

Federal Court



Cour fédérale

Date: 20110325

Docket: IMM-2954-10

Citation: 2011 FC 370

Ottawa, Ontario, March 25, 2011

PRESENT: The Honourable Mr. Justice Simon Noël

BETWEEN:

KHATUN RABEYA

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

I. THE FACTS

[1] The Applicant is a citizen of Bangladesh whose application for permanent residence under the Federal Skilled Worker Class was refused. By way of a written notice, an Immigration Officer of the Canadian High Commission in Singapore refused the application on the basis that the Applicant did not meet the standards under the Federal Skilled Worker Class, as per the assessment

of 64 points on a 100-point scale. The Applicant was granted leave for judicial review of this determination on December 3, 2010.

[2] The Applicant's documentation and credentials were assessed in light of the Officer's interpretation of the applicable standards. The central issue in the application is that the Officer awarded 22 points out of 25 for the Applicant's education credentials. The Applicant contends that 25 points should have been awarded. These three (3) points would have enabled her to be granted permanent residence under the Federal Skilled Worker Class. In support of the assessment of the Applicant's educational credentials, the Officer noted the following:

Education – Per application dated 3 Aug 09, PA stated to hv 16 years of education with a Masters' degree. She did not state to have completed another master deg. PA provided another schedule 1 in Jan 2010 and she stated to hv done a master deg from Feb 08 to Aug 09 with Darul Ihsan University. I am not considering this as she already obtained a master deg in 95 and the two master def are equivalent and not a real progression from one to another.

[3] As indicated, the Applicant possesses two (2) Masters' degrees. In 1995, she obtained a Masters' degree in Arts (MA), and in August of 2009, she completed a Masters' in Business Administration (MBA in Marketing). The Officer's decision to consider only one Masters' degree was based on an interpretation of the relevant provisions of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (Regulations). These read as follows:

Definitions

73. The following definitions apply in this Division, other than section 87.1.

“educational credential”

« diplôme »

“educational credential” means

Définitions

73. Les définitions qui suivent s'appliquent à la présente section, à l'exception de l'article 87.1.

(...)

« diplôme »

“ educational credential ”

« diplôme » Tout diplôme,

any diploma, degree or trade or apprenticeship credential issued on the completion of a program of study or training at an educational or training institution recognized by the authorities responsible for registering, accrediting, supervising and regulating such institutions in the country of issue.

Definitions

78. (1) The definitions in this subsection apply in this section. “full-time”

« temps plein »

“full-time” means, in relation to a program of study leading to an educational credential, at least 15 hours of instruction per week during the academic year, including any period of training in the workplace that forms part of the course of instruction.

“full-time equivalent”

« équivalent temps plein »

“full-time equivalent” means, in respect of part-time or accelerated studies, the period that would have been required to complete those studies on a full-time basis.

Education (25 points)

(2) A maximum of 25 points shall be awarded for a skilled worker’s education as follows:

certificat de compétence ou certificat d’apprentissage obtenu conséquemment à la réussite d’un programme d’études ou d’un cours de formation offert par un établissement d’enseignement ou de formation reconnu par les autorités chargées d’enregistrer, d’accréditer, de superviser et de réglementer de tels établissements dans le pays de délivrance de ce diplôme ou certificat.

Définitions

78. (1) Les définitions qui suivent s’appliquent au présent article.

« équivalent temps plein »

“ full-time equivalent ”

« équivalent temps plein » Par rapport à tel nombre d’années d’études à temps plein, le nombre d’années d’études à temps partiel ou d’études accélérées qui auraient été nécessaires pour compléter des études équivalentes.

« temps plein »

“ full-time ”

« temps plein » À l’égard d’un programme d’études qui conduit à l’obtention d’un diplôme, correspond à quinze heures de cours par semaine pendant l’année scolaire, et comprend toute période de formation donnée en milieu de travail et faisant partie du programme.

Études (25 points)

(2) Un maximum de 25 points d’appréciation sont attribués pour les études du travailleur

(...)

(e) 22 points for
(i) a three-year post-secondary educational credential, other than a university educational credential, and a total of at least 15 years of completed full-time or full-time equivalent studies, or

(ii) two or more university educational credentials at the bachelor's level and a total of at least 15 years of completed full-time or full-time equivalent studies; and

(f) 25 points for a university educational credential at the masters' or doctoral level and a total of at least 17 years of completed full-time or full-time equivalent studies.

