

Federal Court



Cour fédérale

Date: 20140120

Docket: IMM-9602-12

Citation: 2014 FC 52

Ottawa, Ontario, January 20, 2014

PRESENT: The Honourable Madam Justice Simpson

BETWEEN:

KHUBAIB AHMAD AWAN

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS FOR ORDER AND ORDER
(Delivered orally December 19, 2013)

[1] This application is for judicial review of a decision of Immigration and Refugee Board (the Board) in a letter dated July 17, 2012 refusing the Applicant's request for a permanent resident visa as a member of the federal skilled worker class (the Refusal Letter).

[2] The Applicant is a 51 year old man from Pakistan who applied under the occupation of “College and Other Vocational Instructors (NOC 4131).” His wife and 3 children are listed as independents and are included in his application.

The Facts

[3] There is no issue that the Applicant spent 10 years in high school, 2 years in phase 1 of his B.A. at the Government College and 2 years post graduate studies earning an M.A. at Sindh University, for a total of 14 years of full-time study.

[4] Sections 78(2)(d)(ii) and 78(2)(e)(ii) of the *Immigration and Refugee Protection Regulations*, C.P. 2002-997, 2002-06-11 are relevant. Those sections deal with the awarding of points for education and they read as follows:

(d) 20 points for

- (ii) a two-year university educational credential at the bachelor’s level and a total of at least 14 years of completed full-time or full-time equivalent studies;

(e) 22 points for

- (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;

[5] The Applicant has been awarded 20 points for 14 years but submits that he is entitled to 22 points for 16 years of study.

The Issue

[6] Against this background, the narrow issue is whether it was reasonable to deny the Applicant points for the studies he allegedly undertook in phase 2 of his Bachelor of Arts at Government College, in the period from June 1981 to April 1983. The record shows that he did not sit his exams at the end of that period. Instead, he joined the army where he remained until 2009. However in 1991, while in military service, he passed his exams as an external candidate and was awarded his B.A. degree by the University of Punjab.

[7] The Officer's CAIPS notes say in part:

According to schedule 1 he would have studied in a government college from 81 to 83 but passed his exam in 1991. No evidence of this submitted.

Since the B.A. degree from the University of the Punjab was in evidence and because it shows that the Applicant passed his exams in 1991, the above note must be understood as an expression of concern that there was no evidence that the applicant actually studied for phase 2 of his B.A. at the Government College from 1981 to 1983.

[8] Unfortunately, the Refusal Letter did not mention this lack of evidence. The Refusal Letter only said the following about education:

You were granted 20 points for education since you did not complete your B.A. from the Government College. Your B.A. was obtained 8 years later as an external candidate.

This statement appears to indicate that the points for education were limited to 20 because the Applicant did not sit his exams at the Government College and instead earned his B.A. later as an

external candidate. That would not have been a reasonable basis for denying the applicant the points he sought for education.

Conclusion

[9] For the reasons given above I have concluded that the Refusal Letter does not justify the decision. The Refusal Letter should have expressed the legitimate reason for the refusal. However, when the record is reviewed the CAIPS notes show that the decision was reasonable because it was based on a lack of evidence dealing with studies at the Government College between the years 1981 to 1983. For these reasons the application will be dismissed.

Certification

[10] No question was posed for certification.

ORDER

THIS COURT ORDERS that the application is dismissed.

"Sandra J. Simpson"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-9602-12

STYLE OF CAUSE: KHUBAIB AHMAD AWAN v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: DECEMBER 19, 2013

**REASONS FOR ORDER AND
ORDER:** SIMPSON J.

DATED: JANUARY 20, 2014

APPEARANCES:

Matthew Jeffery FOR THE APPLICANT

Leila Jawando FOR THE RESPONDENT

SOLICITORS OF RECORD:

Matthew Jeffery FOR THE APPLICANT
Barrister and Solicitor
Toronto, Ontario

William F. Pentney FOR THE RESPONDENT
Deputy Attorney General of Canada
Toronto, Ontario