Federal Court  Cour fédérale

Date: 20230831

Docket: IMM-11364-22

Citation: 2023 FC 1186

Vancouver, British Columbia, August 31, 2023

PRESENT: The Honourable Madam Justice Furlanetto

BETWEEN:

SHOHREH KHOSRAVI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] This is an application for judicial review of an October 31, 2022 decision [Decision] of a visa Officer, rejecting an application for a study permit pursuant to subsection 216(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR]. The Officer was not satisfied the Applicant would leave Canada at the end of her stay based on the purpose of her visit and her assets and financial situation.

[2] For the reasons set out below, the application is dismissed as I find the Officer did not make a reviewable error.

I. Background

[3] The Applicant, Shohreh Khosravi, is an Iranian national. She is 38, married, and has two children. She completed a Bachelor's Degree in Computer Engineering – Software at Islamic Azad University in 2010. The Applicant has worked at Kalleh Co [Employer] since 2010. She began as an "IT Expert" before being promoted to "Programming Expert" in 2013, and more recently to "IT Senior Expert and HR Manager" in 2021. She asserts that she has been offered a third promotion to "Sales Programming Director".

[4] The Applicant applied for a study permit after being admitted to the Masters of Business Administration [MBA] program at Trinity Western University in Langley, British Columbia [Program]. The Employer agreed to hold the Applicant's current position for three years while she completed her studies abroad and to upgrade it on completion of the Program. The Applicant prepaid $9,990.00 as a tuition deposit and provided financial information to support her Application that included a bank statement and transaction records from her spouse's bank account, and title deeds to property in Iran in both her name and her spouse's name.

[5] On October 31, 2022, the Application was refused. The Officer was not satisfied the Applicant had sufficient funds for the proposed stay in Canada or that the proposed study was of value to the Applicant or her Employer.

II. Analysis

[6] The parties assert and I agree that the standard of review of the substance of the Decision is reasonableness. None of the situations that would rebut the presumption that all administrative decisions are reviewable on a standard of reasonableness are present in this case: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at paras 16-17 and 25. 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 constrain the decision maker": *Vavilov* at paras 85-86; *Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67 at paras 2, 31. A decision will be reasonable if when read as a whole and taking into account the administrative setting, it bears the hallmarks of justification, transparency, and intelligibility: *Vavilov* at paras 91-95, 99-100.

[7] Questions of procedural fairness ask whether the procedure was fair having regard to all of the circumstances with the ultimate question being whether the applicant knew the case it had to meet and had a full and fair chance to respond: *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at paras 54, 56. In the context of a study permit application, it has been recognized that the level of procedural fairness owed to applicants is at the low end of the spectrum: *Nourani v Canada (Citizenship and Immigration)*, 2023 FC 732 at para 50.

[8] The Applicant argues that the Officer's Decision was unreasonable as it was vague and unresponsive to the evidence. She asserts that the Officer erred in their assessment of the

financial information and adopted an arbitrary approach when considering whether the purpose of the visit was consistent with a temporary stay.

[9] Section 220 of the IRPR provides that an officer should not issue a study permit if the applicant does not have sufficient, available financial resources to pay tuition, living expenses, and the cost of travel to and from Canada. Where an applicant does not meet the requirements set out in section 220 of the IRPR, the officer has no discretion and must deny the study permit application: *Ohuaregbe v Canada (Citizenship and Immigration)*, 2023 FC 480 at para 23; *Adekoya v Canada (Citizenship and Immigration)*, 2016 FC 1234 at para 9.

[10] In her application, the Applicant states that she intends to rely on the financial support of her spouse for her studies. The offer of acceptance indicates that the estimated tuition for the program is $36,225 and that $9,990 has been prepaid. The Applicant includes a balance statement from her spouse's bank account that identifies an available bank balance of approximately 9 billion rials ($42,000 CAD) as of August 30, 2022. She also includes bank transaction records for the account, which are asserted to cover five months.

[11] The Officer states in the Global Case Management System (GCMS) notes that there is a discrepancy between the balance statement and the bank transaction records such that they are not satisfied that the Applicant has sufficient funds for the proposed stay in Canada.

[12] The Applicant argues that sufficient financial information has been provided to demonstrate the required funds to study in Canada as an international student. She asserts that the

Officer's reasons are not transparent as to the nature of the discrepancy asserted. Further, if the Officer was concerned with discrepancies in the Applicant's documents, they should have highlighted this to the Applicant and provided the Applicant with an opportunity to address the concerns through a procedural fairness letter [PFL].

