

Federal Court



Cour fédérale

Date: 20221122

Docket: IMM-2124-21

Citation: 2022 FC 1600

St. John's, Newfoundland and Labrador, November 22, 2022

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

ANOOP SINGH MADAAN

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS AND JUDGMENT

[1] Mr. Anoop Singh Madaan (the “Applicant”) seeks judicial review of a decision of an officer (the “Officer”), rejecting his application for a work permit. The Officer denied the application on the grounds that the Applicant did not meet the requirements of subsection 205(a) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (the “Regulations”).

[2] The Applicant is a citizen of India. On May 29, 2020, he submitted an application for a work permit from outside Canada, for employment in Nova Scotia.

[3] The Applicant's application for a work permit included a letter, dated February 10, 2020, from the Nova Scotia Office of Immigration, recommending that a temporary work permit be issued for the Applicant for a two year period, pursuant to subsection 205(a) of the Regulations. The letter also said that the province of Nova Scotia approved the Applicant as a candidate in its Nomination Program.

[4] The Applicant argues that the Officer erred in finding that he did not meet the requirements of subsection 205(a) of the Regulations for the issuance of a work permit. He submits that the Officer failed to consider the on-line "Operational Instructions and Guidelines" (the "Guidelines") of the Department of Immigration, Refugees and Citizenship Canada and ignored his evidence about these Guidelines.

[5] The Applicant also argues that the Officer failed to consider the letter of support from the Government of Nova Scotia.

[6] The Minister of Citizenship and Immigration (the "Respondent") argues that the Officer reasonably reviewed the evidence submitted by the Applicant and reasonably denied his application. He submits that the letter of support from the Government of Nova Scotia did not mandate the Officer to issue the work permit.

[7] Following the decision in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 S.C.R. 653 (S.C.C.), the decision of the Officer is reviewable on the standard of reasonableness.

[8] In considering reasonableness, the Court is to ask if the decision under review "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"; see *Vavilov, supra* at paragraph 99.

[9] The Applicant provided documents, as set out in the Guidelines, including a letter of support from the Government of Nova Scotia and an offer of employment number. It is not clear from the notes that the Officer addressed this information which was obviously relevant to the matter before him, that is an application for a work permit.

[10] The Officer refers to the fact that the Applicant is the only member of his family remaining in India "once his parents move to Canada, there is a strong pull factor to Canada".

[11] It is unclear how this is a negative factor, in light of the Applicant's expressed intention to establish a business in Canada.

[12] In my opinion, upon consideration of the evidence in the Certified Tribunal Record, in particular the materials submitted by the Applicant with his application for a work permit, and the submissions of the parties, the decision does not meet the applicable standard of review.

[13] In the result, the application for judicial review will be allowed, the decision set aside and the matter remitted to another officer for redetermination. There is no question for certification.

JUDGMENT in IMM-2124-21

THIS COURT'S JUDGMENT is that the application for judicial review is allowed, the decision of the Officer is set aside and the matter remitted to another officer for redetermination.

There is no question for certification.

“E. Heneghan”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2124-21

STYLE OF CAUSE: ANOOP SINGH MADAAN v. THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY WAY OF VIDEOCONFERENCE
BETWEEN TORONTO, ONTARIO AND ST. JOHN'S,
NEWFOUNDLAND AND LABRADOR

DATE OF HEARING: SEPTEMBER 27, 2022

REASONS AND JUDGMENT: HENEGHAN J.

DATED: NOVEMBER 22, 2022

APPEARANCES:

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