Federal Court Cour fédérale

Date: 20230224

Docket: IMM-2437-22

Citation: 2023 FC 269

Toronto, Ontario, February 24, 2023

PRESENT: Madam Justice Go

BETWEEN:

MOHAMMADMAHDI REZAALI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Mohammadmahdi Rezaali, seeks judicial review of the decision of a visa officer [Officer] at the Case Processing Centre in Ottawa dated February 10, 2022 refusing his application for a study permit [Decision].

[2] The Applicant is a 21-year old citizen of Iran. Around 2017, when the Applicant was finishing high school, the Applicant became interested in cryptocurrency and blockchain

technology and obtained employment experience working with prominent Iranian companies in the field. The Applicant developed two start-up technology companies in September 2017.

[3] In 2020, the Applicant began his studies in the Computer Engineering program at the Azad University of Varamin. Stating that he wanted to pursue studies internationally, the Applicant applied for a study permit on January 9, 2022 based on an acceptance from Seneca College [Seneca] for the English Language Institute [ELI] program. The ELI program is a prerequisite to the Computer Programming diploma program, which he was also accepted into for the September 2022 to April 2024 term.

[4] The Officer was not satisfied that the Applicant would leave Canada at the end of his stay, as required by subsection 216(1) of the *Immigration and Refugee Protection Regulations,* SOR/2002-227 [*IRPR*].

[5] Despite counsel's able submissions, for the reasons set out below, I find the Decision reasonable and I find no breach of procedural fairness. As such, I dismiss the application.

I. Issues and Standard of Review

[6] The Applicant argues that the Decision is unreasonable because the Officer's reasons were not justified in light of the evidence submitted. The Applicant also argues that the Officer made a veiled credibility finding and breached the duty of procedural fairness by not providing an opportunity to respond.

[7] The parties agree that the first issue is reviewable on a reasonableness standard, per *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]. The parties also agree that the procedural fairness issue is reviewable on a correctness standard: *Iyiola v Canada (Citizenship and Immigration)*, 2020 FC 324 at para 13 [*Iyiola*]; *Canada (Minister of Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 43.

[8] Reasonableness is a deferential, but robust, standard of review: *Vavilov* at paras 12-13. The reviewing court must determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible and justified: *Vavilov* at para 15. 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: *Vavilov* at para 85. Whether a decision is reasonable depends on the relevant administrative setting, the record before the decision-maker, and the impact of the decision on those affected by its consequences: *Vavilov* at paras 88-90, 94, and 133-135.

[9] For a decision to be unreasonable, the Applicant must establish that the Decision contains flaws that are sufficiently central or significant: *Vavilov* at para 100. Not all errors or concerns about a decision will warrant intervention. A reviewing court must refrain from reweighing evidence before the decision-maker, and it should not interfere with factual findings absent exceptional circumstances: *Vavilov* at para 125. Flaws or shortcomings must be more than superficial or peripheral to the merits of the decision, or a “minor misstep”: *Vavilov* at para 100.

II. Analysis

[10] Under the *Immigration and Refugee Protection Act,* SC 2001, c 27 [*IRPA*]*,* a foreign national "may not work or study in Canada unless authorized to do so under this Act", and an officer "may, on application, authorize a foreign national to work or study in Canada if the foreign national meets the conditions set out in the regulations": subsections 30(1) and (1.1).

[11] The Decision concerned the following condition in paragraph 216(1)(b) of the *IRPR*:

Study permits	**Permis d'études**
216 (1) Subject to subsections (2) and (3), an officer shall issue a study permit to a foreign national if, following an examination, it is established that the foreign national … **(b)** will leave Canada by the end of the period authorized for their stay under Division 2 of Part 9...	**216 (1)** Sous réserve des paragraphes (2) et (3), l'agent délivre un permis d'études à l'étranger si, à l'issue d'un contrôle, les éléments suivants sont établis : … **b)** il quittera le Canada à la fin de la période de séjour qui lui est applicable au titre de la section 2 de la partie 9…

[12] In study permit applications, the onus is on applicants to establish that they will leave Canada at the end of the authorized period of stay to satisfy paragraph 216(1)(b) of the *IRPR*: *Iyiola* at para 20.

Issue 1: Was the Decision Reasonable?

[13] The Applicant argues that the Officer ignored clear evidence of the Applicant's family ties in Iran when relying on the Applicant being single and without dependents to find a lack of family ties. The Applicant submits that Canada's regime for granting study permits, made up of the *IRPA*, the *IRPR*, and Immigration, Refugees and Citizenship Canada [IRCC] guidelines [Guidelines], does not place marriage status above other family ties.