Multiple educational achievements

(3) For the purposes of subsection (2), points

- (a) shall not be awarded cumulatively on the basis of more than one single educational credential; and
(b) shall be awarded
(i) for the purposes of paragraphs (2)(a) to (d), subparagraph (2)(e)(i) and paragraph (2)(f), on the basis of the single educational credential that results in the highest number of points, and
(ii) for the purposes of subparagraph (2)(e)(ii), on the

qualifié selon la grille suivante :

(...)

e) 22 points, si, selon le cas :

(i) il a obtenu un diplôme postsecondaire — autre qu'un diplôme universitaire — nécessitant trois années d'études et a accumulé un total de quinze années d'études à temps plein complètes ou l'équivalent temps plein,

(ii) il a obtenu au moins deux diplômes universitaires de premier cycle et a accumulé un total d'au moins quinze années d'études à temps plein complètes ou l'équivalent temps plein;

f) 25 points, s'il a obtenu un diplôme universitaire de deuxième ou de troisième cycle et a accumulé un total d'au moins dix-sept années d'études à temps plein complètes ou l'équivalent temps plein.

Résultats

(3) Pour l'application du paragraphe (2), les points sont accumulés de la façon suivante :

- a) ils ne peuvent être additionnés les uns aux autres du fait que le travailleur qualifié possède plus d'un diplôme;
b) ils sont attribués :
(i) pour l'application des alinéas (2)a) à d), du sous-alinéa (2)e)(i) et de l'alinéa (2)f), en fonction du diplôme qui procure le plus de points selon la grille,
(ii) pour l'application du sous-alinéa (2)e)(ii), en fonction de

basis of the combined educational credentials referred to in that paragraph.

l'ensemble des diplômes visés à ce sous-alinéa.

Special circumstances

(4) For the purposes of subsection (2), if a skilled worker has an educational credential referred to in paragraph (2)(b), subparagraph (2)(c)(i) or (ii), (d)(i) or (ii) or (e)(i) or (ii) or paragraph (2)(f), but not the total number of years of full-time or full-time equivalent studies required by that paragraph or subparagraph, the skilled worker shall be awarded the same number of points as the number of years of completed full-time or full-time equivalent studies set out in the paragraph or subparagraph.

Circonstances spéciales

(4) Pour l'application du paragraphe (2), si le travailleur qualifié est titulaire d'un diplôme visé à l'un des alinéas (2)b), des sous-alinéas (2)c)(i) et (ii), (2)d)(i) et (ii) et (2)e)(i) et (ii) ou à l'alinéa (2)f) mais n'a pas accumulé le nombre d'années d'études à temps plein ou l'équivalent temps plein prévu à l'un de ces alinéas ou sous-alinéas, il obtient le nombre de points correspondant au nombre d'années d'études à temps plein complètes — ou leur équivalent temps plein — mentionné dans ces dispositions.

[4] More precisely, the Officer decided that, upon application of subparagraph 72(2)(e)(ii), the Applicant had a Masters' degree and 16 years of full-time studies, falling short of the 17 years required for her to be granted 25 points. As seen above, this was confirmed by the Officer's reading of subsection 73(3) of the Regulations, whereby the Applicant could not be twice credited for the same "educational credential". At no point did the Officer take issue with the validity of any of the Applicant's credentials or noted that these were not from "recognized institutions".

[5] The Applicant takes issue with this reading of the Regulations and argues that she should have been awarded 25 points for her educational credentials, as her MBA should have been considered as the highest educational credential.

[6] The Respondent contends that the Officer's reading of the Regulations is within the law. As such, there is no misinterpretation or error in this case. The Respondent submits that this interpretation is also consistent with the case law.

II. STANDARD OF REVIEW

[7] The Officer clearly discarded the Applicant's second Masters' degree. Hence, the question before the Court is not one of determining whether the Applicant's degrees are in progression or if the Officer should have considered the national educational standards in Bangladesh, as suggested by the Applicant.

[8] As the Officer chose to not consider the second Masters' degree, the question before the Court is a question that raises legal and factual issues: does the assessment of educational credentials under sections 73 and 78 of the Regulations allow the Officer to consider two (2) credentials of the same level? More pragmatically, did the Officer err in attributing 22 points to the Applicant for her two (2) Masters' degrees?