[13] However, I agree with the Respondent, the discrepancy between the documents is clear on their face. In this case, it was not necessary for the Officer to say more. First, the time-period covered by the transaction listing is from March 2022 to the end of June 2022, and does not cover the date on the balance statement, which is August 30, 2022. Second, as noted by the Respondent, the bank transaction records show a significantly lower amount of funds in the account (i.e., approximately 425 million rials ($13,500 CAD) as the highest amount) from what was noted on the bank balance statement. While the Officer did not refer to specific numbers from the transaction listing, it is clear from the document itself that the numbers reflected over the March 2022 – June 2022 time-period are much lower than the amount cited in the balance statement. The document suggests that the amount of funds in the account was typically much lower than what the Applicant asserts is available, and insufficient to cover even the first year of study.

[14] Further, while Applicant's counsel tried to argue that the bank transaction statement may refer to a different bank account, I do not find support for that assertion anywhere in the evidence. Moreover, the assertion is contrary to the transaction listing which includes the same account number as the balance statement.

[15] As noted by the Respondent, an applicant bears the burden to establish they are entitled to a visa and to produce the relevant information necessary to assist their application. Officers are not required to give applicants a "running score" of deficiencies in the evidence where the concerns are not based on credibility or the genuineness of the information submitted: *Baybazarov v Canada (Citizenship and Immigration)*, 2010 FC 665 at paras 11 and 12; *Solopova v Canada (Citizenship and Immigration)*, 2016 FC 690 at para 38. In this case, the issue was one of discrepancy not credibility; a PFL was not warranted.

[16] The Applicant argues that the Officer erred by not referring to the title deeds. However, I do not find this omission unreasonable as even if the Applicant had established that the property covered by the deeds could be mortgaged or sold (of which there was no evidence), the value (53,407,661 rials, or $1,698 CAD) would not contribute significantly to the projected expenses.

[17] In my view, it was reasonable for the Officer to find based on the discrepancy in the banking documents that the evidence did not demonstrate that the Applicant had sufficient funds to cover her tuition, living expenses, and necessary travel. The Applicant has not established a reviewable error with this part of the Decision.

[18] The remainder of the Applicant's arguments amount to a request for the Court to reweigh the evidence, which is contrary to the role of the Court on judicial review. While the Applicant argues that the Officer failed to grapple with the positive factors supporting the Applicant's request, I do not find this argument persuasive. An Officer is under no obligation to refer to every piece of evidence contrary to their findings in their decision (*Ahmed v Canada (Citizenship*

and Immigration), 2013 FC 1083 at para 34) as long as the reasons for the decision provide sufficient justification, transparency, and intelligibility.

[19] In this case, the Officer specifically refers to the Applicant's study plan and the Representative's submission letter as having been reviewed along with the employer letter. The Applicant's study plan includes a discussion of the Applicant's education and work background, family ties, finances and proposed study. However, the Officer notes that the study plan and Representative's submissions are not strongly documented and refer only to general, advantageous comments, without explaining how or why obtaining the Program in Canada will assist the Employer's business or the Applicant. Having reviewed the record, including the Applicant's study plan, I do not consider these comments to be unreasonable. Nor do I consider the comments to be vague or unintelligible.

[20] While the study plan states that the promotion offered to the Applicant "requires academic knowledge in the MBA field", there is no explanation given as to why this is the case, or as to what the knowledge would be. As highlighted by the Respondent, neither the Employer nor the Applicant mention any gaps in the Applicant's employment experience and existing education that would prohibit her from obtaining the new position without the proposed Program. It is unclear what specific benefit the Program would serve to the Applicant's current or new position.

[21] As noted in *Mehrjoo v Canada (Citizenship and Immigration)*, 2023 FC 886 at paragraph 15, the burden is on the visa applicant to provide sufficient information about the benefits of the

program they wish to pursue, and a failure to do so risks undermining one's ability to establish the purpose of their visit. This is what has happened here.

[22] For all of these reasons, the application is dismissed. There was no question for certification proposed by the parties and I agree that none arises in this case.

JUDGMENT IN IMM-11364-22

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. No question of general importance is certified.

"Angela Furlanetto"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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