IMM-2993-96

BETWEEN:

Lie OU, domiciled and residing at Room 503, No. 72,
Nong lin Xia Road Guangzhou, Guangdong, China,

Applicant,

- and -

THE MINISTER OF CITIZENSHIP
AND IMMIGRATION c/o Deputy Attorney General of Canada,
Department of Justice, having office at Complexe Guy Favreau,
200 René-Lévesque West, East Tower, 5th Floor,
in the city of Montreal, Province of Quebec,

Respondent.

REASONS FOR ORDER

PINARD J.

This is an application pursuant to section 18.1 of the *Federal Court Act*, R.S.C. 1985, c. F-7, for judicial review of the decision of Susan Dragan, a visa officer at the Commission for Canada in Hong Kong dated April 30, 1996, but stamped July 26, 1996, refusing the applicant's application for a permanent residence visa in the Assisted Relative category. The visa officer assessed the applicant in the occupation of Administrative Clerk, rather than in the intended occupation he listed on his application, which was that of Executive Secretary. The visa officer denied the application on the basis that the applicant had achieved zero units of assessment under the category of occupational demand (factor 4, Schedule I of the *Immigration Regulations, 1978*, SOR/78-172 (hereafter the Regulations). Paragraph 11(2)(*a*) of the Regulations provides that an immigration officer shall not issue an immigrant visa if that immigrant fails to earn at least one unit of assessment for occupational demand.

The applicant completed his *Application for Permanent Residence in Canada* as an Assisted Relative on April 25, 1995, and his application was received by the Commission for Canada in Hong Kong on June 22, 1995. The applicant indicated at question 17 of his application

that his intended occupation in Canada was that of Executive Secretary (Canadian Classification and Dictionary of Occupations (CCDO) #4111-111).

After an initial paper screening, the applicant and his wife were invited to attend an interview with Susan Dragan, Second Secretary at the Commission for Canada in Hong Kong, on February 9, 1996.

At the interview on February 9, 1996, the applicant was given the opportunity to explain fully his work experience and training to the visa officer. The latter informed him that, although he claimed to have experience as an executive secretary and had provided reference letters to that effect, he did not possess the minimum required training qualifications required by the CCDO for assessment in that occupation. The visa officer told the applicant that he was accordingly not likely to be successful in his application. The visa officer nonetheless decided to assess the applicant in the occupation of administrative or office clerk (CCDO #4197-114), an occupation which required the performance of similar duties but without the prerequisite training required of an executive secretary. However, since no units of assessment were assigned to this occupation, the lack of demand would necessitate a refusal for failure to meet paragraph 11(2)(*a*) of the Regulations. Given this fact, the visa officer did not proceed to formally assess the applicant's reading and writing skills, but rather gave him the benefit of the doubt and awarded him full points for his claimed abilities in these two skills.

By letter dated April 30, 1996, but stamped July 26, 1996, the visa officer informed the applicant that his application for permanent residence in Canada had been refused.

The facts herein are in all essential respects identical to those that were before this Court in *Cai v. Canada (M.C.I.)*, IMM-883-96, January 17, 1997 (my decision). As in that case, the applicant herein objects to the fact that the visa officer did not assess him in the occupation of "Executive Secretary", the intended occupation which he listed on his application for permanent residence in Canada. The visa officer declined to pursue the assessment of the applicant in this occupational category once she determined that the applicant "lacked the qualifications for assessment as such".[1] The visa officer concluded that the applicant did not satisfy the minimum training requirements for an Executive Secretary.

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[1]Decision of the visa officer, at page 2.

The applicant argues that the visa officer took an unduly restrictive and "technical" approach to his application by rigidly adhering to the minimum training requirements for the position of Executive Secretary which are set out in the CCDO. In the applicant's view, the visa officer erred by failing to evaluate and consider his work experience as an executive secretary for a number of companies in Guangzhou. No other arguments on behalf of the applicant were made at the hearing before me.

In my opinion, the applicant's argument is without merit. The formal training requirements set out for certain occupations in the CCDO cannot simply be ignored. Nor is it inherently unreasonable for a visa officer to decline to further assess an applicant in an occupational category for which he or she has already determined the applicant to be ineligible because the individual lacks the requisite training.