[9] In light of the factual underpinning of this question, it is essentially a mixed question of fact and law that is to be reviewed on the reasonableness standard (*Dunsmuir v New Brunswick*, 2008 SCC 9; *McLachlan v Canada (Citizenship and Immigration)*, 2009 FC 975). As such, the Court will consider whether the decision falls within the range of acceptable outcomes defensible in fact and law (*Dunsmuir*, above, at para 47).

III. ANALYSIS

[10] The Court notes that questions at the very heart of this matter have been certified in proceedings before this Court in *Khan v Canada (Citizenship and Immigration)*, 2010 FC 983; *Kabir v Canada (Citizenship and Immigration)*, 2010 FC 995; *Thomasz v Canada (Citizenship and Immigration)*, 2010 FC 1159; and *Hasan v Canada (Citizenship and Immigration)*, 2010 FC 1206.

These questions read as follows:

In assessing points for education under s. 78 of the *Immigration and Refugee Protection Regulations*, does the visa officer award points for years of full-time equivalent studies that did not contribute to obtaining the educational credential being assessed?

When a skilled worker visa applicant has achieved an educational credential referred to in a particular subparagraph in Regulation 78(2) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 but not the total number of years of study required by that subparagraph, does section 78(4) require the visa officers to award the number of points based on the applicant's highest educational credential or based on the applicant's years of study?

[11] In resolving this matter, the Court notes that the state of the law on this matter as it stands is divided. Madam Justice Heneghan, relying on *Bhuiya v Canada (Citizenship and Immigration)*, 2008 FC 878, asserted in *Kabir*, above, *Khan*, above, and *Thomasz*, above, that subsection 78(4) “cannot be used to award an applicant full points for an academic credential in special circumstances notwithstanding that he or she has not completed the requisite years of study” (See, *inter alia*, *Khan*, at para 19). As such, these decisions call for a strict interpretation of the Regulations, as no person can be awarded “double-points” for the same educational credential.

[12] In contrast, Justice Campbell decided in *Hasan v Canada (Citizenship and Immigration)*, 2010 FC 1206, that Justice Mandamin's reasons in *McLachlan v Canada (Citizenship and*

Immigration), 2009 FC 975, were determinative on the issue. As such, Justice Campbell undertook an exercise in distinguishing, as the facts underlying the Court's decision in *Bhuiya* were such that the reasoning in *Bhuiya* was ill-suited to the facts of the case. Furthermore, it was decided that the notion of "line of progression" between diplomas was not a proper factor for assessing academic credentials and as such, the complete academic history was a better way to assess the application.

[13] More precisely, there is uncertainty in how two (2) Masters' degrees should be assessed under the Regulations. In *Kabir*, Madam Justice Heneghan decided that "the language of subsection 78(3) is clear. No points can be awarded for two Masters' degrees". In *Hasan*, Justice Campbell ruled that "if an applicant such as Mr. Hasan has two Masters' degrees and a total of 17 years or more of full-time studies in his or her complete academic history, the last of the degrees must be assessed together with the applicant's complete academic history".

[14] I have carefully read the reasons of all of my colleagues on these matters. In the present reasons, I will tend to favour Justice Campbell's reasons in *Hasan*, but with some limits. Due to a different factual matrix triggering a different interpretation of the applicable law, I will not rely on Justice Mandamin's reasons in *McLachlan*. The Court will also depart from the interpretation of the Regulations given by Madam Justice Heneghan in *Khan*, above.

[15] Firstly, the Court adheres to the views expressed in *Hasan*, whereby it was noted that the factual matrix in *Bhuiya* was such that it could not justifiably apply to cases where applicants have two credentials at the same level. As Madam Justice Mactavish indicated in *Bhuiya*, at para 19: "The fact that Ms. Bhuiya may have spent one additional year in school after obtaining her Masters'

degree does not turn her 16 year Masters' degree into a 17 year Masters' degree". In *Bhuiya*, the Applicant had completed another diploma, not of Masters' level, and wanted this recognized in the assessment of the duration of her studies.

[16] Surely, the case in *Bhuiya* is logical: another diploma, of an unrelated or of a "lesser" nature, does not transform into higher credentials. While these other qualifications may even prove beneficial to Canada, the Officer is required to assess the highest education credential (subparagraph 78(3)(b)(ii) of the Regulations). The case here is different: what makes the first Masters' obtained the "highest educational credential"?

