

Date: 20070924

Docket: IMM-426-07

Citation: 2007 FC 927

Ottawa, Ontario, September 24, 2007

PRESENT: The Honourable Mr. Justice Beaudry

BETWEEN:

MUHAMMAD AMIR IBRAHIM QURESHI

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application for judicial review pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the Act), of a decision by Ms. Marlene Edmond, Designated Immigration Officer (the Officer), dated November 10, 2006, in which it was found that the applicant does not have sufficient points to meet the requirements for immigration to Canada as a member of the Federal Skilled Worker Class.

ISSUES

[2] Did the Officer err by failing to provide sufficient reasons?

[3] The answer to this question is negative and this application for judicial review shall be dismissed.

BACKGROUND

[4] The applicant was born in Jaypur, India in 1946 and first applied for permanent residence in Canada from Bucharest, Romania in 1997. His file was transferred to Cairo, Egypt and then to Buffalo, New York, on October 26, 2001. It was finally sent to New York on August 27, 2003, where the contested decision was made.

[5] The applicant applied for permanent residence under the federal skilled workers program in two occupations, which are assigned a specific code and criteria under the National Occupation Classification (NOC), established by Human Resources Canada: Financial Manager (NOC Code 0111) and Finances Clerk (NOC Code 1434.3).

[6] The applicant was first interviewed on December 1, 2005 and again on November 2, 2006. The applicant was assessed under the former *Immigration Act*, R.S.C. 1985, c. I-2, repealed in 2002, as well as under the present Act to determine whether as a skilled worker, the applicant would be able to become economically established in Canada.

[7] However, in neither assessment did the applicant receive sufficient points to qualify for an immigrant visa to Canada. For his assessment under the criteria set out in the former *Immigration Regulations*, 1978, SOR/78-172 (the Immigration Regulations), the applicant obtained 62 and 52 points for each occupation respectively, whereas the minimum required to qualify for each occupation was 70 points. Similarly, the assessment based on the present *Immigration and Refugee Protection Regulations* SOR/2002-227 (the IRP Regulations), revealed that the applicant did not obtain the minimum number of points, currently 67, required for a permanent resident visa. As a result, his application was denied and he seeks to have that decision annulled.

DECISION UNDER REVIEW

[8] In arriving at her decision, the Officer evaluated the applicant's file under two sets of criteria as follows:

- a) The criteria of the *Immigration Regulations*, 1978 pertaining to immigrants other than members of the family class, Convention refugees seeking settlement, provincial nominees, and applicants intending to reside in the Province of Quebec, and
- b) The criteria of the *IRP Regulations*, pertaining to federal skilled workers.

[9] In addition, the Officer made reference to the applicable sections of each Regulation and specified the criteria upon which her evaluation was based. Under paragraph 8(1)(a) of the Immigration Regulations, these criteria include: education, education and training factor, experience, occupational factor, arranged employment or designated occupation, the demographic factor, age, knowledge of the English and French languages and personal suitability. The results are as follows:

Criteria under Immigration Regulations	NOC Code: 0111 (Finance Manager) Units Assessed	NOC Code: 1434.3 (Finance Clerk) Units Assessed	Maximum
Education	15	15	
Education & Training Factor	15	05	
Experience	00	00	
Occupational Factor	00	00	
Arranged Employment	00	00	
Demographic Factor	08	08	
Age	10	10	
Knowledge of English	06	06	
Bonus (Relative in Canada)	05	05	
Personal Suitability	03	03	
Total	62	52	70

[10] Moreover, pursuant to subsections 11(1) and (2), the Officer stated that the applicant did not have arranged employment in Canada and she did not give him any unit for occupational factor and experience because she was not satisfied of the applicant's claimed experience in both occupations listed in his application.

