Federal Court  Cour fédérale

Date: 20211125

Docket: IMM-1427-20

Citation: 2021 FC 1297

[ENGLISH TRANSLATION]

Ottawa, Ontario, November 25, 2021

PRESENT: The Honourable Madam Justice Roussel

BETWEEN:

RANIA KASSOU

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The applicant, Rania Kassou, is seeking judicial review of a decision dated February 14, 2020, by which an immigration officer [the Officer] of the Immigration, Refugees and Citizenship Canada [IRCC] Case Processing Centre in Ottawa rejected her application for permanent residence in the skilled worker category. The Officer was not satisfied that the

applicant had accumulated, over a continuous period, at least one year of full-time work experience, or the equivalent in part-time work, in the occupation identified in her application.

[2] In the rejection letter, the Officer noted that while the employer's letter submitted by the applicant confirms that she was hired in October 2016, it is undated and does not specify when it was written. The Officer was therefore unable to determine the duration of the applicant's employment. The Officer concluded that the applicant did not meet the criteria of section 11.2 of the *Immigration and Refugee Protection Act*, SC 2001, c 27, and subsection 75(2) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227.

[3] The applicant essentially alleges that the Officer violated her right to procedural fairness by failing to contact her to obtain information regarding her proof of employment. She argues that the letter confirms that she was hired as a project officer on October 24, 2016, and that her period of employment with the employer is therefore equivalent to nearly three years of experience. She adds that the letter also states that her employment contract was changed from a fixed term to an indefinite term and that she worked full-time at 37.5 hours per week.

[4] The applicant maintains that she exchanged emails with IRCC to find out about the progress of her case before the final decision, to which she was told that she would be contacted if additional information was required. According to the applicant, the Officer should have sent her a request for additional information on the period that she had worked for this employer.

[5] The applicant also argues that the Officer's decision is unreasonable because from the other documents submitted, including her bank statements, the Officer could have inferred that she worked for this employer until she filed her application for permanent residence. In fact, the bank statements confirm monthly transfers from this employer. She argues that all the evidence to support her application for permanent residence had been submitted.

[6] In considering procedural fairness, the Court's role is to determine whether the proceedings were fair having regard to all the circumstances (*Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*, 2020 FCA 196 at para 35; *Canadian Pacific Railway v Canada (Attorney General)*, 2018 FCA 69 at paras 54–56).

[7] The standard of review applicable to the Officer's decision on the applicant's application for permanent residence is that of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 10, 16–17 [*Vavilov*]; *Odufodunrin v Canada (Citizenship and Immigration)*, 2021 FC 736 at para 4 [*Odufodunrin*]; *Ekama v Canada (Citizenship and Immigration)*, 2020 FC 105 at para 14 [*Ekama*]). In reviewing a decision against this standard, the Court must focus on "the decision actually made by the decision maker, including both the decision maker's reasoning process and the outcome" (*Vavilov* at para 83). It must consider whether the decision "bears the hallmarks of reasonableness — justification, transparency and intelligibility — and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision" (*Vavilov* at para 99). In addition, the "burden is on the party challenging the decision to show that it is unreasonable" (*Vavilov* at para 100).

[8] Despite the applicant's unfortunate situation, the Court cannot agree with her arguments.

[9] The Officer had no obligation to inform the applicant that her application was incomplete or to ask her to clarify the period of her employment. The onus was on the applicant to establish that she met the legal requirements, including the requirement to demonstrate that she had accumulated the work experience declared in her application (*Ugboh v Canada (Citizenship and Immigration*), 2021 FC 876 at para 23; *Odufodunrin* at para 18; *Ekama* at para 43; *Joseph v Canada (Citizenship and Immigration)*, 2018 FC 268 at para 13; *Kaur v Canada (Citizenship and Immigration)*, 2017 FC 180 at para 25).

[10] There is nothing in the record to show that the Officer had any doubts about the authenticity of the employer's letter or the applicant's credibility. Rather, it is a question of the sufficiency of the applicant's evidence. The applicant had an obligation to submit a complete application, which she unfortunately did not do. Procedural fairness was therefore not breached.

[11] The applicant alleges that it was unreasonable for the Officer to refuse her application for permanent residence since the bank statements provided confirm that she was still working for the same employer.

[12] The Court acknowledges that the bank statements demonstrate a monthly source of income from this employer. However, the statements cover only the period between December 2018 and April 2019 and do not reflect the duties performed by the applicant or her responsibilities. They do not assist in determining whether the applicant had the year of work

experience required by the Regulations. Therefore, the Court is not persuaded that the Officer's decision regarding her work experience is unreasonable.

[13] For these reasons, the application for judicial review is dismissed. No questions of general importance have been submitted for certification, and the Court is of the opinion that none arise.

JUDGMENT in IMM-1427-20

THE COURT ORDERS as follows:

1. The application for judicial review is dismissed; and

2. No question of general importance is certified.

"Sylvie E. Roussel"
Judge

Certified true translation
Johanna Kratz

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-1427-20
STYLE OF CAUSE:	RANIA KASSOU v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	HELD VIA VIDEOCONFERENCE
DATE OF HEARING:	NOVEMBER 22, 2021
JUDGMENT AND REASONS:	ROUSSEL J.
DATED:	NOVEMBER 25, 2021

APPEARANCES:

Laurent Gryner	FOR THE APPLICANT
Simone Truong	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Laurent Gryner Attorney Montréal, Quebec	FOR THE APPLICANT
Attorney General of Canada Montréal, Quebec	FOR THE RESPONDENT