

Federal Court



Cour fédérale

**Date: 20240628**

**Docket: IMM-8170-23**

**Citation: 2024 FC 1028**

**Vancouver, British Columbia, June 28, 2024**

**PRESENT: The Honourable Justice Fuhrer**

**BETWEEN:**

**AKWINDER KAUR CHATHA**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] The Applicant Akwinder Kaur Chatha applied for permanent residence under the Home Support Worker [HSW] class program. Immigration, Refugees and Citizenship Canada [IRCC] refused the application because the Applicant did not satisfy the educational requirements. The refusal was upheld on reconsideration.

[2] The Applicant seeks judicial review of the refusal, arguing it was unreasonable and procedurally unfair. The judicial review application will be dismissed because the Applicant has failed to persuade me on either count. My reasons follow.

## II. Analysis

### A. *The refusal was not unreasonable*

[3] Contrary to the Applicant’s submissions, I find the refusal at issue here bears the hallmarks of justification, intelligibility and transparency, with a logical chain of analysis and internally coherent reasons that permit the Court “to connect the dots on the page where the lines, and the direction they are headed, may be readily drawn”: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 97, citing *Komolafe v Canada (Minister of Citizenship and Immigration)*, 2013 FC 431 at para 11.

[4] Eligibility requirements under the HSW program include either (1) a Canadian educational credential of at least one year of post-secondary studies, or (2) a foreign diploma, certificate or credential and an equivalency assessment — issued within five years before the date on which the application is made — that indicates that the foreign diploma, certificate or credential is equivalent to a Canadian educational credential of at least one year of post-secondary studies (emphasis added). These requirements comport with paragraph 75(2)(e) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [*IRPR*]. (See Annex “A” for relevant legislative provisions.)

[5] Further, subsection 73(1) of the *IRPR* defines “Canadian educational credential” as “any secondary school diploma or any post-secondary diploma, certificate or credential that is issued on the completion of a Canadian program of study or training at an educational or training institution that is recognized by the provincial authorities responsible for registering, accrediting, supervising and regulating such institutions.”

[6] With the institutional context in mind, I am not persuaded that the officer erred in refusing the Applicant’s permanent resident [PR] application. The sole issue for the Court’s consideration in this regard is the officer’s treatment of the Applicant’s diploma in general nursing and midwifery obtained in India.

[7] The Applicant’s evidence includes her diploma details, as well as an accepted equivalency assessment, that is an “educational credential assessment” [ECA] by World Education Services [WES], an IRCC-designated organization. The WES report indicates a Canadian equivalency of “three years of hospital study and training” and remarks that “the credential is not comparable to a completed education credential.”

[8] Referring to the above statement in the Global Case Management System [GCMS] notes, the officer indicates that the Applicant “has not provided a Canadian one-year post-secondary (or higher) educational credential or an Education Credential Assessment indicating that the credential is equivalent to a completed Canadian one-year postsecondary (or higher) educational credential” and, thus, the Applicant does not meet the minimum education eligibility requirements.

[9] The Applicant contends that the officer erred by interpreting her Indian diploma as not equivalent to a Canadian one-year post-secondary credential, even though the WES report is silent on this issue. I am not convinced.

[10] At the hearing, the Applicant relied principally on two recent decisions of this Court: *Kaur v Canada (Citizenship and Immigration)*, 2024 FC 251 [*Kaur*]; and *Lakhanpal v Canada (Citizenship and Immigration)*, 2021 FC 694 [*Lakhanpal*]. Both are distinguishable, in my view.

[11] In *Kaur*, the Court was confronted with a WES report that indicated:

Canadian Equivalency	Five years of professional study in dentistry
Remarks:	The Bachelor of Dental Surgery [i.e. the stated credential] is the first professional degree in dentistry in India.

[12] In other words, the WES report at issue in *Kaur*, unlike the WES report before me, was silent about whether the relevant credential was comparable to a completed education credential. Further, the officer in *Kaur* held that the “five years of professional study in dentistry ... is not equivalent to a Canadian one-year post-secondary.” As Justice Go notes (at para 16), however, “the WES report ... did not state that this professional degree is not equivalent to at least a one-year post-secondary study in Canada.” It is evident that on its face that the portion of the WES report reproduced in the decision is silent on the issue.

[13] I thus disagree that paragraph 26 of *Kaur*, which formed the basis of the Applicant’s oral submission, is analogous to the situation presently before me.

[14] *Lakhanpal* turns on a different PR program, namely, the Interim Pathway for Caregivers, with a different minimum educational requirement, namely, a secondary school diploma.

[15] I agree with the Respondent that more directly relevant jurisprudence of this Court confirms that, under the HSW program, an applicant must present foreign educational credentials equivalent to a completed Canadian one-year post-secondary educational credential, confirmed by an assessment report issued by an organization designated by IRCC, such as WES: *Preeti v Canada (Citizenship and Immigration)*, 2023 FC 551 at paras 11, 15 [*Preeti*]; *Ajaz v Canada (Citizenship and Immigration)*, 2023 FC 876 at paras 9-11 [*Ajaz*].