[11] Below are the results of the Officer's assessment under the IRP Regulations:

	NOC Code: 0111 (Finance Manager) Units Assessed	NOC Code: 1434.3 (Finance Clerk) Units Assessed	Maximum
Age	10	00	
Education	20	00	
Experience	00	00	
Arranged Employment	00	00	
Official Language Proficiency English French	10	00	
Adaptability Education of Spouse/Partner Prior Work/Study in Canada Arranged Employment Close Relative in Canada	05	00	
Total	45	00	67

[12] Here too, the Officer concluded that it was unlikely that the applicant would be able to become economically established in Canada since he failed to provide credible evidence of his employment. As a result of which she did not give him any units of assessment for experience.

[13] The decision concludes with a perfunctory paragraph stating that following the examination of the applicant, the Officer was not satisfied that he met the requirements of the Act and the Regulations for the reasons explained in the tables above. However, the Officer also submitted a detailed affidavit dated March 29, 2007, to which is attached the notes to file maintained on the Computer Assisted Immigration Processing System (CAIPS). The Officer also filed a supplementary affidavit dated July 5, 2007.

[14] The CAIPS notes provide the details of the Officer's decision. They point out among other things that there were serious discrepancies in the information provided during her initial interview with the applicant on December 1, 2005. Moreover, during the second interview on November 2, 2006, the Officer concluded that the applicant was evasive, and adjusted his answers when he was confronted with inconsistencies in the information that he had provided.

ANALYSIS

Standard of Review

[15] This Court has established that decisions of Officers are discretionary and are consequently subject to a standard of review of patent unreasonableness. This is particularly true where the Officer raises questions of credibility, as is the case here (see *Arvinderjit Singh v. Minister of*

Citizenship and Immigration, 2006 FC 1479, [2006] F.C.J. No. 1869 (QL) at paragraph 13 and *Zheng v. Canada (Minister of Citizenship and Immigration)*, [2001] F.C.J. No. 110 (T.D.) (QL) at paragraph 9).

Did the Officer err by failing to provide sufficient reasons?

[16] The single issue raised by the applicant in his written memorandum is that the Officer erred by failing to give more details in her reasons for her negative decision. Relying on the decision of the Federal Court of Appeal in *Hilo v. Canada (Minister of Employment and Immigration)*, [1991] F.C.J. No. 228 (C.A.) (QL), counsel for the applicant argues that the Officer ought to have given reasons for arriving at her conclusions since it was not privy to the CAIPS notes. In *Hilo*, above, Mr. Justice Heald stated as follows:

[...] In my view, the Board was under a duty to give its reasons for casting doubt upon the appellant's credibility in clear and unmistakable terms. The Board's credibility assessment quoted supra is defective because it is couched in vague and general terms. [...]

[17] The Respondent concedes the right of the applicant to submit a reply to the details contained in the CAIPS notes, which meet the requirements to provide reasons. Having reviewed the decision, as well as the CAIPS notes coupled with the detailed affidavit sworn by the Officer, it is clear that the decision is not patently unreasonable based on the facts before her. First, it was not patently unreasonable for the Officer to question the credibility of the applicant in relation to his employment history. Second, the applicant provided three different letters of reference which were all almost identical in wording. Third, one of these letters purported to have been signed by Mr. Donald Franson, was categorically denied by the latter. The Officer found the applicant's explanation unsatisfactory and, there is nothing unreasonable about this conclusion.

[18] In the absence of further evidence by the applicant that the Officer ought to have been more fulsome in her reasons, I am satisfied that the intervention of the Court is not warranted. Indeed as I find them, the reasons are stated in clear and unmistakable terms. This is the reason why I will not deal with the applicant's oral argument on the day of the hearing that refusal letters should always be accompanied with CAIPS notes.

[19] There were no proposed questions for certification and none arise.

JUDGMENT

THIS COURT ORDERS AND ADJUDGES that

1. The application is dismissed.
2. No question is certified.

“Michel Beaudry”

Judge

FEDERAL COURT

NAME OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: IMM-426-07

STYLE OF CAUSE: **MUHAMMAD AMIR IBRAHIM QURESHI and
THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

PLACE OF HEARING: Montreal, Quebec

DATE OF HEARING: August 29, 2007

**REASONS FOR JUDGMENT
AND JUDGMENT:** Beaudry J.

DATED: September 24, 2007

APPEARANCES:

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