

Federal Court



Cour fédérale

**Date: 20240530**

**Docket: IMM-5506-23**

**Citation: 2024 FC 825**

**Ottawa, Ontario, May 30, 2024**

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

**BETWEEN:**

**AYESHA AZAM**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] This is an application for judicial review of the decision of an officer [Officer] of Immigration, Refugees and Citizenship Canada [IRCC] dated October 24, 2022 [Decision]. The Officer concluded that the Applicant had failed to meet the criteria for the issuance of a work permit pursuant to the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] and the *Immigration and Refugee Protection Regulations*, SOR/2022-227 [IRPR].

[2] As explained in greater detail below, this application is allowed, because the Decision does not provide intelligible reasoning for one of the Officer's determinative findings, that the Applicant has limited employment prospects in her country of residence.

## II. Background

[3] The Applicant is a citizen of Pakistan. She is a widow and mother of two children. She is currently seeking to obtain a two-year permit to work as an Office Administrator for Rapri Transport Ltd [Rapri Transport] in Brampton, Ontario.

[4] The Applicant currently lives in Pakistan with her mother and two children. Her two sisters and her deceased husband's family remain in Pakistan, while her two brothers live in Canada. She holds a bachelor's degree and a master's degree in English literature. Following the death of her husband in 2013, the Applicant began working as an Assistant Manager at Toyota Garden Motors [Toyota Garden] in Pakistan in June 2015. She was later promoted to Manager of Administration in October 2017.

[5] In 2018, the Applicant was advised by her brother, a lawyer in Canada, that Rapri Transport was looking to hire an Officer Administrator. Following multiple phone interviews, the Applicant was offered the position in July 2018.

[6] The Applicant first submitted her application for a two-year work permit in February 2019. The Applicant was interviewed by an officer in Islamabad, Pakistan on March 6, 2019. Her permit was denied in April 2019. The Applicant sought judicial review of this decision, and on January 23, 2020, Justice Russell of this Court granted her application and returned the matter

for reconsideration by a different officer (see *Azam v Canada (Citizenship and Immigration)*, 2020 FC 115 [*Azam*]).

[7] In February 2020, the Applicant's file was reopened and assigned to a new officer. The Applicant was invited by IRCC to make further submissions in support of her reopened application. The Applicant provided new submissions, which confirmed she still had a position available at Rapri Transport, provided evidence of family members who resided in Pakistan, and explained her desire to work abroad. In April 2021, the IRCC invited the Applicant again to provide updated or additional submissions in support of her reopened application. The Applicant again responded with additional supporting material in May 2021.

[8] On October 24, 2022, in the Decision that is the subject of this application for judicial review, the Officer refused the Applicant's application for a work permit.

### III. Decision

[9] The Officer's October 24, 2022 letter, which conveyed the Decision refusing the work permit application [Decision Letter], stated that the Applicant's application had not met the requirements of the *IRPA* and the *IRPR*. In particular, the Decision Letter listed the following grounds for refusing the Applicant's application:

I am not satisfied that you will leave Canada at the end of your stay as required by paragraph 200(1)(b) of the IRPR (<https://laws.justice.gc.ca/eng/regulations/SOR-2002-227/section-200.html>). I am refusing your application because you have not established that you will leave Canada, based on the following factors:

You have significant family ties in Canada.

You have limited employment possibilities in your country of residence.

[10] The Certified Tribunal Record in this matter includes Global Case Management System

[GCMS] notes, which include the following excerpt dated October 24, 2022:

PA is widowed 38yo mother of two applying for 2-yr WP to work as an office administrator (NOC 1221) at Rapri Transport Ltd. PA has been working for the same employer Toyota Garden Motors since 2015 when she was first hired as an "assistant manager HR" as per the appointment letter dated 2015/06/15. PA declares working as a housewife between 2008 and 2015. At interview on 2019/03/18 PA was asked why she started working at Toyota Garden Motors after many years out of the job market, PA responded "My husband passed away 6 years ago, I had to do something for my kids, so I joined Toyota Garden Motors and they hired me." PA's husband passed away in in 2013/Jul. Noted letter from Toyota Garden Motors dated 2019/01/24 stating that the PA had been " ... working with us as Manager HR & Admin since June 20, 2015 till date." Letter on file from Toyota Garden Motors states PA's salary rising in October 2017 along with a promotion to "Manager Admin & HR". PA was interviewed on 2019/03/18 by an officer in Islamabad. I have reviewed the verbatim interview notes and it appears that the PA often did not understand the question asked, thus requiring the officer to repeat the question. Answers to specific questions regarding the recruitment process and duties listed in the job description were often vague and lacking in detail. Regarding Rapri Transport, the PA was asked "What is the nature of their business?" PA answered "They have authorized dealerships, they sale cars, they sale with and maintenance services and other services." On balance it does not appear from the PA's answer that she understands the nature of the business (e.g. commercial freight transportation).