[17] As seen above, "educational credential" is loosely defined as "any diploma, degree or trade or apprenticeship credential issued on the completion of a program of study or training (...)" (s.73 of the Regulations). With respect to my colleague, it is inappropriate to state, in regards to section 78(3) of the Regulations, that "the plain language of this provision says that points will not be awarded for two or more educational credentials. This means that although the Applicant holds two degrees at the Masters' level, he will not receive double points." (*Kabir*, above, at para 12).

[18] In fact, the question here is not awarding double points, but rather, awarding points for the single credential obtained that gives the higher assessment. The plain reading of subparagraph 73(3)(b)(i) supports the contention that the *single educational credential that results in the highest number of points* is to be considered. At face value, this means that the Applicant's second Masters' degree should have been considered: it was indeed the single educational credential resulting in the highest number of points.

[19] Justice Campbell's analysis goes to legislative intent and to the fact that the number of years of studies must be read disjunctively from the credential obtained. Thus, what is implied in *Hasan* is that the complete academic history must be considered in assessing the number of years of full-time studies.

[20] The Court will not go so far, as this reasoning may lead to illogical results. For example, the case in *Bhuiya* would have seen the Applicant receive more points for a diploma that is arguably of a lesser value than the highest credential obtained. Again, the Court stresses the fact that the Regulations call for the evaluation of the *single educational credential that awards the most points*. For example, in *Bhuiya*, this would have been the Masters' degree, and the Applicant would not have received points for the diploma undertaken after. This may be where the "logical progression" argument put forward by the Officer originates. Justification may have been required in cases similar to *Bhuiya* to exclude the lesser, more recent diplomas, that, as Madam Justice Mactavish noted, do "not transform a 16 year Masters' degree into a 17 year Masters' degree". This concern is assuaged when only the single educational credential that awards the most points is considered, as required by the Regulations.

[21] Further, the Court cannot take issue with Justice Mandamin's findings in *MacLachlan*, above, because, as already noted, the facts of that case are different. The question then was whether points could be awarded for a credential, despite the requisite number of years not being met. This question has been certified to the Court of Appeal. In the case at bar, the requisite number of years is

met if one considers the more recent Masters' degree. Again, the Court emphasizes the following question: what are the legal grounds to exclude a second degree of the same academic level?

[22] As a matter of fact and a matter of law, there are no grounds to exclude a second Masters' degree. While it is true that paragraph 78(3)(a) of the Regulations states that "points shall not be awarded cumulatively on the basis of more than one single educational credential", the Court refers to the definition of "educational credential", where emphasis is placed on the actual credential awarded, not its rank or grade. The problem here is one of interpretation of the word "credential".

[23] It is open for the Court to consider the French definition of "educational credential", whereby the translation is "*diplôme*". In French, no confusion arises from the use of *diplôme*, as it cannot be understood as a "credential", or "*grade*". As both the English and French version of a statute are authoritative (see, *inter alia*, *Schreiber v Canada (Attorney General)*, 2002 SCC 62; *R v Sharpe*, 2001 SCC 2), the Court must seek to find the common meaning between the two (2) dispositions, in conformity with the Supreme Court's approach to bilingual interpretation drawn out in *Medovarski v Canada (Minister of Citizenship and Immigration)*, 2005 SCC 51 and *R v Daoust*, 2004 SCC 6. Once the common meaning is established, the Court must assess whether this common meaning falls within the scope of legislative intent. Here, the common meaning is the more restrictive interpretation of "educational credential", referring to the credential itself, i.e. in French, the "*diplôme*", not its rank, or "*grade*". As will be seen below, it is also the interpretation that gives full effect to the IRPA's objectives.

[24] Furthermore, sound statutory interpretation requires that when a Court is confronted with two (2) meanings for a provision, it must prefer that which avoids absurd results or strips dispositions of their full effect (*R v McIntosh*, [1995] 1 SCR 686; *Flavell v Deputy MNR, Customs and Excise*, [1997] 1 FC 640). Such is the case here. If the Court was to read “credential” as simply the rank obtained, i.e. Masters’ (or “*grade*” in French), it would render subparagraph 73(3)(b)(i) useless: an Applicant could never have more than one “credential” of the same level as an applicant is a Masters’ graduate whether he or she has one (1) or two (2) degrees at this level. Thus, “credential” must be read as defined by the Regulations, i.e. as the actual diploma, title, degree or the like, completed (“*diplôme*” in French).

