

Federal Court



Cour fédérale

**Date: 20231130**

**Docket: IMM-77-23**

**Citation: 2023 FC 1607**

**Toronto, Ontario, November 30, 2023**

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

**BETWEEN:**

**HINA TAQI**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] This application for judicial review challenges a decision of an officer of Immigration, Refugees and Citizenship Canada [Officer] dated January 28, 2022 [Decision], which rejected the Applicant's application for permanent residence in Canada on humanitarian and compassionate [H&C] grounds.

[2] As explained in greater detail below, this application is dismissed, because the Applicant's arguments do not undermine the reasonableness of the Decision.

## II. Background

[3] The Applicant is a citizen of Pakistan. In January 2017, she and her four children arrived in Canada on visitor visas, and in March 2017, they made refugee claims. The claim of the eldest son was granted, on the basis of his public profile that placed him at risk of being targeted by militant groups as a prominent Shia. However, the claims of the Applicant and her other children were rejected by the Refugee Protection Division [RPD] of the Immigration and Refugee Board [IRB]. They appealed unsuccessfully to the Refugee Appeal Division of the IRB, they unsuccessfully sought judicial review, and they unsuccessfully applied for a Pre-Removal Risk Assessment.

[4] In November 2021, the Applicant and her two daughters and son who had not been granted refugee protection submitted an H&C application, the negative Decision in which is the subject of this application for judicial review. They raised as H&C factors their establishment in Canada, the best interests of the son who was two years old when the family came to Canada and was in grade 8 at the time of the application, and risk and adverse country conditions the family would experience if they returned to Pakistan.

[5] By way of further background, although post-dating the Decision summarized below, the Applicant explains in her affidavit sworn on March 22, 2023, in support of this application for judicial review, that that the immigration status of her children has changed since the Decision.

Her elder daughter married, as a result of which she now has status as a permanent resident. The Applicant's ex-husband has also applied for permanent residence along with the two younger children, and the Applicant states that their Confirmation of Permanent Residence is on the way. As a result, only the Applicant is bringing this application for judicial review, challenging the Decision.

### III. Decision under Review

[6] In reviewing the establishment of the Applicant's family, the Officer considered relevant employment history, savings, and education, the fact that the Applicant's elder son resides in Canada and is a Convention refugee (and therefore would be unable to visit the Applicant if she were to return to Pakistan), and the fact that the Applicant's brother and his family also reside in Canada and are Canadian citizens. The Officer also considered the community involvement of the Applicant and her family and letters received from members of the community in support of their application. The Officer gave some weight to all these elements of the Applicants' establishment in Canada.

[7] As best interests of the child [BIOC] submissions, the Applicant emphasized the effect that removal from Canada would have upon her younger son, who came to Canada when he was eight years old and has since been enrolled in school and adapting to life in Canada. The Officer stated that the Applicant had not provided much evidence as to why her son may face barriers to receiving education in Pakistan or as to why his safety would be jeopardized if he returned there. The Officer gave the BIOC consideration little weight.

[8] With respect to risk and adverse country conditions in Pakistan, the Officer considered the RPD finding that, other than in relation to the Applicant's elder son, there was no persuasive evidence that any of the other family members had received threats against their lives because of their Shia faith or that they would face harm in Pakistan because of their relationship with the son. The Officer considered and gave some weight to the country condition evidence [CCE] but found that it indicated that the prevalence of violence toward members of the Shia community in Pakistan is at similar, if not lower, levels than in 2018 when the IRB assessed the family's risk. The Officer gave risk and adverse country conditions in Pakistan little weight.

[9] Having made a global assessment of all the factors raised by the Applicant, the Officer found that collectively these factors were not sufficient to warrant an exemption based on H&C grounds. The Officer therefore refused the H&C application.

#### IV. Issue and Standard of Review

[10] The sole issue that the Applicant articulates for adjudication by the Court in this application for judicial review is whether the Decision is reasonable. As suggested by that articulation, the Decision is reviewable on a standard of reasonableness.

#### V. Analysis

[11] In challenging the reasonableness of the Decision, the Applicant advances arguments related to establishment, family separation, and hardship. I will address each of these separately.

A. *Establishment*

[12] The Applicant argues that the Officer erred in considering her establishment, by failing to give the necessary consideration to her work in the healthcare field during the COVID-19 pandemic. She acknowledges that the Officer recognized her employment as a Personal Care Aid, as well as the fact that the Officer afforded her employment history some weight. However, she submits that the Officer's analysis was too mechanical, focusing upon points such as duration of employment, hours worked and wages, and overlooked the purpose of this component of her H&C submissions, which was to emphasize her contribution to Canada, particularly in the context of the pandemic. The Applicant argues that this contribution should have been a central element of the Officer's consideration of her application and therefore afforded more weight.

