

Federal Court



Cour fédérale

**Date: 20241104**

**Docket: IMM-14076-23**

**Citation: 2024 FC 1759**

**Vancouver, British Columbia, November 4, 2024**

**PRESENT: Madam Justice McDonald**

**BETWEEN:**

**GODWIN REGINOLD NAVARATHNAM**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
& IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The Applicant, Godwin Reginold Navarathnam, seeks judicial review of a decision dated September 6, 2023, in which an Immigration Officer (Officer) refused his application for a work permit under the Temporary Foreign Worker Program on the basis that the Applicant was not able to demonstrate that he would be able to adequately perform the work he sought.

[2] The Applicant is a citizen of Sri Lanka and has over 20 years of work experience in the restaurant and hospitality industry, including working for Pizza Hut in Sri Lanka since April 2018. He applied for a work permit after he was offered employment for the position of Food Service Supervisor with a Pizza Hut located in Parksville, British Columbia, Canada. This offer of employment was based on a positive Labor Market Impact Assessment (“LMIA”) provided to PH Restaurants and the Applicant’s name was listed as a foreign worker in the positive LMIA issued by Service Canada.

[3] The Applicant included the following materials in his work permit application:

A supporting Affidavit attesting that he has taken an English Language Proficiency Test and the corresponding scores

A supporting letter from Mayfair Immigration Services Ltd.

Labour Market Impact Assessment dated May 2, 2022

An offer of employment from PH Restaurants Limited Partnership, dated July 2023 for the position of Food Service Supervisor

[4] On September 6, 2023, an Officer refused the work permit on the grounds that the Applicant was unable to demonstrate that he will be able to adequately perform the work sought.

[5] The Global Case Management System (GCMS) notes, which form part of the Decision, state:

I have reviewed the application.

Based on the documentation submitted, I am not satisfied that the applicant will be able to adequately perform the proposed work given their:

- Insufficient ability in the language of the proposed employment

Given PA's IELTS score, I'm not satisfied that applicant meets the English language requirements of the LMIA and that he would be able to function efficiently in his job and cope with any emergency situation that may arise where he would have to understand and converse in English.

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.

[6] For the reasons above, I have refused this application.

I. Issue and Standard of Review

[7] The only issue is the reasonableness of the refusal of the work permit application based on the Applicant's language ability.

II. Analysis

[8] The Applicant argues that the Officer's decision is unreasonable as it lacks any rationale for the Officer's conclusion that the Applicant's IELTS score indicates that he would not meet the language requirements of the LMIA, and that the Applicant would be unable to function efficiently in his job. The decision does not explain how the IELTS score led to this conclusion or identify any specific deficiencies in the Applicant's score. The Officer's decision merely states that the Applicant's IELTS score does not meet the requirements of the LMIA and that he

would not be able to function “efficiently” in his job and cope with any emergency that might arise.

[9] Regarding the LMIA, the information it contains includes “job information”, which appears to be what the Officer is referencing as the “requirements of the LMIA”. In this section the LMIA notes the job title is “food service supervisor”. The verbal and written language requirements are noted only as “English”. More details on the job duties are included in the offer of employment to the Applicant from the employer, Pizza Hut. The listed duties for the Food Service Supervisor include supervising staff, ensure food service and quality, employee training, establishing schedules, and hiring employees.

[10] The work permit application included the Applicant’s IELTS English language test results showing the following scores: Listening 4.5; reading 4.0; writing 4.5; speaking 6.0; with an overall score of 5.0. Based upon the IELTS scoring system, an overall score of 5 places the Skill Level as Modest and notes:

- The test taker has a partial command of the language and copes with overall meaning in most situations, although they are likely to make many mistakes.
- They should be able to handle basic communication in their own field.

[11] When the IELTS score is considered in the context of the Applicant’s background, it is noteworthy that he has been employed in the food service industry in Sri Lanka for 20 years.

[12] Unlike the cases of *Nandha v Canada (Citizenship and Immigration)*, 2024 FC 1694 and *Puyda v Canada (Citizenship and Immigration)*, 2022 FC 82, in this case there was evidence

before the Officer of language proficiency in the form of the IELTS testing. Despite this evidence, it is not clear from the reasons or the GCMS notes how the Officer determined the Applicant's language skills were not sufficient for the job, or what standard the Officer was assessing the Applicant's language skills against. A reasonable decision requires something more than simply a reference to the Applicant's IELTS as being inadequate.

[13] I acknowledge that visa officers have discretion in assessing work permit applications, and these decisions are afforded significant deference. However, for a decision to be reasonable, the Court must be able to examine the decision-making process and discern the justification underlying the Officer's decision. In this case, I am unable to do so.

[14] The decision is therefore unreasonable.

### III. Conclusion

[15] The Application for judicial review is granted.

**JUDGMENT IN IMM-14076-23**

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

1. The application for judicial review is granted, the decision on the Applicant's work permit is quashed, and the matter is returned for re-determination by a different officer.
2. There is no question for certification.

"Ann Marie McDonald"

---

Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** IMM-14076-23

**STYLE OF CAUSE:** GODWIN REGINOLD NAVARATHNAM v THE  
MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** VANCOUVER, BRITISH COLUMBIA

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

**JUDGMENT AND REASONS:** MCDONALD J.

**DATED:** NOVEMBER 4, 2024

**APPEARANCES:**

Aman Sandhu FOR THE APPLICANT

Il Hoon Park FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Sandhu Law Office FOR THE APPLICANT  
Surrey, British Columbia

Attorney General of Canada FOR THE RESPONDENT  
Vancouver, British Columbia