

Federal Court



Cour fédérale

Date: 20240823

Docket: IMM-2487-23

Citation: 2024 FC 1313

Ottawa, Ontario, August 23, 2024

PRESENT: Madam Justice Sadrehashemi

BETWEEN:

AMIRHOSSEIN SAVEHSEMSHAKI

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Amirhossein Savehshemshaki, applied for a permit to work as a self-employed business owner of a ski instruction business in Canada. An officer at Immigration, Refugees and Citizenship Canada [IRCC] refused his application. Mr. Savehshemshaki is challenging this refusal on judicial review.

[2] Mr. Savehshemshaki argues that the Officer made key factual errors and ignored relevant factors and evidence in coming to the conclusion that the proposed business would not generate significant economic, social or cultural benefits to Canada. The parties agree as do I that I ought to review the Officer's decision on a reasonableness standard. I do not find that Mr. Savehshemshaki has raised any significant shortcomings in the Officer's analysis. His argument is principally not about any specific flaws in the Officer's assessment but rather is asking the Court to consider the evidence itself and come to a different conclusion than the Officer. This is not the Court's role on judicial review (*Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 125).

II. Background to the Decision under Review

[3] Mr. Savehshemshaki is a citizen of Iran. He was a professional skier for many years, has been a ski instructor and now is a manager of a ski club in Iran. Mr. Savehshemshaki applied for a work permit to operate a ski instruction business in Toronto under the self-employed or entrepreneur category, also known as the C11 category. As he was applying under paragraph 205(a) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR], Mr. Savehshemshaki was not required to obtain a Labour Market Impact Assessment, but did have to establish that his business would generate a "significant economic, social or cultural benefit or opportunities for Canadian citizens or permanent residents."

[4] The Officer found that Mr. Savehshemshaki had not established that he met the exemption requirements for the C11 category under section 205(a) of the IRPR. The Officer explained that they were not satisfied that the business would create significant economic

stimulus based on the low number of jobs created or that it would be competitive in Toronto because of the existence of similar established ski instruction businesses. The Officer also found that the Applicant had not demonstrated how in practice they would target their business to training immigrant youth, women and visible minorities. Lastly, the Officer was not satisfied that the proposed business did not depend on the Applicant's indeterminate presence.

III. Analysis

[5] The Applicant argues the Officer made a significant factual error in finding that the business would create three full-time jobs. The Applicant argues that the business plan indicates that there would be five jobs by year 4 of the business and by year five there would be four when the Applicant left the country. The Applicant acknowledges that in counsel's submissions and the executive summary of the business plan, it states that three jobs would be created by year five. In these circumstances, with differing numbers given in different parts of the evidence and submissions, I do not find that it was a significant shortcoming for the Officer to find that three jobs would be created. Moreover, given the overall context of the application, and that the business was to operate in Toronto, even if this was a factual error, I do not find that it would have made a difference to the Officer's overall analysis.

[6] The Applicant argues that the Officer was too focused on number of jobs created and not the other benefits that would accrue from this business. In particular, the Applicant emphasizes the submission about the plan to target new immigrants, youth, women and visible minorities. The Officer addresses these submissions in their decision. The Officer specifically finds that while providing a service targeted to these groups may be a social benefit, the plan itself does not

explain how in practice the business will be able to target these groups to seek ski instruction.

The Applicant does not challenge this finding and this is really the crux of the Officer's finding about this proposed social benefit.

[7] The Applicant also argues that the Officer failed to consider the significant financial investment he was making. The Officer did not find the financial investment to be a flaw in the application. The Officer's concern was the viability of the business given their view that it would not be competitive in Toronto where there were other similar businesses operating that also had competitive advantages such as indoor tracking ski slopes and certified alpine ski instructors.

[8] The Applicant argues that the Officer ignored their exit plan that was provided in the business plan. The Officer was clearly aware of the proposed plan that the Applicant leave the business in year five; this is indicated in the Officer's reasons. The Officer's concern was that there was no evidence explaining how the Applicant's knowledge and expertise would be transferred to the remaining employees. In the context of an application that emphasized that the proposed business would leverage the Applicant's reputation as an Iranian national ski champion to promote inclusivity and diversity, it was open to the Officer to make this finding.

[9] The Applicant's arguments are principally asking this Court to put a different emphasis or weight on certain parts of their application to find that the Officer's determination must be set aside. This is really asking the Court to reweigh the evidence. As explained above, none of the issues the Applicant has raised reveal any serious shortcoming in how the Officer reviewed the evidence and submissions before them.

[10] Based on the evidence and materials before the Officer, I cannot find there is any sufficiently serious shortcoming that renders the decision unreasonable. The Officer explained their refusal of the application with transparent and intelligible reasons. There is no basis for the Court to intervene in these circumstances. Neither party raised a question for certification and I agree none arises.

JUDGMENT in IMM-2487-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed; and
2. No serious question of general importance is certified.

"Lobat Sadrehashemi"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2487-23

STYLE OF CAUSE: AMIRHOSSEIN SAVEHSHEMISHAKI v THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: MAY 1, 2024

JUDGMENT AND REASONS: SADREHASHEMI J.

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