

Federal Court



Cour fédérale

Date: 20230414

Docket: IMM-6077-22

Citation: 2023 FC 551

Ottawa, Ontario, April 14, 2023

PRESENT: The Honourable Mr. Justice Fothergill

BETWEEN:

PREETI

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant is a citizen of India. She seeks judicial review of a decision by an immigration officer [Officer] to refuse her application for permanent residence as a member of the Home Support Worker Class [HSWC]. The Officer found that the Applicant did not meet the minimum educational eligibility requirements of the HSWC program.

[2] Pursuant to s 12(2) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA], a foreign national may be selected as a member of the economic class on the basis of their ability to become economically established in Canada. The HSWC program was authorized as a subset of the economic class by Ministerial Instruction issued in June 2019 pursuant to s 14.1 of the IRPA.

[3] Immigration, Refugees and Citizenship Canada [IRCC] has issued guidelines explaining the eligibility requirements of the HSWC program, including with respect to language proficiency, type and length of work experience in Canada, and minimal levels of education (IRCC, “Home Child Care Provider Pilot and Home Support Worker Pilot: Assessing the application against selection criteria” [Program Guidelines]).

[4] There is no dispute that the Applicant met all of eligibility criteria of the HSWC program, save for the educational requirement. The Program Guidelines state:

The applicant must provide evidence that they have either of the following completed items:

- Canadian 1-year post-secondary (or higher) educational credential or
- foreign educational credential equivalent to the above and an Educational Credential Assessment (ECA) report issued for immigration purposes by an organization designated by IRCC

[5] The Applicant does not have a Canadian post-secondary (or higher) educational credential. She therefore had to submit an Educational Credential Assessment [ECA] report, which was required to:

- indicate that the credential is equivalent to a completed Canadian 1-year post-secondary (or higher) educational credential
- be less than 5 years old on the date of application receipt
- have been issued on or after the date the ECA organization was designated by IRCC

[6] The Applicant submitted an ECA report prepared by World Education Services Canada [WES], an IRCC-designated agency. The WES report determined that her diploma in general nursing and midwifery was equivalent to “three and one half years of hospital study and training” in Canada. Beside the heading “Remarks”, the WES report stated: “The credential is not comparable to a completed Canadian education credential”.

[7] The Officer’s notes in the Global Case Management System [GCMS] form a part of the decision under review (*Ebrahimshani v Canada (Citizenship and Immigration)*, 2020 FC 89 at para 5). The Officer’s GCMS notes state in relevant part:

- As per ECA report WES submitted by PA, they have a Canadian equivalency of “Three and one-half years of hospital study and training”.

PA does not meet the requirement for Education, as they did not complete a post-secondary program therefore they did not receive a post-secondary Canadian credential.

PA does not meet the eligibility requirements to apply for permanent residence under the Home Support Worker Class.

[8] The Officer’s decision is subject to review by this Court against the standard of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at para 10). The Court will intervene only where “there are sufficiently serious

shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency” (*Vavilov* at para 100).

[9] The criteria of “justification, intelligibility and transparency” are met if the reasons allow the Court to understand why the decision was made, and determine whether the decision falls within the range of acceptable outcomes defensible in respect of the facts and law (*Vavilov* at paras 85-86, citing *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47).

[10] The Applicant relies on Justice Lobat Sadrehashemi’s decision in *Lakhanpal v Canada (Citizenship and Immigration)*, 2021 FC 694 [*Lakhanpal*] at paragraphs 20 and 22:

Though the Officer makes reference to the determination in the WES report that Ms. Lakhanpal had three and a half years of hospital study and training, there is no explanation as to why this is insufficient to meet the requirement of an equivalence to a Canadian secondary school diploma. The Officer did not explain to the Applicant why her post-secondary training, that was found to be equivalent to three and a half years of hospital training and study in Canada, did not demonstrate that she had sufficient education to meet the minimal requirement of equivalency to a Canadian high school diploma.

[...]

The Officer fails to do an evaluation of the three and a half years of hospital study and training in relation to the secondary school eligibility requirement. This is a fundamental gap in the reasoning that leaves the Applicant having to guess as to why her foreign education credential was not found to be sufficient. [...]

[11] *Lakhanpal* concerned an application for permanent residence under the Interim Pathway for Caregivers’ Program. That program required applicants to present a foreign educational

credential equivalent to a completed Canadian high school diploma (IRCC, “Assessing the application against selection criteria (Interim Pathway for Caregivers)”).

[12] This may be contrasted with the educational requirement of the HSWC program, under which applicants must present a foreign educational credential equivalent to a completed Canadian one-year post-secondary (or higher) educational credential. *Lakhanpal* is therefore distinguishable from the present case.

[13] The Applicant points to an entry made in the GCMS notes by another immigration officer on April 30, 2022, approximately two months before her application was refused. The entry reads as follows:

EDUCATION

EDUCATION: 1
UCI: 1111628515
Relationship:
From: 2020/10/01
To: 2022/04/01
Country: India
Canadian Level of Education:
School: Punjab Nurses registration Council
Result: Certificate/diploma/degree
Canadian Credential: No
Full Time/Part Time:
Status: Received
Source: GCMS
ECA Level of Education: Bachelor’s or 3yr post-sec
Status Updated By: IT26367
Status Updated Date: 2022/04/30

[14] The Applicant says that the immigration officer who authored this entry in the GCMS “got it right” by recognizing her ECA as “Bachelor’s or 3yr post-sec”.

[15] There is insufficient evidence before this Court to permit any conclusion regarding what the immigration officer may have meant by the entry in the GMCS dated April 30, 2022.

Furthermore, the Program Guidelines are clear. An applicant who has not completed a Canadian one-year post-secondary (or higher) educational credential must demonstrate that they have an equivalent foreign educational credential, as confirmed by an ECA report issued by an organization designated by IRCC.

[16] The WES report submitted by the Applicant did not demonstrate that her foreign credential was equivalent to a completed Canadian one-year post-secondary (or higher) educational credential. The Officer therefore had no choice but to find her ineligible for permanent residence under the HSWC program.

[17] The application for judicial review is dismissed.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed.

“Simon Fothergill”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-6077-22

STYLE OF CAUSE: PREETI v THE MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: VANCOUVER, BRITISH COLUMBIA

DATE OF HEARING: MARCH 16, 2023

JUDGMENT AND REASONS: FOTHERGILL J.

DATED: APRIL 14, 2023

APPEARANCES:

Malvin J. Harding FOR THE APPLICANT

Jocelyne Mui FOR THE RESPONDENT

SOLICITORS OF RECORD:

Malvin J. Harding FOR THE APPLICANT
Barrister and Solicitor
Surrey, British Columbia

Attorney General of Canada FOR THE RESPONDENT
Vancouver, British Columbia