

Federal Court



Cour fédérale

Date: 20240815

Docket: IMM-13182-22

Citation: 2024 FC 1265

Toronto, Ontario, August 15, 2024

**PRESENT:** The Honourable Mr. Justice Southcott

**BETWEEN:**

**AHMAD SALEHPOUR**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] This is an application for judicial review of the decision of an officer [Officer] of Immigration, Refugees and Citizenship Canada [IRCC] dated November 24, 2022 [Decision]. The Officer concluded that the Applicant had failed to meet the criteria for the issuance of a work permit as an entrepreneur pursuant to paragraph 205(a) of the *Immigration and Refugee Protection Regulations*, SOR/2022-227 [IRPR].

[2] As explained in greater detail below, this application is dismissed, because the Decision is reasonable.

## II. Background

[3] The Applicant is a citizen of Iran. He has a Bachelor's Degree in Manufacturing Technology Engineering-Machine Tools from Islamic Azad University and over 15 years of experience in the field of manufacturing technology. The Applicant applied for a work permit as an entrepreneur to run Hetro Parts Production and Design Ltd, a computer numerical controls (CNC) machine shop to be located in Toronto, Ontario. The Applicant's business plan indicated that the business would create at least three jobs in Canada within its first three years and explained that an initial investment of \$150,000 would be made to set up the business.

[4] The Applicant's work permit application was submitted on March 4, 2022, under IRPR paragraph 205(a), which allows for issuance of a work permit to a foreign national who intends to perform work that would create or maintain significant social, cultural or economic benefits or opportunities for Canadian citizens or permanent residents. The parties' materials indicate that IRCC refers to such applications using the administrative code "C11". Such applications are exempt from the requirement to obtain a Labour Market Impact Assessment.

## III. Decision under Review

[5] The Officer's November 24, 2022 letter, which conveyed the Decision refusing the work permit application [Decision Letter], stated that the Applicant's application had not met the

requirements of the *IRPR*. In particular, the Decision Letter listed the following grounds for refusing the Applicant's application:

I am not satisfied that you will leave Canada at the end of your stay as required by paragraph 200(1)(b) of the *IRPR* (<https://laws.justice.gc.ca/eng/regulations/SOR-2002-227/section-200.html>). I am refusing your application because you have not established that you will leave Canada, based on the following factors:

The purpose of your visit to Canada is not consistent with a temporary stay given the details you have provided in your application.

The compensation (monetary or other) indicated in your job offer and your assets and financial situation are insufficient to support the stated purpose of travel for yourself (and any accompanying family member(s), if applicable).

I am not satisfied there is documentary evidence to establish that you meet the exemption requirements of C11 Significant benefit -Entrepreneurs/self-employed under R205(a).

[6] The Certified Tribunal Record in this matter includes Global Case Management System [GCMS] notes, which provide further reasons for the Decision and include the following excerpt dated November 24, 2022:

Applicant is applying as an entrepreneur for HETRO PARTS PRODUCTION AND DESIGN LTD, a CNC machine shop located in Toronto, ON.

The onus is on the applicant to provide sufficient documentation that they meet the requirements and standards of the work permit category. However, the overall application package lacks clear and compelling documentation to justify a C11 LMIA-exempt work permit issuance.

Submissions fail to demonstrate that the applicant is establishing a viable business for the following reasons:

I note that PA does not intend to initially draw a salary and to provide an initial investment of \$150K Cdn. However, applicant has not provided sufficient evidence of available funds, including Canadian funds, that will cover all expenses in the initial stages and beyond in order for the company to stay afloat and continue doing business in Canada.

I am not satisfied that the applicant has provided sufficient evidence to show that they will be providing a service that will create general economic stimulus or advancement in this industry. After review of the documentation before me, I am not satisfied that there are sufficient reasons to grant the issuance of a C11 significant benefit work permit. I am not satisfied that there are significant economic, social or cultural benefits to Canadians pursuant to R205(a). REFUSED.

#### IV. Issues and Standard of Review

[7] The sole issue before the Court is whether the Decision is reasonable. As is implicit in that articulation, the merits of the Decision are reviewable on the reasonableness standard (*Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 [Vavilov] at para 23).

#### V. Analysis

[8] At the hearing of this application for judicial review, both parties made submissions as to how the Officer's reasons, as demonstrated by the GCMS notes, should be interpreted. Having taken those submissions into account, I interpret the Officer's reasoning as follows.

