

Federal Court



Cour fédérale

Date: 20240912

Docket: IMM-9521-23

Citation: 2024 FC 1436

Ottawa, Ontario, September 12, 2024

PRESENT: Mr. Justice Sébastien Grammond

BETWEEN:

YUKA SUGAGATA

Applicant

and

**MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] Ms. Sugagata, a citizen of Japan, was denied a post-graduate work permit [PGWP], because she was not enrolled in full-time studies in the Fall of 2019. She is now seeking judicial review of the denial. I am allowing her application, because the officer failed to consider her specific circumstances.

[2] The relevant context is as follows. In 2018, Ms. Sugagata obtained a study permit to pursue her studies, initially at the International College of Manitoba [ICM] and then at the University of Manitoba. Her last term at ICM was in the summer of 2019. Unfortunately, she developed tonsillitis. This delayed her last exam and the transmission of her final grades to the University of Manitoba, which requires final academic transcripts for registration. As a result of the delay, she was unable to register in a sufficient number of courses to be enrolled full-time. Moreover, she withdrew from one course in Winter 2020, pursuant to the policy adopted by the University in response to the COVID-19 pandemic. She was otherwise enrolled full-time and compensated for her part-time semesters by completing summer courses. She was thus able to complete her Bachelor of Arts degree by October 2022, which is the standard duration of the program.

[3] The officer refused Ms. Sugagata's application for a PGWP because, according to ministerial policy, applicants must be enrolled full-time for each academic session of their programs except the final term or if they have been on authorized leave from their studies. The officer found that Ms. Sugagata did not satisfy this condition because she enrolled part-time in Fall 2019, but did not mention her status in Winter 2020 in their reasons.

[4] In my view, the officer's decision was unreasonable. The conditions of eligibility for a PGWP are set by ministerial policy and officers do not have the discretion to change these conditions. Nevertheless, the ministerial policy concerning the assessment of study permit conditions explicitly states that "Officers should exercise their best judgment and take into

account all relevant factors when assessing a student's compliance with their study permit conditions.”

[5] Exercising best judgment surely includes taking into account extenuating circumstances beyond the control of a student, as illustrated by *Munyanyi v Canada (Citizenship and Immigration)*, 2021 FC 802. Counsel for the Minister cited a number of cases for the proposition that officers have no discretion when assessing whether an applicant meets the conditions for a PGWP. These cases either failed to address the direction to exercise best judgment or dealt with conditions of eligibility other than compliance with the full-time requirement. In my view, a direction to exercise best judgment necessarily confers a degree of discretion to accept less than perfect compliance.

[6] Ms. Sugagata explained why she was unable to register for a sufficient number of classes, and this explanation was corroborated by a letter from ICM. She has also provided evidence to establish that sickness delayed her final exams at ICM, and consequently the issuance of her transcript, which was required by the University of Manitoba for class registration.

[7] The officer's reasons are silent with respect to Ms. Sugagata's specific circumstances and do not show that the officer exercised their best judgment. The outcome of the case also suggests that best judgment was not exercised, especially in light of the fact that Ms. Sugagata completed her program in the normal timeframe. Moreover, the Minister's submission that the officer had no discretion to consider Ms. Sugagata's circumstances leads to the absurd result that she would have been better off seeking full leave for the Fall 2019 session, instead of striving to complete

her degree in the normal timeframe. The officer's reliance on Ms. Sugagata's status in Fall 2019 to deny the PGWP is also difficult to reconcile with their apparent toleration of her part-time status for a number of weeks in Winter 2020.

[8] For these reasons, the application for judicial review will be allowed and the matter will be remitted to a different officer for reconsideration.

JUDGMENT in file IMM-9521-23

THIS COURT'S JUDGMENT is that

1. The application for judicial review is granted.
2. The decision of the visa officer denying a post-graduate work permit to the applicant is set aside and the matter is remitted to a different visa officer for redetermination.
3. No question is certified.
4. No costs are awarded.

"Sébastien Grammond"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-9521-23

STYLE OF CAUSE: YUKA SUGAGATA v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: BY VIDEOCONFERENCE

DATE OF HEARING: SEPTEMBER 11, 2024

JUDGMENT AND REASONS: GRAMMOND J.

DATED: SEPTEMBER 12, 2024

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