

Federal Court



Cour fédérale

Date: 20240517

Docket: IMM-3674-23

Citation: 2024 FC 754

Ottawa, Ontario, May 17, 2024

PRESENT: Mr. Justice Pentney

BETWEEN:

SOPHIA AJDADI

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant seeks judicial review of an Officer's decision denying her a study permit.

She submits that the decision is unreasonable because the Officer failed to engage with the evidence she submitted, and therefore the reasons are not transparent and intelligible.

[2] I agree. The decision is unreasonable, for the reasons set out below.

[3] The Applicant is a citizen of Iran. She was accepted into the Big Data Analytics Post-Graduate Program at Georgian College in Ontario. The Applicant has a bachelor's degree in pure mathematics from a University in Iran, and has been working as an analyst in the pharmaceutical and medical industry. She explained that she wanted to pursue further studies in the emerging field of big data analytics. She included a letter from her employer offering her a promotion and doubling her salary, conditional upon her completion of this program. She also submitted evidence that this type of program is not offered in Iran.

[4] The Officer cited two grounds for refusal: insufficient financial assets to support the Applicant's proposed course of studies, and the purpose of study was not consistent with her previous studies at a "higher academic level" and her current career and work experience. The Officer's decision is to be assessed under the framework for reasonableness review set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, and recently confirmed in *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 2.

[5] The principles that apply to judicial review of a student visa refusal decision were summarized in *Safarian v Canada (MCI)*, 2023 FC 775 at para 2, citing *Nesarzadeh v Canada (Citizenship and Immigration)*, 2023 FC 568 [*Nesarzadeh*] at paras 5-9:

- A reasonable decision must explain the result, in view of the law and the key facts;

- *Vavilov* seeks to reinforce a “culture of justification” requiring the decision-maker to provide a logical explanation for the result and to be responsive to the parties’ submissions, but it also requires the context for decision-making to be taken into account;
- Visa Officers face a deluge of applications, and their reasons do not need to be lengthy or detailed. However, their reasons do need to set out the key elements of the Officer’s line of analysis and be responsive to the core of the claimant’s submissions on the most relevant points;
- The onus is on the Applicant to satisfy the Officer that they meet the requirements of the law that applies to consideration of student visas, including that they will leave at the end of their authorized stay;
- Visa Officers must consider the “push” and “pull” factors that could lead an Applicant to overstay their visa and stay in Canada, or that would encourage them to return to their home country;

[6] I would add one further principle which has been confirmed in numerous decisions: it is not open to Minister's counsel or the reviewing court to fashion their own reasons to buttress or supplement a visa officer’s decision *Zhang v Canada (Citizenship and Immigration)*, 2022 FC 1679 at paras 21-23; *Torkestani v Canada (Immigration, Refugees and Citizenship)*, 2022 FC 1469 at para 20; *Nesarzadeh* at para 19.

[7] Applying these to the facts of this case, I find the decision to be unreasonable.

[8] The Officer's findings on each of the two grounds mentioned in the reasons are problematic. On the financial aspect, there may have been many good reasons for the Officer to have questions about the Applicant's financial capacity to support herself. The Respondent's counsel points out, for example, that the Applicant failed to provide the six months of bank account information that are required by the study permit checklist provided to applicants from Iran (Study Permit – Ankara Visa Office Instructions (IMM 5816 E)). Respondent's counsel notes that failure to comply with these instructions has been found to justify a refusal, citing *Davoodabadi v Canada (Citizenship and Immigration)*, 2024 FC 85 at paras 13-16. The Respondent submits that the Applicant's information about her other financial holdings did not specify how easily these could be liquidated. The Respondent's position is that the financial information provided by the Applicant was insufficient on its face.

[9] The problem here is that the Officer does not mention any of these points in the GCMS notes or decision letter. There is no doubt that the failure to provide sufficient banking records is a relevant consideration. Compliance with the study permit checklist may well be a relevant consideration. I note here that the Applicant did provide proof of employment, pay stubs as well as an offer of a promotion by her current employer. She also submitted records showing her current bank account balance, the value of gold jewellery in a safety deposit box and that she owned property. While there is no doubt that the Applicant's financial information could have been explained more clearly, I note that one of the banking documents specifically refers to the "turnover" in her account over the past 183 days, showing a larger balance at the end of that period. The point here is that the Applicant's application was not entirely lacking in details about her financial capacity.

[10] The problem is that the Officer's reasons consist only of boilerplate language. The sum total of the Officer's analysis of the Applicant's financial information, in both the refusal letter and the GCMS notes, is the following statement: "The applicant's assets and financial situation are insufficient to support the stated purpose of travel for the applicant (and any accompanying family member(s), if applicable)." There are no accompanying family members, so the latter portion is not relevant. The Officer does not mention the absence of bank statements, failure to comply with the study permit checklist or any of the other reasons that might have supported their finding on the Applicant's financial situation. This is not reasonable. The decision does not bear "the hallmarks of reasonableness – justification, transparency and intelligibility..." (*Vavilov* at para 99). The reasons do not need to be detailed, but the discussion of the financial aspect lacks even a cryptic reference to any of the considerations mentioned above.

[11] Turning to the purpose of the visit, I find that the Officer's reasons fail to engage with the Applicant's specific and detailed explanation for why she wanted to pursue the Big Data Analytics program, and why she could not do so in Iran.

[12] The key portion of the Officer's reasoning on this point is set out in the GCMS notes:

In light of the applicant's previous studies and current career, the intended program of study appears to demonstrate an inconsistent career progression.

Although the applicant's job offer letter mentions a promotion, according to the applicant's study plan and resume, the applicant appears to possess the sought skills because of their work experience and previous studies, therefore, negating the need of additional education.

[13] These reasons do not address the evidence and explanation submitted by the Applicant. A minimum requirement of a reasonable decision, according to *Vavilov* (at para 99), is that it “is justified in relation to the legal and factual constraints that bear on the decision.” The facts of this case are unlike many of the cases cited by the Respondent, where the Court has upheld the refusal of a study permit because the claimant failed to demonstrate a logical reason for wanting to pursue their proposed course of study. In those cases, the claimant’s explanation for pursuing further studies was not found to be adequate.

[14] The facts of this case are distinguishable from the precedents cited. The Applicant clearly sets out why she valued the opportunity to study the emerging field of Big Data analytics, and how her current training in pure mathematics did not equip her to succeed in this area. Her employer’s letter, while not determinative, does provide confirmation as to why this course of study was valued.

[15] The Officer may not have been convinced by the Applicant’s rationale, or her employer’s offer letter. However, that needed to be explained. Even a brief mention of this with a sentence or two explaining why it fell short would demonstrate engagement with this essential element of the Applicant’s submission. The failure to do that makes the decision unreasonable. The Officer’s discussion of this point is simply too generic and too general, in the face of the specific and detailed explanation provided by the Applicant, and the supporting evidence she submitted.

[16] For all of these reasons, the application for judicial review will be granted. The Officer's decision will be quashed and the matter will be sent back for reconsideration by a different Officer.

[17] There is no question of general importance for certification.

JUDGMENT in IMM-3674-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted.
2. The Officer's decision is quashed and the matter is sent back for reconsideration by a different Officer.
3. There is no question of general importance for certification.

"William F. Pentney"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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