[9] The Officer found that the Applicant had not demonstrated that his business would be viable. That finding turned on the Officer's financial analysis. The Officer noted that the Applicant did not intend to initially draw a salary and that he intended to provide an initial

investment of \$150,000. However, the Officer concluded that the Applicant had not provided sufficient evidence of available funds, including Canadian funds, that would cover all expenses in the initial stages of the business and beyond in order for the company to stay afloat and continue doing business in Canada.

[10] In the final paragraph of the relevant GCMS notes extract, the Officer then expressed the conclusion that the Applicant had not provided sufficient evidence to show that the business would be providing a service that would generate general economic stimulus or advancement in the industry. The Officer was not satisfied that the business would generate significant economic, social or cultural benefits to Canadians and therefore refused the work permit application.

[11] I do not read that final paragraph of the GCMS notes as reasoning supporting the Officer's finding that that the Applicant had not demonstrated that his business would be viable. Rather, the conclusions in that paragraph flowed from the finding that the business would not be viable. As the Respondent submits, a business that is not viable would not generate economic stimulus or industry advancement and would not generate the benefits required to support the work permit application.

[12] As such, in my view, the question whether the Decision is reasonable overall turns on the reasonableness of the Officer's financial analysis that led to the conclusion that the business would not be viable.

[13] In challenging the reasonableness of that analysis, the Applicant notes that he provided financial documentation showing that he possessed assets valued at over \$400,000 (Canadian). He argues that, in the context of that asset value, the Officer did not explain the conclusion that the Applicant did not provide sufficient evidence of available funds.

[14] The Respondent notes that, based on the financial documentation provided with the work permit application, only approximately \$200,000 of the Applicant's assets are liquid, the remainder being the value of illiquid tangible assets (real estate and vehicles). The Respondent further notes that there is no information provided in the work permit application surrounding disposition of any of the tangible assets in order to provide funds for the proposed business. The Respondent submits that, in the absence of a salary from the business, the Applicant would require funds not only to make the intended \$150,000 investment but also to travel and to support himself while living and working in Canada. The Respondent argues that it was therefore reasonable for the Officer not to be satisfied that the Applicant had not demonstrated the availability of sufficient funds.

[15] In response to these arguments, the Applicant argues that the Officer's reasons do not reference the absence of information from the Applicant surrounding disposal of the tangible assets. The Applicant further notes that, while he does not intend to draw salary in the early stages of the business, his financial projections show the business generating a profit, commencing with approximately \$30,000 in its first year, which represents additional funds that would be available to the Applicant.

[16] Pursuant to principles explained in *Vavilov*, I am required to consider whether the Officer's reasons demonstrate an intelligible analysis that justifies the Decision. I agree with the Respondent that, considered in the context of the record before the Officer, the financial analysis underlying the finding that the business would not be viable satisfies this test. The Officer is presumed to have considered all the evidence in the record, including the tangible assets and the profit projections. Such a presumption is rebuttable if the record before an administrative decision-maker contains evidence that is inconsistent with the decision-maker's finding and that was not expressly addressed. However, I do not consider the evidence of the tangible assets and projected profits to contradict the finding so as to displace the presumption.

[17] The Decision articulates the Officer's concern that the Applicant does not have sufficient available funds to make the initial investment required according to his projections and to cover other expenses, so as to support a viable business. While a different decision-maker might analyse the evidence differently and arrive at a different conclusion, it is not the Court's role in judicial review to conduct such an analysis. In my view, the Officer's reasoning is intelligible, does not support a finding that any of the evidence was overlooked, and therefore withstands reasonableness review.

[18] As I have found that the determinative portion of the Officer's analysis is reasonable, this application for judicial review must be dismissed, and it is unnecessary for the Court to address other arguments advanced by the parties. Neither party proposed any question for certification for appeal, and none is stated.

**JUDGMENT IN IMM-13182-22**

**THIS COURT'S JUDGMENT is that** this application for judicial review is dismissed.

No question is certified for appeal.

"Richard F. Southcott"

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Judge



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

**DOCKET:** IMM-13182-22

**STYLE OF CAUSE:** AHMAD SALEHPOUR v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** AUGUST 14, 2024

**JUDGMENT AND REASONS:** SOUTHCOTT J.

**DATED:** AUGUST 15, 2024

**EARANCES:**

Lorne Waldman FOR THE APPLICANT

Brendan Stock FOR THE RESPONDENT

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