[13] In support of this position, the Applicant relies on recent authorities of this Court, which have accepted similar arguments and have set aside negative H&C decisions that did not demonstrate appropriate regard to the contributions of healthcare workers during the pandemic (see *Mohammed v Canada (Citizenship and Immigration)*, 2022 FC 1 [*Mohammed*] at paras 40, 42 and 43; *Cadougan v Canada (Citizenship and Immigration)*, 2023 FC 501 [*Cadougan*] at para 22).

[14] However, I agree with the Respondent that *Mohammed* and *Cadougan* are distinguishable because of the degree to which the evidence and H&C submissions that led to the decisions under consideration in those authorities focused upon, and provided related details of, the

applicants' contributions during the pandemic. In those cases, the H&C decisions were set aside based on their failure to reasonably engage with the pandemic-related evidence and submissions, because such evidence and submissions were central to the H&C applications.

[15] In *Cadougan*, which followed and took into account *Mohammed*, Justice Gleeson explained how the principles governing reasonableness review (as set out by the Supreme Court of Canada in *Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]) applied to the pandemic-related arguments advanced in that case (at para 20):

20. A reasonable decision is one that is justified, transparent and intelligible. Justification and transparency require that a decision maker meaningfully account for the issues and concerns raised by the parties. While this will not require a decision maker respond to every argument or issue, a failure to meaningfully grapple with key issues or central arguments may cause a reviewing court to question whether the decision maker was sensitive or alert to the matters being raised (*Vavilov* at para 127-128).

[16] Justice Gleeson then explained that the applicant's contribution during the pandemic was central to her H&C application and that the officer's failure to consider and respond to the submission on that central issue rendered the decision unreasonable (at para 22).

[17] In contrast, in the Applicant's H&C submissions dated November 9, 2021, her counsel states merely that the Applicant has been employed as a Permanent Part Time Personal Care Aid since November 30, 2020, and that she "... bravely worked in the healthcare field during the peak of the COVID-19 pandemic." Counsel then explains the hours the Applicant works and the nature of her responsibilities. I note that the Applicant sworn an affidavit in support of her H&C

application, which also includes a paragraph explaining that she worked in a nursing home during the pandemic, before vaccination was available, and contracted COVID-19.

[18] I agree with the Respondent's submission that the Applicant's employment during the pandemic cannot be regarded as a key issue or central argument advanced in her H&C application. As noted earlier in these Reasons, the Officer reviewed, and afforded some weight, to the Applicant's employment history including her work as a Personal Care Aid. Applying the principles identified in *Vavilov*, that aspect of the Decision withstands reasonableness review.

B. *Family Separation*

[19] In the context of other submissions surrounding the Applicant's family relationships in Canada, she explained that, as her elder son obtained refugee protection in Canada, he would be unable to visit her in Pakistan. The Officer considered this point but reasoned that the Applicant should have known that it was a real possibility that she could be separated from one or more family members if they, but not she, were granted refugee protection. The Applicant submits that this analysis was not sensitive.

[20] I agree with the Respondent's submission that this aspect of the Officer's analysis withstands reasonableness review. The Officer considered the family separation submission but concluded that it did not warrant relief. The reasoning is intelligible pursuant to the principles prescribed in *Vavilov*.

C. *Hardship*

[21] The Applicant submits that, in considering the hardship she would face upon return to Pakistan, the Officer did not take into account the fact that she is a divorced, single mother.

[22] The H&C submissions related to hardship focused upon risk to the Applicant and members of her family based on their relationship with the elder son who had been granted refugee protection based on his activities in Pakistan. The Officer considered those submissions, along with applicable CCE, and gave little weight to risk and adverse country conditions in Pakistan.

[23] The Applicant's counsel points out that the H&C application included a personal statement from the Applicant in which she explained that she is a single mother, and I accept that the Decision does not expressly reference that fact. However, even the Applicant's personal statement focuses on the risk in Pakistan resulting from the family's history and the activities of her elder son. Her status as a divorced, single mother cannot be characterized as central to her application, and applying the principles of *Vavilov* explained earlier in these Reasons, I again find no reviewable error.

[24] As the Applicant's submissions have not undermined the reasonableness of the Decision, this application for judicial review must be dismissed. Neither party proposed any question for certification for appeal, and none is stated.



**JUDGMENT IN IMM-77-23**

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

No question is certified for appeal.

"Richard F. Southcott"

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Judge

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

**DOCKET:** IMM-77-23

**STYLE OF CAUSE:** HINA TAQI v THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** NOVEMBER 29, 2023

**JUDGMENT AND REASONS:** SOUTHCOTT J.

**DATED:** NOVEMBER 30, 2023

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