Federal Court  Cour fédérale

Date: 20230602

Docket: IMM-8287-22

Citation: 2023 FC 775

Vancouver, British Columbia, June 2, 2023

PRESENT: Mr. Justice Sébastien Grammond

BETWEEN:

FARSHID SAFARIAN

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] Mr. Safarian was denied a permit to study for a Master of Business Administration [MBA] at University Canada West. He is 32, single, a citizen of Iran, and has been working as an Industrial Engineer since 2015. The Visa Officer was not satisfied that Mr. Safarian's study plan was reasonable, because his previous studies were in an unrelated field and the letter from his employer stated that he would obtain a promotion but made no mention of a salary increase. They also found that Mr. Safarian did not provide evidence of sufficient funds to cover the cost

of his stay. Moreover, they noted that Mr. Safarian was "single, mobile, not well established and has no dependents" and that he "has not demonstrated sufficiently strong ties to their country of residence."

[2] He now applies for judicial review. The general framework for the judicial review of denials of study permits was summarized in *Nesarzadeh v Canada (Citizenship and Immigration)*, 2023 FC 568 at paragraphs 5–9, which I reproduce without the references to caselaw or legislation:

> - A reasonable decision must explain the result, in view of the law and the key facts.
> - Vavilov seeks to reinforce a "culture of justification" requiring the decision-maker to provide a logical explanation for the result and to be responsive to the parties' submissions, but it also requires the context for decision-making to be taken into account.
> - Visa Officers face a deluge of applications, and their reasons do not need to be lengthy or detailed. However, their reasons do need to set out the key elements of the Officer's line of analysis and be responsive to the core of the claimant's submissions on the most relevant points.
> - The onus is on the Applicant to satisfy the Officer that they meet the requirements of the law that applies to consideration of student visas, including that they will leave at the end of their authorized stay.
> - Visa Officers must consider the "push" and "pull" factors that could lead an Applicant to overstay their visa and stay in Canada, or that would encourage them to return to their home country.

[3] In the present case, the officer's notes consist largely of boilerplate statements that we see repeatedly in study permit decisions and that appear to be generated by the Chinook software. As I explained in *Boukhanfra v Canada (Citizenship and Immigration)*, 2019 FC 4 at paragraph 9, the use of boilerplate is not in itself objectionable, but the reviewing court must be

satisfied that the decision-maker turned their minds to the facts of the case. The fact that the use of a particular sentence was held to be reasonable in a previous case does not immunize it from review in subsequent cases. Conversely, a sentence found to be unreasonable in a particular context will not necessarily be so in a different context. In the end, the court must be able to understand why the decision-maker reached a particular conclusion.

[4] When we read beyond the boilerplate, the officer's main reason for refusing Mr. Safarian's study permit is related to the insufficiency of the study plan. Three specific concerns are highlighted: Mr. Safarian's previous and proposed studies are in different fields, he has been employed in the same position for the last seven years and the letter from his employer does not state that his salary will increase when he graduates.

[5] With respect, these reasons are devoid of logic. People often pursue an MBA after a first degree in a different discipline and after acquiring work experience: *Ahadi v Canada (Citizenship and Immigration)*, 2023 FC 25 at paragraph 15. The letter from Mr. Safarian's employer states that he will be offered a higher position upon graduating. It is unreasonable to discount this letter because it does not explicitly state that he will receive a higher salary. The fact that he has been working for seven years in the same position does not appear to be logically connected to the genuineness of his study plan. This amounts to saying, "why study further if you already have a job." The officer's main finding is therefore unreasonable.

[6] At the hearing of the application, counsel for the Minister drew my attention to the fact that the description of Mr. Safarian's current job duties in his CV is found almost word-for-word

in the letter from the employer, under the heading “duties of the mentioned position.” She argues that this might well be the basis of the officer’s finding that the proposed studies would not benefit Mr. Safarian, as his job would essentially remain the same. However, it is unclear whether the “mentioned position” is the current position or the position offered to Mr. Safarian upon return. In any event, this was not mentioned in the officer’s notes nor, for that matter, in the Minister’s written submissions. Therefore, we do not know if the officer based his findings on this comparison. It is impermissible to bolster the officer’s decision in this manner, especially given that there are two possible interpretations of the letter of employment.

[7] While the officer also noted that there was insufficient evidence of the availability of funds, the Minister does not defend this finding, but rather asserts that the officer really meant that the proposed studies were not worth the cost. However, a bare statement that the officer is “not satisfied that the proposed studies would be a reasonable expense” may or may not be reasonable, depending on the circumstances. In this case, one would think that an MBA from a university in a Western country brings obvious benefits to Mr. Safarian. The officer did not provide any specific reasons for reaching the opposite conclusion. This is an additional reason for which the denial of a study permit was unreasonable.

[8] For these reasons, the application for judicial review will be allowed and the matter will be remitted to a different Visa Officer for redetermination.

JUDGMENT in IMM-8287-22

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is allowed.

2. The decision refusing a study permit to the Applicant is quashed.

3. The matter is remitted to a different Visa Officer for redetermination.

4. No question is certified.

"Sébastien Grammond"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-8287-22
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