[14] The Applicant relies on *Onyeka v Canada (Citizenship and Immigration)*, 2009 FC 336 [*Onyeka*], where the Court noted that "being single and having no dependents […] merely place[s] the Applicant in the position of most students applying for study permits": at para 48; see also *Hassanpour v Canada (Citizenship and Immigration)*, 2022 FC 1738 at para 20. Noting his age, the Applicant argues that it is not unreasonable for him to be single and without children, as is the case with most study permit applicants.

[15] The Applicant submits that jurisprudence confirms that relying on the lack of a spouse or dependent children to find insufficient family ties, without further analysis, is unreasonable: see *Iyiola* at para 20; *Onyeka* at para 48; *Barril v Canada (Citizenship and Immigration)*, 2022 FC 400 at para 20; and *Gilavan v Canada (Citizenship and Immigration)*, 2022 FC 1698 [*Gilavan*] at paras 18-20. The Applicant points to *Iyiola* at para 20, where this proposition was recently affirmed:

> […] an applicant's lack of a dependent spouse or children, without any further analysis [as in this case], should not be considered a negative factor on a study permit application; otherwise, this would preclude many students from being eligible […]

[16] My reading of the cases cited by the Applicant reveals that the Court does not suggest that an officer cannot consider an applicant's single status. Indeed, as the Court states in *Onyeka* at para 48: "I can see some connection between being single and having no dependents and the issue of whether, under Regulation 216(1)(b), the Applicant will leave Canada at the end of the authorized period." However, in that case, the Court went on to find the Decision unreasonable "when the other factors are taken into account."

[17] The Officer's consideration of the Applicant's single status was one "amongst many other factors", as the Respondent contends. Specifically, according to the Global Case Management System [GCMS] notes, the Officer rejected the Applicant's study permit application based on the following findings:

- The Applicant's proposed course of study is repetitive and thus unreasonable given his employment and education history and because he is already enrolled in a Computer Engineering program in Iran;
- The Applicant's Client Explanation Letter did not satisfy the Officer that the ELI and Computer Programming diploma at Seneca would benefit him or improve his job prospects back home;
- The Applicant is single, mobile, not well established and has no dependents, and did not demonstrate sufficient ties to his home country to satisfy the Officer he would leave Canada at the end of his authorized period of stay; and
- The Applicant's financial documentation did not demonstrate availability of sufficient funds to show that the proposed studies constitute a reasonable expense.

[18] I will address the other factors in this case in greater detail below. Suffice to say the Applicant's single status was not the only reason for refusing his study permit application.

[19] The Applicant also argues that the Officer's failure to address his family ties in Iran was unreasonable. The Applicant highlights *Gilavan,* where the Court rejected the respondent's argument that listing family members on a form was insufficient to demonstrate meaningful family ties: at para 19. The Court in *Gilavan* noted that the officer accepted the sufficiency of the

Applicant's evidence relating to his family but made "virtually no analysis" of such evidence in their notes, which was found to be unreasonable: at paras 20-21.

[20] In the case before me, the Officer did refer to the family ties and found them to be insufficient. As such, I agree with the Respondent that the Applicant is merely asking the Court to arrive at an alternative conclusion.

[21] I also reject the Applicant's argument that the Officer was obliged to provide reasons for rejecting the study permit application on the basis of "family ties in Canada", which was printed on the refusal letter. The Applicant notes that this factor goes unaddressed in the Officer's reasons, and emphasizes the evidence that he in fact has no family ties in Canada.

[22] The refusal letter read in part as follows:

- I am not satisfied that you will leave Canada at the end of your stay, as stipulated in subsection 216(1) of the IRPR, based on your family ties in Canada and in your country of residence.

[23] The GCMS notes do not indicate that the Applicant's family ties in Canada was a factor in the Decision. The reference to his family ties in the refusal letter, as the Respondent submits, is likely part of the IRCC template letter. I reviewed the cases cited by the Applicant and note that in *Rahmati v Canada (Citizenship and Immigration)*, 2021 FC 778 and *Seyedsalehi v Canada (Citizenship and Immigration)*, 2022 FC 1250, references to family ties were found in the GCMS notes, when there was no evidence of such.

[24] On the other hand, in *Hasanalideh v Canada (Citizenship and Immigration)*, 2022 FC 1417, the Court accepted the respondent's argument that while family ties are mentioned in the refusal letter, it was apparent from the GCMS notes that family ties were not central to the decision: at para 9, citing *Ocran v Canada (Citizenship and Immigration)*, 2022 FC 175 [*Ocran*]. In *Ocran,* the Court concluded that one error was not sufficient to render an entire decision unreasonable where an officer had three other reasons why they were not satisfied that an applicant would leave Canada at the end of her study period: at paras 46-48.