Furthermore, the PA stated that her intention was to obtain experience in an English speaking country. Mr. Rapri of Rapri Transport Ltd. stated on page ten of the rep letter dated 2021/05/19 from Landings LLP "The main language of business operation is English, however, as noted, Ms. Azam's Urdu skills will be a considerable asset in assisting with the human resource needs of our Urdu speaking employees." In terms of the PA's motivation to pursue a temporary foreign work permit at a lower level than her current management position, the rep letter dated 2021/05/19 from Landings LLP states "Ms. Azam wants to pursue a short-term

contract in Canada because she has observed others accelerate their careers through taking positions in English-speaking countries and returning with an expanded set of skills." The rep letter did not explicitly state which skills the PA hoped to gain or improve in order to advance her career as a Manager Admin & HR, just that the lower position in Canada would pay more than she earns in Pakistan, and that it will provide her with the international experience that will allow her to advance her career in Pakistan and earn more there following the completion of her 2-year temporary work contract. Given the PKR currency depreciation of around 50% against major currencies over the past five years, and the current socioeconomic and political environment in the applicant's country of nationality, I have given limited weight to the PA's economic ties that would otherwise compel her return to Pakistan after the completion of her two-year contract.

Furthermore, I have given limited weight to the PA's investment holdings garnered from her husband's life insurance payout following his death in 2013 as monetary holdings are liquid and can be easily transferred, and illiquid assets such as land or cattle can be sold or managed by a third party. In terms of the PA's family ties in Canada balanced against those in Pakistan which would compel the PA to return to her home country at the end of the two-year work permit, I note that since the time of the initial application submission in 2019 (previous WP refusal in 2018 noted), the PA's brother AZAM, UMAIR (UCI: 88428111) is currently in the process of sponsoring his and the PA's mother Nasreen Azam for permanent residence in Canada (F000992747 - FC4 received 2021). Documents on file for F000992747 reveal that the PA's father passed away in 2020/AUG as per the death certificate provided. Rep letter dated 2021/05/19 from Landings LLP states on page 2 states that following the death of her husband in 2013, "Ms. Azam and her children then moved in with Ms. Azam's parents, where they continue to reside to this day." PA has two brothers Hussain Azam (UCI: 1107437661 SW-1 in 2018) and Umair Azam (UCI: 88428111 CC CEC 2015) residing in the Greater Toronto Area, the PA's mother is in the process of being sponsored for Canadian permanent residence, her father is recently deceased, the PA's own husband passed away in 2013, and the PA intends for her two children to accompany her. On the Pakistan side, the PA has two married adult sisters who reside in separate cities in Gujranwala and Lahore respectively. In terms of first degree relatives, as opposed to second or tertiary relatives and other extended family, it appears that the PA has increasingly significant familial ties in Canada that would appear to outweigh the declining number of first-degree family members continuing to reside in Pakistan. As such, I am not satisfied that the PA has

sufficient familial ties in her native Pakistan that would outweigh those in Canada to compel her and her children to return to their country of nationality at the end of the period of her authorized stay. Application refused for family ties in Canada, and employment prospects in PA's country of residence.”

IV. Issues

[11] The Applicant’s arguments raise the following issues for consideration by the Court:

- A. Is the Decision reasonable?
- B. Was the Applicant deprived of procedural fairness?

[12] The merits of the Decision are reviewable on the reasonableness standard (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 23 [*Vavilov*]). The procedural fairness issue is subject to judicial scrutiny to ensure that a fair and just process was followed, an exercise best reflected in the correctness standard even though, strictly speaking, no standard of review is being applied (*Canadian Pacific Railway Company v Canada (Transportation Agency)*, 2021 FCA 69 at paras 46-47).