[25] As for “double-counting” of points for the same credential, the plain reading of subsection 78(3) instructs that the worries expressed in case law is not founded when “educational credential” is considered as described in the present reasons. When the more limited definition of “educational credential” is considered, there can be no double-counting. Rather, paragraph 78(3)(a) of the Regulations instructs against awarding incremental points for every “academic step” met. For example, an applicant with two (2) Bachelor’s degrees and a Masters’ would not be awarded 22 points under subparagraph 78(2)(e)(i) as well as 25 points for the Masters’ under paragraph 78(2)(f), for a total of 47 points. This is what is anticipated by paragraph 78(3)(a) of the Regulations. The French version of paragraph 78(3)(a) confirms this, and instructs that the reader be more attuned to the “cumulative” aspect of paragraph 78(3)(a), rather than the “same credential” aspect of this paragraph (“ils ne peuvent être *additionnés les uns aux autres* du fait que le travailleur qualifié possède plus d’un diplôme”, emphasis added). Paragraph 78(3)(a) also confirms that

“educational credential” refers to the actual diploma awarded, rather than its rank, as was discussed above.

[26] In *Hasan*, above, Justice Campbell noted the following at para 19:

Counsel for Mr. Hasan argues that the decisions in *Khan* and *Kabir* neglect to address the operation of s. 78(3)(b)(i) which states that points are to be awarded, including under s. 78(2)(f), “on the basis of the single educational credential that results in the highest number of points”. As the argument goes, in order for this legislative intention to operate to provide a benefit to an applicant with two Masters’ degrees, the factors named in s. 78(2)(f) must be read disjunctively. That is, if an applicant such as Mr. Hasan has two Masters’ degrees and a total of 17 years or more of full-time studies in his or her complete academic history, the last of the degrees must be assessed together with the applicant’s complete academic history. In my opinion, this is the correct approach.

[27] As reasoned above, the Court does not believe that a disjunctive reading of the factors in section 78(2)(f) is required. Again, the Applicant does indeed have a Masters’ degree; and this education credential comes after at least 17 years of full-time or full-time equivalent studies. Hence, the criteria of section 78(2)(f) are satisfied. The only “problem”, if it can even be qualified as such, is that the 17 years of studies result from undertaking a second Masters’ degree. As the Officer must assess the educational credential awarding the highest number of points, it is confirmed that the second Masters’ degree was to be considered.

[28] Not considering the second Masters’ degree, or a second educational credential of the same level, is absurd, as it fails to recognize that people can indeed pursue their studies at a graduate level in another field after completing a first graduate degree. In the case at bar, the Applicant completed an MBA, after receiving an MA many years earlier. It is illogical to discount a second Masters’. In

fact, subparagraph 78(2)(e)(i) clearly anticipates a situation where two credentials of the same rank are to be considered, in that case, two (2) Bachelor's degrees.

[29] The IRPA's objectives confirm this reading. More particularly, the Act's objectives are, among others, "to permit Canada to pursue the maximum social, cultural and economic benefits of immigration" and "to support the development of a strong and prosperous Canadian economy, in which the benefits of immigration are shared across all regions of Canada" (section 3 of the IRPA). Furthermore, the criteria to be assessed under section 78 of the Regulations are to be considered "for the purpose of determining whether a skilled worker, as a member of the federal skilled worker class, *will be able to become economically established in Canada*" (emphasis added). Surely, considering a second Masters' degree is consistent with the evaluation of the capacity to become economically established in Canada, as well as meeting the IRPA's objectives.

[30] This is confirmed by the *Regulatory Impact Analysis Statement - SOR/2002-227*, Canada Gazette, Part II, vol 136, no 9, where education is clearly stated as an important consideration recognized by the Canadian labour market:

The stakeholder consultations consistently highlighted the importance for Canada of immigration by skilled tradespeople and encouraged the department not to overweigh advanced professional education. Consequently, maximum points for a diploma, trade certificate or formal apprenticeship will be raised from 13 to 22, depending on the number of years of education or training. The maximum of 22 points allocated for a three-year skilled trades credential is equivalent to that allocated for two bachelor's degrees in recognition of the value attached to this type of credential. In addition, *the maximum number of points available for education has increased from 16 to 25, recognizing the considerable value that the modern Canadian labour market assigns to education.* (emphasis added)

[31] Proper interpretation of the Regulations in terms of assessment of education credentials requires that full effect is given to the objectives of the IRPA as well as the important consideration of whether a potential Federal Skilled Worker can become economically established in Canada, as embodied by the factors of section 78 of the Regulations. Thus, the Court sees no opposition in paragraph 78(3)(a) and subparagraph 78(3)(b)(ii) of the Regulations when “educational credential” is read as defined by section 73 of the Regulations. There is no need to introduce a potentially unpredictable criterion of “the complete academic history”, as this may lead to results that run counter to the Regulations. Rather, the “latest” and “highest” educational credential is the one that is to be considered. In this case, it was the second Masters’ degree, the MBA, which came after 17 years of studies.

