

Federal Court



Cour fédérale

Date: 20240830

Docket: IMM-10430-23

Citation: 2024 FC 1365

Ottawa, Ontario, August 30, 2024

PRESENT: Mr. Justice McHaffie

BETWEEN:

MUHAMMAD YOUSUF SHAIKH

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION CANADA**

Respondent

JUDGMENT AND REASONS

[1] Muhammad Yousuf Shaikh seeks judicial review of the refusal of his study permit application. I advised the parties at the conclusion of the hearing that I would be allowing Mr. Shaikh's application for judicial review, without costs, with reasons to follow. These are those reasons.

[2] Mr. Shaikh wishes to pursue a Masters of Management degree at Trent University, where he was accepted for a 16-month term commencing September 2023. Trained as a mechanical engineer and currently employed in a managerial role with a European ceramics company in Karachi, Mr. Shaikh's study permit application indicated his expectation that the degree would improve his ability to assume larger managerial positions upon return to Pakistan.

[3] A visa officer with Immigration, Refugees and Citizenship Canada refused Mr. Shaikh's study permit on August 15, 2023. The decision letter advised Mr. Shaikh that his application was refused because the officer was not satisfied he would leave Canada at the end of his stay, as required by paragraph 216(1)(b) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR]. The officer cited two factors in particular: "You do not have significant family ties outside Canada" and "The purpose of your visit to Canada is not consistent with a temporary stay given the details you have provided in your application."

[4] Such brief overview statements are often explained in greater detail in a visa officer's notes in the Global Case Management System [GCMS], which constitute part of the visa officer's reasons for decision. Not so in this case. The visa officer's GCMS notes in respect of the decision read as follows, in their entirety:

I have reviewed the application. I have considered the following factors in my decision. The applicant does not have significant family ties outside Canada. The purpose of the applicant's visit to Canada is not consistent with a temporary stay given the details provided in the application. Weighing the factors in this application. I am not satisfied that the applicant will depart Canada at the end of the period authorized for their stay. For the reasons above, I have refused this application.

[5] I have no hesitation in agreeing with Mr. Shaikh that the decision is unreasonable. On each of the two given grounds—family ties and purpose of visit—the reasons do not meet the requisite standard of justification, transparency, and intelligibility required of a reasonable administrative decision: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16–17, 23–25, 81, 86, 95; *Nesarzadeh v Canada (Citizenship and Immigration)*, 2023 FC 568 at paras 5–9.

[6] With respect to the first ground, Mr. Shaikh’s father, mother, and two siblings all live in Pakistan. Mr. Shaikh, who is divorced and has no children, lives with his parents and younger brother in Karachi. Given these facts, the visa officer’s boilerplate statement that Mr. Shaikh “does not have significant family ties outside Canada” is unintelligible. It is certainly not explained or justified in either the decision letter or the GCMS notes. I conclude it is unreasonable: *Moradbeigi v Canada (Citizenship and Immigration)*, 2023 FC 1209 at paras 16–22; *Amini v Canada (Citizenship and Immigration)*, 2024 FC 653 at para 7.

[7] The Minister correctly notes that the use of boilerplate statements does not alone render a decision unreasonable: *Safarian v Canada (Citizenship and Immigration)*, 2023 FC 775 at para 3. However, contrary to the Minister’s arguments, this is not simply a case where the visa officer’s reasons could be more “robust.” There is a complete lack of analysis and a statement that is directly contrary to the evidence on one of the two central grounds given for the decision.

[8] With respect to the second ground, the visa officer's boilerplate statement that the purpose of Mr. Shaikh's visit "is not consistent with a temporary stay given the details provided in the application" shows no discussion or analysis of, or indeed any engagement at all with, Mr. Shaikh's study permit application and the reasons he gives for wishing to study in Canada. It does not intelligibly justify why the visa officer considered that Mr. Shaikh's proposal to complete a 16-month Masters of Management program was inconsistent with a temporary stay. The blanket reference to the "details provided in the application" gives no indication to either Mr. Shaikh or the Court why the officer was not satisfied with the plan or that Mr. Shaikh would leave after completion of his studies.

[9] The Minister proposes a number of reasons why the visa officer might possibly have been dissatisfied with Mr. Shaikh's application. Given the paucity of reasons, I do not accept that any "logical inferences" can be drawn from the bald statements in the GCMS notes and the evidence to be able to understand the visa officer's analysis. Rather, the Minister's arguments essentially attempt to create an analysis that is simply absent from the visa officer's decision. The Court on judicial review cannot "fashion its own reasons in order to buttress the administrative decision" or "substitute its own justification for the outcome": *Vavilov* at para 96.

[10] I therefore conclude the visa officer's decision was unreasonable. It must be set aside and Mr. Shaikh's study permit application remitted for reconsideration.

[11] Mr. Shaikh asks for his costs of this application. Rule 22 of the *Federal Courts Citizenship, Immigration and Refugee Protection Rules*, SOR/93-22 [*Immigration Rules*],

provides that no costs shall be awarded or payable in applications for judicial review or appeals unless the Court, for “special reasons,” so orders. Mr. Shaikh refers to the costs he has been put to in the delay of his proposed studies because of the visa officer’s refusal of his application, including in the form of increased tuition, currency exchange fluctuations, changes in the job market, and mental distress. An award of costs is not designed to compensate for such harms, which the Court has no general jurisdiction to remedy on an application for judicial review. I am not satisfied that the arguments made or circumstances identified by Mr. Shaikh amount to “special reasons” within the meaning of Rule 22 of the *Immigration Rules: Ndungu v Canada (Citizenship and Immigration)*, 2011 FCA 208 at paras 5–7. The fact that a visa officer has rendered an unreasonable decision does not alone constitute special reasons justifying an award of costs, even if it results in a delay in processing a visa application. No costs will be awarded.

[12] Neither party proposed a question for certification pursuant to paragraph 74(d) of the *Immigration and Refugee Protection Act*, SC 2001, c 27. I agree that no serious question of general importance meeting the requirements of paragraph 74(d) arises in the matter.

JUDGMENT IN IMM-10430-23

THIS COURT'S JUDGMENT is that

1. The application for judicial review is granted, without costs. The August 15, 2023, refusal of the applicant's study permit application is set aside and the application is remitted for redetermination by a different officer.

"Nicholas McHaffie"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-10430-23

STYLE OF CAUSE: MUHAMMAD YOUSUF SHAIKH v THE MINISTER
OF CITIZENSHIP AND IMMIGRATION CANADA

PLACE OF HEARING: SASKATOON, SASKATCHEWAN

DATE OF HEARING: AUGUST 29, 2024

JUDGMENT AND REASONS: MCHAFFIE J.

DATED: AUGUST 30, 2024

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