

Federal Court



Cour fédérale

Date: 20241101

Docket: IMM-8236-23

Citation: 2024 FC 1747

Toronto, Ontario, November 1, 2024

PRESENT: Mr. Justice Diner

BETWEEN:

PARVANEH SHIRAZI NEZHAD

Applicant

and

**MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

**(Delivered from the Bench at Toronto, Ontario on October 31, 2024 and
edited for syntax and grammar with added references to the relevant case law)**

[1] Ms. Nezhad seeks judicial review of a decision made by an Immigration Officer [Officer] refusing her application for a study permit [Application], dated June 19, 2023 [Decision]. The Officer was not satisfied that she would leave Canada at the end of her authorized stay, pursuant to paragraph 216(1)(b) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227

[IRPR, with provisions indicated by “R”]. For the reasons below, I am granting this application for judicial review.

[2] By way of a brief background, Ms. Nezhad is an Iranian citizen. She obtained a Master’s Degree in architectural engineering in 2017. Since 2016, she has been working as the Head of the Nursing Department at a hospital in Iran. She applied for a study permit to obtain a certificate in Project Management – Environmental at Seneca College in Canada. The Officer refused her Application because (i) Ms. Nezhad is “single, mobile and has no dependents,” (ii) she lacks significant family ties outside of Canada, (iii) her previous studies were in an unrelated field and at a higher academic level, (iv) her study plan demonstrated an inconsistent career progression, and (v) the program was not reasonable given its high cost “when weighed against the potential career/employment benefits, the local options available for similar studies”.

[3] Ms. Nezhad contends that the Officer’s reasons are not sufficiently justified because the Officer failed to refer to specific evidence in the Decision, and that the Officer ignored contradictory evidence, notably relating to her family ties in Iran and her career progression. Ms. Nezhad argues that her parents, whom she currently resides with and feels responsible for, reside in Iran, as well as her brother who, along with their father, will financially support her during her stay in Canada. She intends on working in her field as an architectural engineer upon her return to Iran. She feels the decision is thus unreasonable.

[4] The Respondent counters that it was reasonable for the Officer to consider Ms. Nezhad’s study plan and to refuse her Application because she has previous education at a higher level,

and Ms. Nezhad has provided little substantive information indicating how the program of study in Canada will benefit her. Moreover, the Respondent asserts that the Officer explicitly refers to the evidence in the Decision but was simply unpersuaded by it. Ultimately, the Respondent submits, Ms. Nezhad is asking this Court to reweigh the evidence which was before the Officer.

[5] I agree with Ms. Nezhad. In my view, the Officer's reasons are unjustified for the following five reasons.

[6] First, this Court has previously found that if visa officers are to rely on a factor as a push factor, they must explain why it is of relevance in the particular circumstances of the applicant (*Nesarzadeh v Canada (Citizenship and Immigration)*, 2023 FC 568 at para 17 [*Nesarzadeh*]). Furthermore and as noted by Ms. Nezhad's counsel, this Court has previously found that "being single, mobile and lacking dependants makes many things possible – not just remaining, contrary to the law, in Canada" (*Mohammadaghaei v Canada (Citizenship and Immigration)*, 2023 FC 294 at para 19).

[7] Second, the Officer simply states that Ms. Nezhad does not have any significant family ties outside of Canada, making no mention of the fact that all of Ms. Nezhad's immediate family – namely her parents and siblings and their spouses – are well established and live in Iran. Ms. Nezhad indicated in her Application that she intends on returning home as the only single child in the family to take care of and support her parents. By not engaging with the contrary evidence in any way, the Officer made an arbitrary finding on this factor.

[8] I note that Justice Ayles made very similar comments regarding lack of significant family ties outside of Canada recently in *Azari v Canada (Citizenship and Immigration)*, 2024 FC 34 at para 6. In that case, the applicant's parents and siblings were also all in Iran, other than one brother who lived in Canada. Justice Ayles decided that the officer's failure to address this evidence which contradicted the refusal, rendered it unreasonable.

[9] Third, the Officer, in finding that Ms. Nezhad had previously studied at a higher level, did not engage with the submissions in which she explained that project management – environmental would assist in her engineering credentials and career prospects. While visa officers need not accept everything put forward by applicants, they are required to offer some explanation as to how essential information in an application package is factored into their analysis (see Justice Pentney's comments in *Kandath v Canada (Citizenship and Immigration)*, 2024 FC 1130 at para 9 [*Kandath*]). Here, the Officer did not explain why this element of study plan constituted “an inconsistent career progression”, given her explanation of how it would complement her prior studies and improve her career prospects.

[10] Regarding the finding of high cost of this international study in Canada when weighed against the potential career/employment benefits, I would note that while an officer can certainly consider the availability of comparable programs and courses in an applicant's home country, the available alternatives “should be substantiated by the record” (*Motlagh v Canada (Citizenship and Immigration)*, 2022 FC 1098 at para 18). Here, they were not. The Officer failed to point to any comparable costs of project management programs in Iran. The Officer also failed to note where Ms. Nezhad had studied these subjects previously, if that was part of the rationale for

refusal as asserted by counsel for the Respondent. And even if the Officer had made such a finding, it would have contradicted the determination that her previous studies were in an unrelated field.

[11] I find overall, the Officer's comments regarding Ms. Nezhad's prospective studies amounted to mere "career counseling" and focused on the "value of learning" to an applicant, which has been found to be unreasonable (see *Ali v Canada (Citizenship and Immigration)*, 2023 FC 608 at para 13).

[12] Finally, the Officer also failed to comment on the evidence of personal finances and support that the Applicant provided, including her accommodation arrangements with her niece in Canada.

[13] Overall, the Decision suffers from some of the weaknesses pointed out in *Safarian v Canada (Citizenship and Immigration)*, 2023 FC 775 at paragraphs 3–5 [*Safarian*]. Here, like there, the reasons are largely boilerplate statements that we see repeatedly in study permit decisions, and appear to have been generated by Chinook, given the note in the GCMS that the file was "processed with the assistance of Chinook 3+" (Certified Tribunal Record at p. 5). As Justice Grammond pointed out in *Safarian*, the use of boilerplate is "not itself objectionable, but the reviewing court must be satisfied that the decision-maker turned their minds to the facts of the case" (at para 3). Indeed, I note that some of the logical fallacies apply equally here:

[4] When we read beyond the boilerplate, the officer's main reason for refusing Mr. Safarian's study permit is related to the insufficiency of the study plan. [...]

[5] With respect, these reasons are devoid of logic. People often pursue an MBA after a first degree in a different discipline and after acquiring work experience: *Ahadi v Canada (Citizenship and Immigration)*, 2023 FC 25 at paragraph 15. [...] The fact that he has been working for seven years in the same position does not appear to be logically connected to the genuineness of his study plan. This amounts to saying, “why study further if you already have a job.” The officer’s main finding is therefore unreasonable (*Safarian* at paras 4–5).

[14] Ultimately, the Officer’s five findings lacked responsive justification, given the failure to grapple with key contradictory evidence contained both in the study plan and accompanying documents (per Justice Pentney *Kandath* at para 8; see also his decision in *Nesarzadeh* at paras 11, 13 and 18). Thus, this application for judicial review is granted.

JUDGMENT in IMM-8236-23

THIS COURT'S JUDGMENT is that:

1. This application for judicial review is granted.
2. The matter is remitted for redetermination by a different officer.
3. There is no question for certification.
4. No costs will issue.

"Alan S. Diner"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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