It must be recalled that visa officers are specifically mandated to refer to the CCDO by the wording of factor 2, Schedule I of the Regulations, which provides for the allocation of units of assessment for *Specific Vocational Preparation*. The relevant provision reads as follows:

2. Specific Vocational Preparation

To be measured by the amount of formal professional, vocational, apprenticeship, in-plant, or on-the-job training specified in the Canadian Classification and Dictionary of Occupations, printed under the authority of the Minister, as necessary to acquire the formation, techniques and skills required for average performance in the occupation in which the applicant is assessed under item 4. . . .

The CCDO indicates that the occupation of Executive Secretary (#4111-111) carries a Specific Vocational Preparation rating of 7, which is then converted to the SVP equivalent of 15 units for purposes of Schedule I of the Regulations. This SVP requires "more than two years and up to and including four years" of training. Moreover, the CCDO outlines specific training and entry requirements for Secretaries and Stenographers. The occupation of Executive Secretary is a sub-group within the occupation of secretary. The *Training and Entry Requirements* for Secretaries and Stenographers are as follows:

Secretaries and Stenographers normally require:

- ten to twelve years of general education; and
- three to six months of training in a business college, or one year in a special commercial course at a high school;

OR

- graduation from a secondary commercial school.

> Secretaries also require from three months to one year of stenographic experience to become proficient especially when a knowledge of the terminology of a particular field, such as medicine, law or engineering is required.
>
> Court Reporters also require speed training in shorthand, or other methods of speedwriting and the use of shorthand machines and dictaphones.

Thus, the CCDO makes it clear that the *Specific Vocational Preparation* for the positions of Secretary and Executive Secretary must have been obtained through the completion of formalized training in the skills required.

In the *Cai* decision, I made the following comments in circumstances very similar to the case at bar, at page 3:

> It is well established that the onus is on the applicant to fully satisfy the visa officer of the existence of all of the positive ingredients in his or her application. Accordingly, provided that the visa officer does not act unfairly, and/or makes an error of law apparent on the face of the record in arriving at his or her decision (such as considering extraneous criteria not contained in the CCDO definition), that decision is entitled to a significant amount of curial deference (see *Hajariwala v. Canada*, [1989] 2 F.C. 79 (F.C.T.D.)). In making his or her assessment, the visa officer is not only called upon to compare the applicant's experience and qualifications with those set out in Schedule I of the *Regulations*, but is also obliged to consider the applicant under every occupation he or she designates in his or her application, and is also vested with the "clear responsibility.... to assess alternate occupations inherent in the applicant's work experience". . . . If, however, the visa officer ascertains that an applicant does not meet the criteria for the occupation under which he or she seeks to be assessed (in this case the formal training requirements for the occupation of executive secretary) as stipulated by the definition in the CCDO, it is not unreasonable, in my opinion, for the visa officer to hold that the applicant cannot be further assessed in that occupational category (see *Prasad v. Canada (Minister of Citizenship and Immigration)*, IMM-3373-94, April 2, 1996 (F.C.T.D.)).
>
> In the present case, after the applicant was given some opportunity to explain the duties she had performed in her various positions, not only did the visa officer conclude that the applicant did not satisfy the formal training requirements set out in the definition of executive secretary in the CCDO, the visa officer also noted that there was nothing in the supporting documentation supplied by the applicant to indicate the tasks she had performed in her various positions were commensurate with those performed by secretaries or executive secretaries in Canada, notwithstanding the fact that one of the positions she had held was ostensibly that of "executive secretary". Indeed, simply because the applicant herein may have performed some of the tasks performed by an executive secretary does not necessarily mean she is fully qualified to work in that capacity.
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> Consequently, it does not strike me as unreasonable that the visa officer considered as she did the *Training and Entry Requirements* for secretaries and executive secretaries specified in the CCDO, and then on the basis that the applicant did not satisfy the said relevant requirements, declined to further assess the applicant's application for permanent residence in Canada in the category of executive secretary.

In my opinion, there is nothing of significance in the present case which would distinguish it from the situation in *Cai*.

Consequently, the application for judicial review is dismissed.

Given the particular facts of this case, this is not a matter for certification pursuant to subsection 18(1) of the *Federal Court Immigration Rules, 1993*.

OTTAWA, Ontario
August 15, 1997

JUDGE