Federal Court  Cour fédérale

Date: 20240904

Docket: IMM-5202-23

Citation: 2024 FC 1373

Toronto, Ontario, September 4, 2024

PRESENT: The Honourable Justice Battista

BETWEEN:

NOREEN KHAN

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant seeks judicial review of the negative decision rendered on her application for permanent residence from within Canada on humanitarian and compassionate (H&C) grounds. In my view, the decision was reasonable based on the evidence supporting the application and any errors in the reasons were inconsequential to the outcome of the decision. As such, the application for judicial review is dismissed.

II. Background

[2] The Applicant is a 64-year-old citizen of the United States (U.S.) who was born in Pakistan. She has two Canadian adult children and Canadian grandchildren.

[3] The Applicant became a Canadian permanent resident in 2003 but primarily resided in the U.S. and lost her status in 2016 for failure to comply with the residence requirement. She re-entered Canada in 2020 as a visitor and over-stayed her visit but was able to restore her status and remain in Canada until 2022. She submitted an H&C application on August 30, 2022.

[4] The application was based on the Applicant's Canadian family relationships, the best interests of her grandchildren, and her establishment in Canada.

[5] In the decision dated April 6, 2023, the Senior Immigration Officer (Officer) found that the Applicant's circumstances did not warrant relief pursuant to subsection 25(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27. This is the decision under review.

III. Issue

[6] The issue in this application is whether the decision under review is reasonable pursuant to the test described in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*].

IV. Analysis

[7] The reasons given for refusing the Applicant's application contain flaws, but they were not sufficient to warrant quashing the decision. I am satisfied that the Officer's analysis led to an outcome that was reasonable based on the evidence.

[8] The Applicant states that the Officer misconstrued the evidence of her family relationships, which was central to the H&C application.

[9] I disagree. The Officer found little evidence of strong family relationships, both in terms of the quantity and quality of the evidence. The Officer found that the one letter provided as evidence of family ties in Canada lacked information regarding the strength of relationship, and that there was little other evidence of that relationship. This was reasonable.

[10] The Applicant states that her submission regarding the best interests of her grandchildren was misconstrued. The Applicant submitted that it was in their best interests that the Applicant be a regular caregiver for the grandchildren. The Officer seemed to interpret this as a suggestion that she would be the primary caregiver for the grandchildren.

[11] It does appear that the Officer misinterpreted the Applicant's submission. However, in my view the essence of the Officer's assessment on this point was that the Applicant's current role with the grandchildren based on her current immigration status was meeting their best interests. The Officer noted that the Applicant lives close to the grandchildren and offers childcare. They also accepted that the Applicant shares a close bond with them. This finding was based on an evaluation of the evidence, which the Officer reasonably found to be lacking. In any event, the Court cannot reweigh the evidence (*Vavilov* at para 125).

[12] The Officer's findings on the level of the Applicant's establishment were also reasonable based on the evidence provided. The Officer specifically acknowledged the evidence of the Applicant's economic establishment in Canada and the letters provided in support of her application.

[13] Finally, I do not believe that the Officer used negative factors, such as the Applicant's perceived disregard for immigration laws, to overcome the limited evidence submitted to support the application. The Officer's consideration of the Applicant's contravention of immigration laws was not "conclusive" in the establishment analysis (*Igreja Ferreira de Campos v Canada (Citizenship and Immigration)*, 2024 FC 1193 at para 24, citing *Jaramillo Zaragoza v Canada (Citizenship and Immigration)*, 2020 FC 879 at para 38).

[14] The reasonableness of a decision is assessed by examining the articulation of reasons and the outcome (*Vavilov* at para 83). Reasons do not have to be perfect, and in this case the reasons do not demonstrate sufficient shortcomings to displace the reasonableness of the outcome based on the evidence before the Officer (*Vavilov* at paras 100, 102).

[15] The application for judicial review is dismissed.

JUDGMENT in IMM-5202-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. There is no question for certification.

"Michael Battista"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-5202-23
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APPEARANCES:

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