Federal Court

Cour fédérale

Date: 20210603

Docket: IMM-6950-19

Citation: 2021 FC 538

[ENGLISH TRANSLATION]

Ottawa, Ontario, June 3, 2021

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

MONICA MARGARITA LONGA DIAZ

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

<u>JUDGMENT AND REASONS</u>

[1] This is an application for judicial review of a decision rendered on November 1, 2019, by an officer of the Visa Section of the Embassy of Canada in Mexico, refusing to issue the applicant a work permit.

[2] The applicant is a citizen of Venezuela and is seeking a temporary work permit for a legal administrative assistant position for a two-year period.

[3] The Visa Section officer refused the application on the grounds that the applicant had failed to demonstrate that she fully met the employment requirements and that she had not convinced him that she would leave Canada at the end of the period authorized for her stay, in accordance with the *Immigration and Refugee Protection Regulations*, SOR/2002-227, sections 200(1), (3)(a).

[4] This judicial review will examine the officer's conclusions with respect to the consideration of the evidence and the application of procedural fairness. Despite the latter element, the standard of judicial review applicable by this Court is that of reasonableness. (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 23, 77 [*Vavilov*]).

[5] The applicant submits that the officer ignored documentary evidence of probative value, although contradictory, and failed to provide reasons for his conclusions regarding the assessment of her travel history, the duration of the contract, her current employment situation, her ties with Venezuela and her qualifications for the position in question. The officer's notes also contain a clerical error regarding the permit program.

[6] The applicant is also of the view that the officer breached procedural fairness by failing to conduct an interview or give her the opportunity to respond to his concerns regarding the credibility of her professional and linguistic qualifications.

[7] A priori, the Court does not see any finding of credibility in this case, and therefore the officer has no procedural obligation to apprise the applicant of his concerns (see *Hassani v Canada (Citizenship and Immigration)*, 2006 FC 1283 at para 26; *Sun v Canada (Citizenship and Immigration)*, 2019 FC 1548 at paras 26–28). What I note instead is a lack of connection between the officer's notes and his conclusions, particularly with respect to the assessment of the applicant's specific qualifications—or lack thereof—for the position at issue.

[8] The officer notes that the applicant was unable to demonstrate that she fully meets the requirements of the employment in question. Her history of employment as an accountant and analyst did not make use of her secretarial skills, and her studies in that field were completed twenty years ago. However, the officer is silent about her receipt of an offer of employment that suggests she is qualified for the position. If the employer is satisfied that the applicant is qualified to fulfill the requirements of the offer of employment, it is unreasonable for the officer to claim the contrary without explaining the contradiction (*Liu v Canada (Citizenship and Immigration)*, 2018 FC 954 at para 29).

[9] The same approach was adopted for the review of the applicant's travel history. The officer's notes state that the applicant had previously been in Mexico and that this constituted a negative factor. "The Officer might well have had a rationale for that conclusion in mind, but

none is apparent in the reasons" (*Patel v Canada (Citizenship and Immigration)*, 2020 FC 77 at para 21 [*Patel*]).

[10] This observation also applies to the negative inference attributed to the duration of the contract of employment, as well as to the applicant's personal situation, namely her housing and financial situation.

[11] While an inference may be obvious or drawn from findings in the record, some reasons must be provided when this is not the case in order to render the decision both intelligible and transparent.

[12] The Court agrees with Justice Diner's comments to the effect that the "immense pressures to produce a large volume of decisions every day, do not allow for extensive reasons. The brevity of the Decision, however, is not what makes this Decision unreasonable. Rather, it is its lack of <u>responsiveness</u> to the evidence" (*Patel*, above, at para 15, citing *Vavilov*, above, at paras 127–28; see also *Ekpenyong v Canada (Immigration, Refugees and Citizenship)*, 2019 FC 1245 at paras 22–23). At least a few words would have been necessary to explain, however briefly, how the applicant's prior experience fails to prepare her for the specific employment at issue in Canada.

[13] For these reasons, the decision is unreasonable and the application for judicial review is allowed.

JUDGMENT in IMM-6950-19

THIS COURT'S JUDGMENT is that the application for judicial review is allowed and the matter is referred back to another officer for reconsideration. There is no question of general importance to be certified.

"Michel M.J. Shore"
Judge

Certified true translation
This 9th day of June 2021
Elizabeth Tan, Reviser

FEDERAL COURT

SOLICITORS OF RECORD

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