

Date: 20080430

Docket: IMM-855-07

Citation: 2008 FC 561

Ottawa, Ontario, April 30, 2008

PRESENT: The Honourable Mr. Justice O'Reilly

BETWEEN:

JASPAL SINGH SEKHON

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] Mr. Jaspal Singh Sekhon applied for a permit to work in Canada under the Live-in Caregiver Program. He had a job lined up with a family in Chilliwack, British Columbia. He was interviewed by a visa officer in New Delhi, India who found that Mr. Sekhon had the required minimum education, experience and language capacity, yet rejected his application. The officer apparently doubted that Mr. Sekhon's interest in working as a caregiver was genuine. Mr. Sekhon argues that the officer treated him unfairly by failing to give him a chance to answer her concerns. He asks me to order another officer to reconsider his application. I agree that the officer treated Mr. Sekhon unfairly and must, therefore, allow this application for judicial review.

I. Issue

[2] Did the officer treat Mr. Sekhon unfairly?

II. Analysis

1. The Officer's Decision

[3] The officer asked Mr. Sekhon what he believed he would be doing in five years. Mr. Sekhon stated that he thought he would be involved in child development, perhaps training other caregivers. The officer felt that Mr. Sekhon's answers were rehearsed and that his career choice was not consistent with his studies or social background. Mr. Sekhon had a B.Sc. degree and had experience working in a hospital and nursing home. The officer concluded that his ambitions were "not consistent with social norms that a young unmarried man would be chosen to look after young children, especially females."

2. Discussion and Conclusion

[4] It is not entirely clear to me what the officer's concerns were. She appears simply to have doubted that a young male would be a suitable caregiver for children, especially girls. In turn, this caused her to wonder whether Mr. Sekhon's intentions to serve in that capacity (for a family of

three boys and one girl) were genuine. There is nothing in the record indicating that she expressed her views to Mr. Sekhon or invited him to respond to them.

[5] In my view, the officer's apparent concerns, even if I were to accept that they were legitimate, could not have been anticipated by Mr. Sekhon. He had no opportunity to address them either in his application or his interview. As a result, I am not satisfied that his application received fair consideration and must, therefore, allow this application for judicial review and order that his application be reviewed by another officer. Neither party proposed a question of general importance for me to certify, and none is stated.

JUDGMENT

THIS COURT'S JUDGMENT IS that

1. The application for judicial is allowed. The matter is referred back to another officer for reconsideration;
2. No question of general importance is stated.

“James W. O’Reilly”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-855-07

STYLE OF CAUSE: SEKHON v. M.C.I.

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: January 17, 2008

**REASONS FOR JUDGMENT
AND JUDGMENT:** O'REILLY J.

DATED: April 30, 2008

APPEARANCES:

Max Chaudhary

FOR THE APPLICANT

Stephen Gold

FOR THE RESPONDENT

SOLICITORS OF RECORD:

CHAUDHARY LAW OFFICE
North York, ON

FOR THE APPLICANT

JOHN H. SIMS, Q.C.
Deputy Attorney General of Canada
Toronto, ON

FOR THE RESPONDENT