[32] The evaluation of education credentials on an objective, points-based basis aims to ensure consistency in the evaluation of credentials (*Bhuiya*, above, at para 17; see also the *Regulatory Impact Analysis Statement – SOR/2002-225*, above). Hence, the Regulations aim to limit the Officer’s discretion in considering academic credentials. This would be considerably eroded if the Court were to accept Justice Campbell’s argument that “the complete academic history” must be considered. Between absolute discretion in assessing educational credentials, which the points-based system avoids, and a mechanistic analysis, there needs to be balance. This balance is found within the points-based system, where the highest credential is to be considered.

[33] As for certified questions, the Court has already noted that similar issues have resulted in questions being certified for consideration by the Federal Court of Appeal. It is important in terms of equity and fairness that a question be certified in this proceeding as well, as the underlying facts

are very similar and this Court's judgment offers a different perspective on the interpretation of the Regulations.

[34] The Applicant submitted three (3) questions for certification, which read as follows:

- a. For the purposes of section 78(3)(a) of the *Immigration and Refugee Protection Regulations*, what is the significance of "single educational credential" when considering more than one masters' degree under section 78(2)(f), particularly where one of those degrees is of a higher and/or professional nature?
- b. For the purposes of section 78(3)(b)(i) of the *Immigration and Refugee Protection Regulations*, is a visa officer to consider a second Masters' degree under section 78(2)(f) as the "single educational credential that results in the highest number of points"?
- c. In assessing points for education under section 78(2)(f) of the *Immigration and Refugee Protection Regulations*, is a visa officer to consider points on the basis of a second masters' degree?

[35] The Respondent's position is that these three (3) questions do not satisfy the threshold for certification. Rather, the Respondent submits that the following question should be certified:

Is the onus on an Applicant to establish the years of studies related to the educational credential that results in the highest number of points under R78(2)(f) and R78(3)(b)(i) of the *Immigration and Refugee Protection Regulations*, or is a visa officer expected to be aware of the years of studies associated with that educational credential?

[36] This question is not suitable for certification, as it was not an issue arising from the facts of the case. In fact, what was in evidence was that in total, after her MBA, the Applicant had completed 17 years of studies. Thus, the question proposed by the Respondent does not arise in the case at bar.

[37] Considering the present reasons and the analysis herein, the Court cannot proceed with certifying the same questions as those certified by Madam Justice Heneghan and Justice Campbell in *Kabir*, above, *Khan*, above and *Hasan*, above. Rather, the analysis herein justifies that a different question be certified. As suggested by the Applicant, the Court will certify the second proposed question, as it is both determinative of the appeal and of general importance, as instructed by the Federal Court of Appeal in *Canada (Minister of Citizenship and Immigration) v Zazai*, 2004 FCA 89. The Court will certify the following question:

For the purposes of section 78(3)(b)(i) of the *Immigration and Refugee Protection Regulations*, is a visa officer to consider a second Masters' degree under section 78(2)(f) as the "single educational credential that results in the highest number of points"?

[38] Thus, the application is allowed and the matter is to be sent back for redetermination.

JUDGMENT

THIS COURT’S JUDGMENT is that:

1. The application is allowed and the matter is to be sent back for redetermination before the appropriate authority; and

2. The following question is certified:

“For the purposes of section 78(3)(b)(i) of the *Immigration and Refugee Protection Regulations*, is a visa officer to consider a second Masters’ degree under section 78(2)(f) as the “single educational credential that results in the highest number of points”?”

“Simon Noël”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2954-10

STYLE OF CAUSE: KHATUN RABEYA
V
THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: March 3, 2011

**REASONS FOR JUDGMENT
AND JUDGMENT:** NOËL S. J.

DATED: March 25, 2011

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