V. Analysis

[13] The Applicant’s written and oral submissions raise a number of arguments challenging the reasonableness and procedural fairness of the Decision, including relying on certain findings by Justice Russell in *Azam*. I agree with the Respondent’s position that most of these arguments focus upon portions of the GCMS notes that do not relate to the Officer’s determinative findings. As reflected in both the Decision Letter and the Officer’s final sentence in the extract from the GCMS notes quoted above, the Officer’s rejection of the Applicant’s work permit application

was based on the conclusion that she had not established she would leave Canada at the end of the period of her authorized stay, based on two factors: (a) the Applicant having significant family ties in Canada; and (b) the Applicant having limited employment prospects in her country of residence.

[14] However, I also agree with the Applicant's position that the Decision does not disclose an intelligible analysis supporting the latter finding, related to her employment prospects in Pakistan. As the Applicant submits, and as reflected in the Officer's recitation of the factual background to her application, the Applicant has been employed with Toyota Garden in Pakistan since 2015, having also received a promotion in 2019. The Applicant also notes that her submissions in support of her application included objective academic human resources documentation supporting her position, and her past observations, that acquiring international experience affords opportunities for career progression in Pakistan. The Officer referred to the Applicant's submission as to the benefits of international experience but performed no analysis of that submission, other than to note the absence of explicit reference to particular skills that she hoped to acquire or improve through the intended work in Canada. This portion of the GCMS notes does not conclude with any finding as to the employment prospects that would be available to the Applicant in Pakistan following the completion of her intended employment in Canada.

[15] The Respondent argues that the Officer's reasoning should be understood as a conclusion that the financial benefits of employment in Pakistan, following completion of her intended Canadian employment and in comparison to the financial benefits of ongoing employment in Canada, would not represent a sufficient pull for her to return to Pakistan. The Respondent points

in particular to the Officer's reference to the recent depreciation of Pakistani currency and the current socioeconomic and political environment in Pakistan, as a result of which the Officer afforded limited weight to her economic ties to Pakistan. However, the Officer does not draw a connection between these macroeconomic factors and the Applicant's particular employment prospects.

[16] Conscious of the explanation in *Vavilov* that judicial review is concerned with the intelligibility of administrative decision-making, I accept the Applicant's submission that the Decision is wanting in the required logical analysis underlying the Officer's determinative finding that the Applicant faced limited employment prospects in Pakistan.

[17] My Judgment will therefore allow this application for judicial review, set aside the Decision, and return the matter to a different IRCC officer for redetermination. As such, it is not necessary for the Court to consider the other arguments the Applicant has raised.

[18] However, before concluding, I note that, at the hearing of this application, the Applicant's counsel requested that, if the Court was prepared to grant the application, the resulting Judgment include a timeframe for IRCC's redetermination of the matter, as well as an express statement that the officer performing the redetermination first read the Court's Reasons for Judgment.

[19] The Applicant has identified no precedent for a Judgment expressly requiring that it be read by the new officer. However, it is not unusual for a Judgment to state that the



redetermination of the decision that has been set aside should be performed in accordance with the Court's reasons. While the Respondent's counsel did not consider the inclusion of such a statement to be necessary, neither did counsel strenuously object to such inclusion. My Judgement will so provide.

[20] I am not prepared to include in the Judgment a timeframe for the redetermination. The Applicant raised this request for the first time at the hearing, which afforded the Respondent's counsel little opportunity to make informed submissions on a timeframe that would be appropriate in the context of IRCC's overall administrative obligations.

[21] Finally, I note that neither party proposed a question for certification for appeal, and none is stated.

**JUDGMENT IN IMM-5506-23**

**THIS COURT'S JUDGMENT is that** this application for judicial review is allowed, the Decision is set aside, and the matter is returned to a different IRCC officer for redetermination in accordance with the Court's Reasons. No question is certified for appeal.

"Richard F. Southcott"

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Judge

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

**DOCKET:** IMM-5506-23

**STYLE OF CAUSE:** AYESHA AZAM v THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** MAY 29, 2024

**JUDGMENT AND REASONS:** SOUTHCOTT J.

**DATED:** MAY 30, 2024

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