[16] In my view, the essential facts in this case are substantially similar to those in *Preeti* and *Ajaz*. In both those cases, the applicants had nursing and midwifery diplomas that were equivalent to at least three years of hospital study and training. A WES assessment stated, like the WES report before me, that the diploma was not comparable to a completed Canadian education credential. These cases distinguished *Lakhanpal* because it dealt with a different program.

[17] I cannot find any differently than *Preeti* and *Ajaz* that the WES report submitted by the Applicant here does not show that her Indian diploma is equivalent to a completed one-year post-secondary (or higher) Canadian educational credential. As noted above, in the context of the HSW program, the WES assessment is required and determinative. Like Justice Fothergill, I find that the officer had no choice but to find the Applicant ineligible for permanent residence under

the HSW program: *Preeti*, above at para 16. Indeed, subsection 75(8) of the *IRPR* provides legislative support for the conclusion that the ECA is determinative.

B. *The refusal was not procedurally unfair*

[18] The Applicant argues that, because the officer had concerns about the sufficiency of her credentials, she was entitled to an interview. I disagree.

[19] The officer did not dispute the authenticity or accuracy of the WES assessment. Further, even if the officer had doubts about the Applicant's other evidence regarding her employment, this evidence in itself would not have been sufficient to meet the minimum educational requirements which mandate a valid educational credential assessment in the case of a foreign diploma.

III. Conclusion

[20] For the above reasons, the Applicant cannot succeed on this judicial review.

[21] Neither party proposed a serious question of general importance for certification. I find that none arises in the circumstances.

**JUDGMENT in IMM-8170-23**

**THIS COURT'S JUDGMENT is that:**

1. The Applicant's application for judicial review is dismissed.
2. There is no proposed question for certification.

"Janet M. Fuhrer"

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Judge

**Annex “A”: Relevant Provisions*****Immigration and Refugee Protection Regulations, SOR/2002-227.  
Règlement sur l’immigration et la protection des réfugiés, DORS/2002-227.***

<p><b>Definitions</b></p> <p><b>73 (1)</b> The following definitions apply in this Division.</p> <p><b>Canadian educational credential</b> means any secondary school diploma or any post-secondary diploma, certificate or credential that is issued on the completion of a Canadian program of study or training at an educational or training institution that is recognized by the provincial authorities responsible for registering, accrediting, supervising and regulating such institutions. (<i>diplôme canadien</i>)</p>	<p><b>Définitions</b></p> <p><b>73 (1)</b> Les définitions qui suivent s’appliquent à la présente section.</p> <p><b>diplôme canadien</b> Tout diplôme d’études secondaires ou tout diplôme, certificat ou attestation postsecondaires obtenu pour avoir réussi un programme canadien d’études ou un cours de formation offert par un établissement d’enseignement ou de formation reconnu par les autorités provinciales chargées d’enregistrer, d’accréditer, de superviser et de réglementer de tels établissements. (<i>Canadian educational credential</i>)</p>
<p><b>Skilled workers</b></p> <p><b>75 (2)</b> A foreign national is a skilled worker if</p> <p>...</p> <p>(e) they have submitted one of the following:</p> <p>(i) their Canadian educational credential, or</p> <p>(ii) their foreign diploma, certificate or credential and the equivalency assessment, which assessment must be less than five years old on the date on which their application is made.</p> <p>...</p> <p><b>Conclusive evidence</b></p> <p><b>(8)</b> For the purposes of paragraph (2)(e), subsection (2.1) and section 78, an equivalency assessment is conclusive evidence that the foreign diplomas, certificates or credentials are equivalent to Canadian educational credentials.</p>	<p><b>Qualité</b></p> <p><b>75 (2)</b> Est un travailleur qualifié l’étranger qui satisfait aux exigences suivantes :</p> <p>...</p> <p>e) il a soumis l’un des documents suivants :</p> <p>(i) son diplôme canadien,</p> <p>(ii) son diplôme, certificat ou attestation étranger ainsi que l’attestation d’équivalence, datant de moins de cinq ans au moment où la demande est faite.</p> <p>...</p> <p><b>Preuve concluante</b></p> <p><b>(8)</b> Pour l’application de l’alinéa (2)e), du paragraphe (2.1) et de l’article 78, l’attestation d’équivalence constitue une preuve concluante, de l’équivalence avec un diplôme canadien, du diplôme, du certificat ou de l’attestation obtenu à l’étranger.</p>



**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-8170-23

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**APPEARANCES:**

Puneet Khaira FOR THE APPLICANT

Erica Louie FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

CityLaw Group FOR THE APPLICANT  
Surrey, British Columbia

Attorney General of Canada FOR THE RESPONDENT  
Vancouver, British Columbia