

Federal Court



Cour fédérale

**Date: 20220407**

**Docket: IMM-5801-21**

**Citation: 2022 FC 506**

**Ottawa, Ontario, April 7, 2022**

**PRESENT: The Honourable Mr. Justice Southcott**

**BETWEEN:**

**DAVOOD FALLAHI  
LEILASADAT MOUSAVI  
ARIABOD FALLAHI**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] The Applicants are a 38-year old man [the Principal Applicant], his spouse and their minor child, all citizens of Iran. They seek judicial review of a decision denying their applications for a study permit for the Principal Applicant to pursue a Master's degree at a Canadian university, a work permit for his spouse, and a visitor visa for their child to accompany them.

[2] As explained in more detail below, this application for judicial review is allowed, because I find the Officer's analysis of the Principal Applicant's study plan and career/educational path unintelligible, resulting in an unreasonable Decision.

## II. Background

[3] The Principal Applicant obtained a Bachelor's degree in Business Administration from Islamic Azad University in 2006. In 2009, he began his current employment as an Individual Accident, Health and Travel Insurance Supervisor with Parsian Insurance Company [Parsian] in Tehran. In 2019, the Principal Applicant earned a Master's Degree in Industrial Management from Islamic Azad University.

[4] By letter dated May 13, 2021, the Principal Applicant was accepted at Farleigh Dickinson University in British Columbia, to pursue a Master of Administrative Science with a specialization in Human Resources Administration. By letter dated June 10, 2021, Parsian stated that it was offering him a two-year leave of absence and, following graduation from university, employment as Human Resources Manager. On June 29, 2021, the Principal Applicant submitted his application for a study permit. The other Applicants applied for a work permit and visitor visa to accompany him.

[5] On August 4, 2021, an immigration officer [the Officer] denied the Applicants' applications [the Decision]. Letters to the Applicants conveyed that their applications were refused, because the Officer was not satisfied that the Primary Applicant would leave Canada at

the end of his stay, based on: (a) the purpose of his visit; and (b) his family ties in Canada and in his country of residence.

[6] The Officer's analysis of the Principal Applicant's application is set out in Global Case Management System [GCMS] notes as follows:

I have reviewed the application. Client is seeking entry to obtain a master's degree in Human Resources Administration from Farleigh Dickinson University. I note that the client has a Bachelor of Business Management and a Master of Industrial Management. Client has also been working as a Insurance Supervisor since 2009 with the same company. Proposed study content and level appears to overlap or fall below studies and work experience already obtained by the applicant. I fail to see how the proposed program adequately demonstrates a logical progression of study/career. The study plan does not appear reasonable given the applicant's employment and education history. I note that, given the PA's previous education/work history, their motivation to pursue studies in Canada at this point does not seem reasonable. Study plan submitted is vague and does not outline a clear career/educational path for which the sought educational program would be of benefit. Given family ties or economic motives to remain in Canada, the applicant's incentives to remain in Canada may outweigh their ties to their home country. Client is married and has a dependent child. Spouse and child are declared as accompanying. Weighing the factors in this application. I am not satisfied that the applicant will adhere to the terms and conditions imposed as a temporary resident. For the reasons above, I have refused this application.

[7] The GCMS notes, in relation to the other Applicants' applications, refer to the refusal of the Principal Applicant's application and indicate that the other applications were also refused "...on grounds of purpose of visit and ties."

[8] The Applicants now seek judicial review of the Decision.

III. **Issues and Standard of Review**

[9] The Applicants' arguments raise the following issues for the Court's consideration:

- A. Was it reasonable for the Officer not to be satisfied that the Applicants would leave Canada at the end of their authorized stay?
- B. Were the Applicants denied procedural fairness in the Officer's consideration of their applications?

[10] As suggested by the articulation of the first issue, it is subject to the standard of reasonableness. The standard of correctness applies to the second issue, related to procedural fairness.

IV. **Analysis**

[11] While the Applicants have raised a number of arguments in support of their positions on the issues identified above, my decision to allow this application for judicial review turns on the Officer's analysis of the Principal Applicant's study plan and career/educational path, resulting in the Officer not being satisfied that the Principal Applicant (and by extension the other Applicants) will leave Canada at the end of their authorized stay.

