Federal Court Cour fédérale

Date: 20231128

Dockets: IMM-6763-22
IMM-7545-22

Citation: 2023 FC 1586

Montréal, Quebec, November 28, 2023

PRESENT: Mr. Justice Sébastien Grammond

Docket: IMM-6763-22

BETWEEN:

VAHAN KHOSROFYAN

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

Docket: IMM-7545-22

AND BETWEEN:

VAHAN KHOSROFYAN

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] Mr. Khosrofyan, a citizen of Armenia, seeks judicial review of the refusal of his application for permanent residence in the Quebec skilled worker class. A visa officer determined that Mr. Khosrofyan failed to show that he had an intent to reside in Quebec, as required by paragraph 86(2)a) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [the Regulations].

[2] I am granting Mr. Khosrofyan's application. I emphasize that my role on judicial review is not to decide the application for permanent residence myself nor to substitute my findings for those of the visa officer. Rather, my role is to ensure that the visa officer's decision is reasonable or, in other words, that the visa officer's findings can be reasonably supported by the evidence on the record. In my view, the visa officer overlooked several material aspects of the evidence, which renders his decision unreasonable.

[3] Mr. Khosrofyan first challenges the visa officer's reliance on his Express Entry application submitted in 2015, which indicates that he intended to reside in Alberta. He argues that the officer misstated the date of this application and misunderstood its nature, as it is distinct from an application for permanent residence. In my view, however, these mistakes are immaterial. What is relevant is the fact that in the not too distant past, Mr. Khosrofyan expressed an intent to reside in a province other than Quebec. While this is not determinative of the application, this has some relevance to assessing intent. However, it appears that the visa officer treated this as an insuperable obstacle and failed to appreciate that one's plans may change.

[4] Mr. Khosrofyan's second line of attack is aimed at the visa officer's statements that his French language ability was unclear and that he began lessons only when he was asked to provide evidence of his intent to reside in Quebec. He argues that by making these comments, the visa officer imposed a requirement of proficiency in French that is not found in the Regulations. I disagree. As I explained in *Qiao v Canada (Citizenship and Immigration)*, 2022 FC 247, a person's intent to reside in Quebec must be assessed based on all available relevant evidence, including the person's knowledge of French or steps taken towards learning French. It was reasonable to consider this factor.

[5] Nevertheless, the visa officer overlooked important aspects of the evidence. Mr. Khosrofyan stated that he had been learning French by himself for two and a half years, through mobile applications and online courses. Moreover, his eldest daughter had been taking French as a foreign language at school for two years. In assessing this evidence, one should not forget that the applicant only needs to prove the intent to reside in Quebec, not a particular level of proficiency in French.

[6] This brings me to Mr. Khosrofyan's third submission. He argues that the visa officer unreasonably discounted the fact that his wife's aunt lives in Laval and has offered to help him and his family upon arrival. The visa officer's only ground for doing so is that Mr. Khosrofyan has never travelled to Quebec to visit this family member. In my view, the visa officer failed to consider the detailed letter written by the aunt, which contains an explanation for the lack of in-person visits.

[7] As a result of these shortcomings, the visa officer's decision is unreasonable. When a decision is found to be unreasonable, the usual remedy is to remit the matter for reconsideration: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paragraph 141, [2019] 4 SCR 653. There is no reason in this case to depart from the usual practice.

[8] Upon receiving a negative decision on his application for permanent residence, Mr. Khosrofyan also sought an administrative reconsideration of the matter. He is now seeking judicial review of the denial of this request. As I am allowing his application for judicial review of the denial of permanent residence, this second application becomes moot and will accordingly be dismissed.

JUDGMENT in IMM-6763-22 and IMM-7545-22

THIS COURT'S JUDGMENT is that

1. The application for judicial review in file IMM-6763-22 is granted and the applicant's application for permanent residence is remitted to a different visa officer for reconsideration.
2. The application for judicial review in file IMM-7475-22 is dismissed.
3. No question is certified.

"Sébastien Grammond"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKETS:	IMM-6763-22 AND IMM-7545-22
DOCKET:	IMM-6763-22
STYLE OF CAUSE:	VAHAN KHOSROFYAN v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
AND DOCKET:	IMM-7545-22
STYLE OF CAUSE:	VAHAN KHOSROFYAN v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	BY VIDEOCONFERENCE
DATE OF HEARING:	NOVEMBER 27, 2023
JUDGMENT AND REASONS:	GRAMMOND J.
DATED:	NOVEMBER 28, 2023

APPEARANCES:

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