



**Date: 20140107**

**Docket: IMM-2181-13**

**Citation: 2014 FC 12**

**Ottawa, Ontario, January 7, 2014**

**PRESENT: The Honourable Mr. Justice O'Reilly**

**BETWEEN:**

**ROBINA KOUSAR**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION CANADA**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

I. Overview

[1] Ms Robina Kousar, a citizen of Pakistan, wished to find a job as a hairstylist in Saskatchewan and become a permanent resident of Canada. She met the criteria under the Saskatchewan Immigration Nominee Program (SINP), but a visa officer at the Canadian High Commission in London refused her application because her English language skills were weak. The officer felt that Ms Kousar would have difficulty becoming economically established in Canada.

[2] Ms Kousar argues that the officer treated her unfairly by not giving her a chance to address his concerns about her language skills. She concedes that her language test scores were poor, but submits that it was because she was unwell at the time she took the test. She believes she would do better if given a chance to take the test over again. Ms Kousar also contends that the officer's decision was unreasonable because it gave undue emphasis to language skills and failed to recognize the positive elements in her file. She asks me to quash the officer's decision and order another officer to reconsider her application.

[3] I cannot find any basis for overturning the officer's decision. Ms Kousar had ample opportunity to provide additional evidence of her English language abilities, but failed to do so. Further, the officer's decision was based on a concern that Ms Kousar would be unable to communicate adequately with persons seeking her hairstyling services. That concern arose from the evidence showing that her speaking and listening skills were very limited. Therefore, I must dismiss this application for judicial review.

[4] There are two issues:

1. Did the officer treat Ms Kousar unfairly?
2. Was the officer's decision unreasonable?

## II. The Officer's Decision

[5] In July 2012, the officer sent Ms Kousar a "pre-refusal letter". He explained that the ability to communicate effectively is an important factor affecting a person's chances of becoming

economically established in Canada. He stated that a minimum score of 4.5 on the International English Language Testing System (IELTS) scale was likely required (Ms Kousar's overall score was 3.5). The officer was not satisfied that Ms Kousar would be able to find work as a hairstylist, or any other employment. While she would have the support of a family member in Canada, that assistance would not overcome her lack of linguistic skills.

[6] Four months later, Ms Kousar responded to the officer's letter. She asked for another chance to prove that her language skills were adequate.

[7] The officer concluded that Ms Kousar had been given sufficient opportunity to provide evidence that she had satisfactory abilities in English. After consulting with an official from Saskatchewan, the officer referred his negative decision to another officer, who agreed with it. In January 2013, the officer notified Ms Kousar of his decision by letter.

### III. Issue One – Did the officer treat Ms Kousar unfairly?

[8] Ms Kousar argues that the officer should not have rejected her application without giving her a chance to re-take her language exam, especially since she was not required to submit any language test scores, had not been informed that she had to meet any particular level of competence, and had already been approved under the SINP.

[9] In my view, Ms Kousar was not treated unfairly. She had ample opportunity to re-take her language test, provide other evidence of her linguistic skills, or propose a plan for improving her abilities. In fact, while the officer referred to the test result that would usually correspond with her

chosen trade, she was not required to attain any particular score. However, she did have the burden of showing she could become economically established in Canada, and her language skills were obviously a relevant factor to consider. Notwithstanding Ms Kousar's SINP approval, the officer was entitled to consider whether she was likely to establish herself economically in Canada.

IV. Issue Two – Was the officer's decision unreasonable?

[10] Ms Kousar maintains that the officer's decision was unreasonable because the officer:

- Had no basis for looking beyond her SINP approval;
- Should not have focussed specifically on her ability to work as a hairstylist;
- Should have considered the positive elements in her application – experience, financial resources, family support, and age; and
- Should have identified a particular timeframe for her to become economically established in Canada.

[11] In my view, the officer's decision was not unreasonable. He properly took account of the evidence relating to Ms Kousar's likelihood of becoming economically established in Canada. The officer was entitled to look beyond Ms Kousar's SINP approval and consider her ability to find work in her chosen trade, or elsewhere. There is no indication that the officer failed to consider Ms Kousar's application as a whole, or improperly fixated on language skills to the exclusion of other relevant, and potentially more favourable, factors.

V. Conclusion and Disposition

[12] The officer reviewing Ms Kousar's application treated her fairly and rendered a decision that fell within the range of defensible outcomes, based on the facts and the law. Therefore, it was not unreasonable. Accordingly, I must dismiss this application for judicial review. Neither party proposed a question of general importance to be certified, and none is stated.

**JUDGMENT**

**THIS COURT’S JUDGMENT is that:**

1. The application for judicial review is dismissed.
2. No question of general importance is stated.

“James W. O’Reilly”

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Judge

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

**DOCKET:** IMM-2181-13

**STYLE OF CAUSE:** ROBINA KOUSAR v THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION CANADA

**PLACE OF HEARING:** SASKATOON, SASKATCHEWAN

**DATE OF HEARING:** DECEMBER 5, 2013

**REASONS FOR JUDGMENT  
AND JUDGMENT:** O'REILLY J.

**DATED:** JANUARY 7, 2014

**APPEARANCES:**

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