

Federal Court



Cour fédérale

**Date: 20241104**

**Docket: IMM-13814-23**

**Citation: 2024 FC 1753**

**Toronto, Ontario, November 4, 2024**

**PRESENT: Madam Justice Pallotta**

**BETWEEN:**

**VIJAYKUMAR SHANKARLAL  
PRAJAPATI**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The applicant, Vijaykumar Shankarlal Prajapati, brings this application for judicial review of a visa officer's September 27, 2023 decision that refused his application for permanent residence in the Federal Skilled Workers class. Mr. Prajapati was invited to apply after being accepted into the express entry pool of candidates.

[2] Mr. Prajapati has a Master's degree in Pharmaceutical Sciences from Gujarat Technological University and he has been employed in India as a sales executive with Alex Pharma since July 2017. Based on this work, he applied for permanent residence status under National Occupational Classification class 6221(NOC 6221), "Technical sales specialists – wholesale trade".

[3] The Officer refused Mr. Prajapati's application on the basis that the evidence from his employer and his interview responses did not adequately demonstrate that his work with Alex Pharma met the main duties outlined in NOC 6221. Consequently, the Officer concluded that Mr. Prajapati did not meet the relevant employment requirements to qualify as a skilled worker under subsection 75(2) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227, and he no longer met the requirements of section 11.2 of the *Immigration and Refugee Protection Act*, SC 2001 c 27 to apply for permanent residence under the express entry program.

[4] Mr. Prajapati submits that the Officer refused his application based on an unreasonable analysis of his work experience at Alex Pharma. He contends the Officer (i) wrongly concluded that the letter from Alex Pharma did not mention the lead duties of NOC 6221; (ii) based the assessment on limited questions asked during the oral interview without considering his overall skill profile and experience (including his prior employment and educational background); and (iii) failed to undertake a qualitative assessment of his job duties performed at Alex Pharma.

[5] Mr. Prajapati submits that, while the duties listed in his employer's letter do not use the same words that appear in NOC 0621, the Officer was required to do more than a rote comparison: *Qin v Canada (Minister of Citizenship and Immigration)*, 2013 FC 147 at para 30 [*Qin*]. He states the Officer failed to conduct the qualitative analysis required to assess the nature of the work done. Instead, Mr. Prajapati contends the Officer assessed his job duties based on the language of his employer's letter and the answers to short questions asked during the interview, and one answer in particular. Mr. Prajapati argues that the Officer conducted a superficial analysis, instead of the substantive analysis required: *Qin* at para 30. Furthermore, relying on *A'Bed v Canada (Minister of Citizenship and Immigration)*, 2002 FCT 1027, he states he performed a majority of the duties listed in the NOC and this should have been sufficient.

[6] I am not persuaded there is a basis for interfering with the Officer's decision. I find Mr. Prajapati's criticisms of the Officer's decision to be unfounded. Contrary to Mr. Prajapati's argument, the Officer did not rely on one question from the interview. The Officer's notes set out concerns with Mr. Prajapati's answers to several questions. The Officer also explicitly asked Mr. Prajapati if he had any response to the concerns raised about not meeting the main duties under NOC 6221. Mr. Prajapati said he did not, and that he had described the main duties of his position.

[7] As the respondent points out, an officer must examine whether the "pith and substance" of an applicant's experience is in line with the relevant National Occupational Classification (NOC); tangential performance of one or more functions under one or more job categories does

not convert the job or the functions from one NOC category to another: *Rodrigues v. Canada (Citizenship and Immigration)*, 2009 FC 111 at para 10.

[8] The Officer found that the duties outlined in the employment letter from Alex Pharma did not appear to align with the main duties and lead statement for the occupation under NOC 6221, and that a number of Mr. Prajapati's answers to interview questions about his work at Alex Pharma were generic and vague. Based on the description of his duties and answers at the interview, Mr. Prajapati's prior employment experience appeared to fall under other NOC classes. While he was selling products to clients, resolving issues with products, and preparing contracts, the Officer was not satisfied he was doing so at a technical level as required by NOC 6221.

[9] I agree with the respondent that the Officer reasonably decided that Mr. Prajapati's evidence did not adequately demonstrate he completed the main duties outlined in NOC 6221. Mr. Prajapati disagrees with the Officer's findings, but it is not this Court's role on judicial review to reweigh and reassess the evidence: *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 at paras 125-126.

[10] Mr. Prajapati has not established that the Officer's decision was unreasonable, and accordingly, this application for judicial review must be dismissed.

[11] The parties did not propose a question for certification. I find there is no question to certify.

**JUDGMENT IN IMM-13814-23**

**THIS COURT'S JUDGMENT is that:**

1. This application for judicial review is dismissed.
2. There is no question for certification.

"Christine M. Pallotta"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-13814-23

**STYLE OF CAUSE:** VIJAYKUMAR SHANKARLAL PRAJAPATI v THE  
MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** OCTOBER 30, 2024

**JUDGMENT AND REASONS:** PALLOTTA J.

**DATED:** NOVEMBER 4, 2024

**APPEARANCES:**

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