[25] I adopt the Court's analysis in *Ocran*, and do not find that the reference to the Applicant's family ties in Canada in the refusal letter rendered the Decision unreasonable.

[26] The Applicant also argues that the Officer ignored the evidence when concluding that the Applicant is not well-established and failed to show sufficient ties to Iran. The Applicant points to the evidence on the record of his strong employment history and personal career achievements in Iran, as well as his parents' significant real estate in the country.

[27] Given this evidence of establishment, the Applicant argues that the Officer's conclusion is entirely without merit and clearly demonstrates that they failed to consider or misunderstood the Applicant's evidence, contrary to *Vavilov* at paras 105 and 125.

[28] I am not persuaded by the Applicant's submissions, which essentially amount to asking the Court to reweigh the evidence. As the Respondent points out, the Applicant's submissions before the Officer and on judicial review regarding his achievements, namely the two start-up

companies, fail to explain how these online achievements and his online reputation equate to establishment in Iran. The Applicant's study plan also failed to explain how his parents' wealth, upon which the Applicant appears to rely for support, would translate into his own establishment in Iran. I agree.

[29] Finally, with respect to the purpose of visit, I find that the Applicant fails to demonstrate that the Officer erred in finding that his proposed studies are repetitive and inconsistent with his career path and in finding that the Applicant did not sufficiently explain the benefits of pursuing the proposed program. The Applicant submits that he "concretely explained" in his application the benefits of his proposed program.

[30] Having reviewed the study plan, I note that the Applicant explained that he chose to study in Canada to help him improve his talent and expand his experiences in new technology fields. However, he provided no specific reasons for choosing Seneca to study Computer Programming, or explanations of how the program would benefit him, beyond some general assertions. The acceptance letter from Seneca also provided no information about the programs that the Applicant has been accepted into.

[31] Viewed in that light, I find it reasonable for the Officer to conclude that the proposed course of study is repetitive given the Applicant's employment and education history, as the Applicant is already enrolled in a Computer Engineering program at a university in Iran.

[32] The Applicant argued at the hearing that “we do not know if the program is repetitive” and it was thus unreasonable for the Officer to conclude as such. With respect, therein lies the issue: the burden was on the Applicant to establish his purpose of visit. The Applicant in this case simply had not provided sufficient information about the program he wishes to pursue, thus undermining his ability to establish his purpose of visit.

[33] For the same reason, I do not find unreasonable the Officer’s conclusion that the Applicant’s proposed course of study at Seneca is an unreasonable expense. I agree with the Respondent that the Applicant fails to raise a reviewable error regarding the Officer’s finding on socioeconomic status, given the Officer’s other findings on the sufficiency and availability of the Applicant’s parents’ wealth and on the benefits of the program.

[34] In conclusion, I find that the Decision is reasonable in view of the evidence submitted by the Applicant and his onus to put his best case forward to demonstrate that he meets the statutory requirements. The Decision is based on an internally coherent and rational chain of analysis and is justified in relation to the facts and the law.

Issue 2: Did the Officer breach procedural fairness?

[35] The Applicant argues that the Officer breached their duty of procedural fairness by refusing his study permit application on credibility grounds without giving the Applicant an opportunity to respond. The Applicant highlights the “volume of evidence” submitted and opines that the Officer could have only reached their conclusions by having concerns about credibility.

[36] I disagree.

[37] The level of procedural fairness owed to visa and study permit applicants falls at the low end of the spectrum: *Patel v Canada (Citizenship and Immigration)*, 2020 FC 77 [*Patel*] at para 10, citing *Al Aridi v Canada (Citizenship and Immigration)*, 2019 FC 381 at para 20.

[38] Unlike *Patel*, I do not find the Officer in this case expressed any concerns about "the authenticity of the documents or the applicant's credibility": at para 10. Nor do I find that the Officer made any veiled credibility findings.

[39] Instead, I agree with the Respondent that the Applicant's submissions on the procedural fairness ground merely demonstrate that he takes issue with the factual inferences drawn by the Officer from the evidence that was before them. The Applicant fails to connect the dots as to how the Officer unfairly breached the Guidelines.

III. Conclusion

[40] The application for judicial review is dismissed.

[41] There is no question for certification.

JUDGMENT in IMM-2437-22

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. There is no question for certification.

"Avvy Yao-Yao Go"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

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