[12] I agree with the Respondent's submission that Decision is based largely on the Officer's concerns about the Principal Applicant's study plan. I also agree that it is clear that the Officer considered the study plan, as it is expressly referenced in the GCMS notes, along with the Principal Applicant's educational background, current employment, and proposed course of

study in Canada. I also accept that visa officers have a wide discretion in their assessment of an application of this nature and are entitled to considerable deference (see, e.g., *Nimely v Canada (Citizenship and Immigration)*, 2020 FC 282 at para 7; *Binu v Canada (Citizenship and Immigration)*, 2021 FC 743 at para 10).

[13] However, as explained by the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 85-86, a reasonable administrative decision is one that is based on an internally coherent and rational chain of analysis, justified in relation to the facts and law constraining the decision-maker, such that reasonableness review is concerned with the justification, transparency and intelligibility of the decision.

[14] In the case at hand, while the Officer appears to have considered the facts described above, I cannot identify a rational and intelligible chain of analysis underlying the Officer's conclusions based on those facts. The Officer's conclusion that the level of the Principal Applicant's proposed course of study in Canada overlaps with past studies is itself intelligible, because the Principal Applicant is proposing to pursue a Master's degree and has previously obtained a Master's degree in Iran. However, I cannot identify similar intelligibility in the Officer's conclusion that the study content overlaps with the Principal Applicant's past studies.

[15] The Principal Applicant's past studies culminated with a Master's Degree in Industrial Management. The program he wishes to pursue in Canada, if completed, will confer upon him a Master of Administrative Science with a specialization in Human Resources Administration.

While this is another graduate degree, its title indicates a focus upon the management of human resources. I have been unable to identify evidence in the record supporting a conclusion that this focus represents an overlap with the Principal Applicant's previous studies. Certainly, there is no explanation in the Decision as to how the Officer arrived at this conclusion.

[16] Moreover, the record before the Officer and now before the Court indicates that the Principal Applicant wishes to pursue this particular educational focus, because his current employer, Parsian, has offered him what he describes as a promotion, with an increased salary, to the position of Human Resources Manager. The Principal Applicant's submissions to the Officer included a copy of a letter from Parsian confirming this information.

[17] In the context of these factual constraints, the Decision does not intelligibly articulate how the Officer concluded that the Principal Applicant's study plan does not appear reasonable, given his employment and education history, or that the plan does not outline a clear career/educational path for which the proposed educational program would be beneficial. This is not to say that such conclusions would necessarily be unreasonable in the context of the facts of this case, if the Officer had articulated a rational chain of reasoning supporting such conclusions. However, in the absence thereof, I find the Decision unreasonable in relation to the Principal Applicant.

[18] In arriving at this finding, I have considered the Respondent's submission that Parsian's letter, confirming its offer of the Human Resources Manager position following the Principal Applicant's completion of his degree, is dated after the letter from Fairleigh Dickinson

University admitting him into the program. The Respondent argues that it is therefore unclear whether the specific program was required for the promotion or whether there were other programs or options available to the Principal Applicant.

[19] I do not find compelling the argument that the particular sequence of these documents undermines the Principal Applicant's narrative. More significantly, the Decision discloses no analysis to that effect.

[20] Turning to the other Applicants, as I read the Decision, the Officer's conclusions in relation to their applications for a work permit and visitor visa flow from the conclusions in relation to the Principal Applicant. Therefore, based on my finding that the Decision is unreasonable in relation to the Principal Applicant, it is also unreasonable in relation to the other Applicants.

[21] I will therefore allow this application for judicial review, and it is unnecessary for the Court to consider the Applicants' other arguments.

[22] Neither party proposed any question for certification for appeal, and none is stated.

**JUDGMENT IN IMM-5801-21**

**THIS COURT'S JUDGMENT is that** this application for judicial review is allowed and the Decision is set aside and returned to another visa officer for redetermination. No question is certified for appeal.

"Richard F. Southcott"

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Judge



**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-5801-21

**STYLE OF CAUSE:** DAVOOD FALLAHI, LEILASADAT MOUSAVI,  
ARIABOD FALLAHI V THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** HEARD VIA VIDEOCONFERENCE AT  
VANCOUVER, BRITISH COLUMBIA

**DATE OF HEARING:** MARCH 31, 2022

**JUDGMENT AND REASONS:** SOUTHCOTT J.

**DATED:** APRIL 7, 2022

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