

Federal Court



Cour fédérale

Date: 20240625

Docket: IMM-3337-23

Citation: 2024 FC 990

Vancouver, British Columbia, June 25, 2024

PRESENT: The Honourable Justice Fuhrer

BETWEEN:

Sukhram Pal Singh DHALIWAL

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] Mr. Dhaliwal is a citizen of India. He sought a temporary resident visa to visit his critically ill mother who resides in Canada with his spouse and children. His visa application was refused because the visa officer was not satisfied that Mr. Dhaliwal would leave Canada at the end of his stay. The officer's conclusion is based on significant family ties in Canada and a finding that the purpose for his visit is inconsistent with a temporary stay.

[2] Mr. Dhaliwal now seeks judicial review of the decision to refuse his visa application, alleging procedural unfairness and unreasonableness.

[3] I will grant Mr. Dhaliwal's judicial review application. I find that the determinative issue is unreasonableness and, therefore, I decline to consider the procedural unfairness issue.

[4] As a preliminary matter, I note that Mr. Dhaliwal did not appear at today's hearing, the start of which was delayed by 30 minutes while the registry officer made efforts to locate him. I am satisfied that Mr. Dhaliwal had notice of the hearing date and time and, consequently, I relied on rule 38 of the *Federal Courts Rules*, SOR/98-106, to proceed with the hearing in his absence. I have determined this judicial review based on the record before the Court, including both parties' written submissions, as well as the Respondent's oral submissions.

[5] Turning to the merits of the judicial review application, I find that the Global Case Management System [GCMS] Notes disclose unintelligible and non-transparent reasons for the refusal, thus rendering the decision unreasonable, contrary to the Supreme Court of Canada's guidance in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at paras 10, 25, 99.

[6] In particular, the officer notes, on the one hand, that there is no proof of relationship on file (i.e. between Mr. Dhaliwal and his mother) and, on the other, that Mr. Dhaliwal has significant family ties in Canada. The only evidence of any familial relationship in the certified tribunal record, however, is the marriage certificate between Mr. Dhaliwal and his spouse. The certified copy of the marriage certificate dates from 2009 and indicates that the couple married in 1989. Apart from Mr. Dhaliwal having listed his family members in his visa application, there is

no current evidence in either the tribunal record or the application record establishing the family relationships.

[7] Contrary to the Respondent's argument, I thus find that Mr. Dhaliwal's submissions involve more than mere disagreement with the officer's decision. The officer's determinations are contradictory and do not represent an internally coherent and rational chain of analysis: *Vavilov*, above at para 85.

[8] In my view, the Respondent's oral submissions to the effect that the other family relationships or ties may have been established in another of Mr. Dhaliwal's refused applications (listed in one of the GCMS screenshots in the tribunal record) represent unacceptable bolstering. Further, these submissions do not overcome the inherent contradiction in the officer's stated reasons for refusing this visa application, without something more.

[9] For these reasons, the visa officer's decision to refuse Mr. Dhaliwal's application for a temporary resident visa will be set aside, and the matter will be remitted to a different visa officer for redetermination.

[10] No serious question of general importance arises in this matter. In other words, there is no question for certification.

JUDGMENT in IMM-3337-23

THIS COURT'S JUDGMENT is that:

1. The Applicant's judicial review application is granted.
2. The visa officer's decision dated February 8, 2023 refusing Mr. Dhaliwal's application for a temporary resident visa will be set aside, with the matter remitted to a different visa officer for redetermination.
3. There is no question for certification.

"Janet M. Fuhrer"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-3337-23

STYLE OF CAUSE: SUKHRAM PAL SINGH DHALIWAL v THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD VIA VIDEOCONFERENCE

DATE OF HEARING: JUNE 25, 2024

JUDGMENT AND REASONS: FUHRER J.

DATED: JUNE 25, 2024

APPEARANCES:

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FOR THE RESPONDENT

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