

Date: 20030710

Dossier: IMM-2046-01

Citation: 2003 FC 857

Ottawa, Ontario, this 10th day of July, 2003

Present: THE HONOURABLE JOHANNE GAUTHIER

BETWEEN:

DIVINA CORPUZ

Applicant

- and -

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR ORDER AND ORDER

[1] Divina Corpuz seeks judicial review of a decision dated March 22, 2001, refusing her application for an employment authorization as a live-in caregiver in Canada.

The Facts

[2] Ms. Corpuz is a citizen of the Philippines. She arrived in Canada in July 2000 on a visitor's visa.

[3] Having received an offer of employment, she filed an application for a temporary visa (employment authorization). In support of her application, she stated that she had completed a

post-secondary course in “midwifery” in the Philippines in 1988 and received a professional license as a midwife in 1989. She also indicated that she worked as a nursing attendant in the Philippines until January 1997 and then, from February 1997 to July 2000, as a live-in caregiver in Israel.

[4] Ms. Corpuz provided a copy of her transcript and of her diploma from the Villasis Community College as well as three reference letters, two from the Philippines and one from her employer in Israel.

[5] She was interviewed by Mary M. Keefe, a visa officer, on March 22, 2001, and was advised by letter on the same day that her application was refused.

[6] In her letter of March 22, 2001, the visa officer states that Ms. Corpuz had not demonstrated that she met the requirements set out in the *Immigration Regulations, 1978* (SOR/78-172), particularly, Ms. Corpuz had not demonstrated that she had completed one year of full-time employment by providing credible proof of her alleged employment in Israel nor that she had successfully completed a course of study equivalent to successful completion of Canadian secondary school. In that respect, the visa officer states:

As you will recall during your interview, I reviewed your educational documents with you. I noted that the academic transcript you presented lacked a date of issue as well as the delineation of grades on the reverse side. Given these facts, I posed questions to you about your courses of study at Villasis Community College where you stated to have graduated in 1988. You were unable to describe in the most basic manner the courses in Midwifery. Your responses revealed a lack of any knowledge in this area. Based on the condition of the transcript and your responses to my questions, I determined that the documentation you presented was not credible.

Issues

[7] Ms. Corpuz argues that (i) the visa officer failed to provide her with a meaningful opportunity to disabuse her concerns about the documents presented in support of her application and (ii) she failed to properly verify the authenticity of these documents by contacting the Canadian visa office and the Manilla Villasis Community College as recommended in Chapter 13 of the Immigration Manual.

Analysis

[8] Before reviewing the decision, the Court first notes that in her affidavit in support of this application, Ms. Corpuz refers to several documents which were not provided to the visa officer. As indicated at the hearing, this new evidence will not be considered by the Court. Judicial reviews must be done on the basis of the file that was before the visa officer (*Chou v. Canada (Minister of Citizenship and Immigration)* [1998] F.C.J. No. 819, at par. 25 (QL), (1998) F.T.R. 245).

[9] Visa officers do have a duty to give applicants an opportunity to address concerns relating to the documentation they produced but the extent of that duty and the manner in which it is discharged vary according to the circumstances.

[10] In this case, there is no doubt that the visa officer did convey her concerns to Ms. Corpuz and that Ms. Corpuz was given the opportunity to explain why she could not produce the original

of her transcript and to satisfy the officer that she had indeed the knowledge and experience referred to in the documentation she produced.

[11] Ms. Corpuz states in her affidavit that she could not properly answer the technical questions put to her because she was in shock after being told that the authenticity of her documentation was in doubt. However, she does not say in her affidavit that she explained this problem to the visa officer or that she offered to submit further evidence after the interview to alleviate the concerns raised with respect to her education.

[12] Considering the voluminous additional evidence Ms. Corpuz's now sought to introduce, it is clear that such evidence was available. Ms. Corpuz had the duty to convince the visa officer that she had the education and experience required by the regulations.

[13] Although, it would certainly have been possible for the visa officer to complete her investigation by referring the matter back to the visa officer in Manilla and by contacting Ms. Corpuz's former college, the Court is not prepared to hold, in this case, that the visa officer had the duty to do so.

[14] The Court notes that the Immigration Manual (Chapter 13) only mentions that such enquiries would be appropriate when a visa officer is not familiar with a particular country and cannot properly assess if a particular degree is the equivalent of the Canadian degree required by the regulations. In this case, the visa officer had no such problem.

[15] The visa officer did have the duty to properly examine the evidence put forward by Ms. Corpuz and to consider its authenticity. In this particular case, there is no doubt that the visa officer did carry out her duty. It is her examination of the documentation that raised her concerns. It is not unreasonable for a visa officer to question an applicant on the topic she claims to have studied and about the work she claims to have done. It is then not unreasonable for a visa officer to conclude, as a result of this questioning, that an applicant has not established that she meets the education requirement.

[16] The Court is satisfied that the questions asked during the interview were fair and relevant to the education and experience Ms. Corpuz relied upon.

[17] As mentioned during the hearing, there is nothing that prevents Ms. Corpuz from reapplying for another authorization on the basis of the additional evidence she obtained after receiving her refusal letter. But, for the purpose of this application and on the basis of the evidence that was before the visa officer, the Court cannot identify any reviewable error in the decision of March 22, 2001.

[18] The parties did not present any question for certification and the Court finds that this case does not raise any question of general interest.

ORDER

THIS COURT ORDERS that:

1. The application for judicial review is dismissed.
2. No question is certified.

“Johanne Gauthier”
Judge

FEDERAL COURT OF CANADA
TRIAL DIVISION

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: IMM-2046-01

STYLE OF CAUSE: Divina Corpuz v. MCI

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: May 8, 2003

REASONS FOR ORDER AND ORDER: Gauthier J.

DATED: July 10, 2003

APPEARANCES:

FOR APPLICANT

FOR RESPONDENT

SOLICITORS OF RECORD:

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FOR RESPONDENT