCA 171, at paras 90-92.

d) The Court should generally respect Parliament's intention to entrust matters to the administrative decision maker as the merits-decider, not the reviewing court: *Blue v Canada (Attorney General)*, 2021 FCA 211, at para 50; *Vavilov*, at para 140.

e) The Court may make an Order in the nature of *mandamus* or a directory order: *Fono v Canada Mortgage and Housing Corporation*, 2021 FCA 125, at para 13; see also *Federal Courts Act*, paragraphs 18.1(3)(*a*) and (*b*).

f) In deciding on the appropriate remedy, the Court may consider factors such as delay, fairness, costs and the efficient use of public resources: see *Canada (Attorney General) v Burke*, 2022 FCA 44, at para 116 and *Blue*, at para 51, both citing *Vavilov*, at para 142.

g) The circumstances of the parties may also be relevant: *Burke*, at paras 115-118; *Key First Nation v Lavallee*, 2021 FCA 123, at para 76.

h) The Court may consider the need to avoid a repetition of the substantive shortcomings in previous decisions: *Sexsmith v Canada (Attorney General),* 2021 FCA 111, at para 31; *Burke*, at para 114. The Court may provide guidance to the decision maker to achieve that end: *Safe Food Matters Inc v Canada (Attorney General),* 2022 FCA 19, at para 64; *Sexsmith*, at paras 29-31.

[39] I agree with the respondent that in this case, the Court should not make an Order that directs the outcome of the redetermination. Neither the conclusion that the officer's decision was unreasonable, nor the reasoning leading to that conclusion, implies an inevitable outcome on the underlying application. In addition, as the respondent noted, the facts may have changed since the last decision. It is not appropriate for the Court to seize the officer's role as decision maker in this case.

[40] That said, officers have now failed to render a reasonable decision on three occasions. I am mindful of the importance of a "timely and effective resolution" and avoiding the "endless merry-go-round" of decisions, judicial review applications and subsequent reconsiderations mentioned in *Vavilov* (at para 142). I also find it persuasive that the Court should assist in ensuring that the substantive shortcomings of the officer's decision are not repeated.

[41] In light of these considerations, it is appropriate to order that the redetermination occur promptly following the Judgment in this application, so that a decision is communicated to the applicant no later than within 60 days of the date of this Judgment. In addition, the officer on

redetermination should be apprised of the contents of these Reasons in section III.C., above, concerning the flaws in the officer's reasoning process.

E. ***Costs***

[42] The applicant also requested a costs award.

[43] The applicant argued that the decision "reveals a complete lack of care on the part of the Officer" and that even in the absence of bad faith, blatant errors may justify a costs award. The respondent maintained that there was no basis for a costs award. According to the respondent, a reviewable error does not, in itself, justify such an award.

[44] Section 22 of the *Federal Courts Citizenship, Immigration and Refugee Protection Rules*, SOR/93-22, provides that no costs shall be awarded in specified immigration proceedings "unless the Court, for special reasons, so orders."

[45] The threshold to establish "special reasons" is high: *Radiyeh v Canada (Citizenship and Immigration)*, 2022 FC 1234, at para 34; *Aleaf v Canada (Citizenship and Immigration)*, 2015 FC 445, at para 45. Such "special reasons" may exist owing to, for example, the nature of the case, the behaviour of the applicant, the behaviour of the Minister or of an immigration official, or the behaviour of counsel: *Ndungu v Canada (Citizenship and Immigration)*, 2011 FCA 208, at para 7; *Canada (Citizenship and Immigration) v Suleiman*, 2015 FC 891, at para 48. At a high level, a costs award may be made if a party has unnecessarily or unreasonably prolonged legal proceedings, or acted in a manner that was unfair, oppressive, improper or actuated by bad faith:

Oladele v Canada (Citizenship and Immigration), 2022 FC 1161, at para 52, citing Taghiyeva v Canada (Citizenship and Immigration), 2019 FC 1262, at paras 17-23 and *Ndungu*, at para 7; *Zheng v Canada (Immigration, Refugees and Citizenship),* 2021 FC 616, at para 22.

[46] Applying this standard, I find no special reasons for a costs award in this case. The conduct of the respondent and the officer do not justify a costs award. The respondent resolved the first two applications for judicial review without a hearing in this Court. While I am sympathetic to the applicant's frustration to be faced with another redetermination, no specific facts or circumstances were argued to meet the high threshold in the case law governing costs awards in this context. Considering that case law, I do not believe that a third determination in the circumstances of this case constitutes such special reasons.

IV. Conclusion

[47] The officer's decision must be set aside and the matter remitted to a different officer for redetermination, such redetermination to be completed promptly and the decision communicated to the applicant no later than within 60 days of the date of this Judgment. There will be no Order as to costs.

[48] Neither party proposed a question to certify for appeal and none will be stated.

JUDGMENT in IMM-3693-20

THIS COURT'S JUDGMENT is that:

1. The decision dated August 6, 2020, is set aside and the matter is remitted for prompt redetermination by another officer, who shall be apprised of the contents of section III.C of the Reasons for this Judgment.
2. The decision on redetermination shall be communicated to the applicant no later than within 60 days of the date of this Judgment.
3. There is no costs order.
4. No question is certified for appeal under paragraph 74(*d*) of the *Immigration and Refugee Protection Act.*

"Andrew D. Little"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-3693-20
STYLE OF CAUSE:	KULDEEP SINGH v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	MARCH 24, 2022
REASONS FOR JUDGMENT AND JUDGMENT:	A.D. LITTLE J.
DATED:	NOVEMBER 29, 2022

APPEARANCES:

Naseem Mithoowani	FOR THE APPLICANT
Kareena Wilding	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Naseem Mithoowani Barrister & Solicitor Toronto, Ontario	FOR THE APPLICANT
Kareena Wilding Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT