

Federal Court of Appeal



Cour d'appel fédérale

Date: 20180117

Docket: A-162-17

Citation: 2018 FCA 16

**CORAM: RENNIE J.A.
GLEASON J.A.
LASKIN J.A.**

BETWEEN:

NAVDEEP KAUR SRAN

Appellant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

Heard at Calgary, Alberta, on January 17, 2018.
Judgment delivered from the Bench at Calgary, Alberta, on January 17, 2018.

REASONS FOR JUDGMENT OF THE COURT BY:

GLEASON J.A.

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Calgary, Alberta, on January 17, 2018).

GLEASON J.A.

[1] We are of the view that this appeal must be dismissed as the Federal Court erred in certifying the question it certified, although in a proper case there might well be grounds for this question to be certified.

[2] A properly certified question is a necessary precondition to this Court's having jurisdiction to hear an appeal under the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the IRPA). Section 74 of that Act sets out the conditions necessary for this Court to have jurisdiction to hear an appeal from a decision of the Federal Court under the IRPA and provides in relevant part that an appeal to this Court may only be made if, in rendering judgment, the Federal Court "certifies that a serious question of general importance is involved and states the question".

[3] The case law of this Court establishes that in order for a question to be properly certified under section 74 of the IRPA, and therefore for this Court to have jurisdiction to hear an appeal, the question certified by the Federal Court must be dispositive of the appeal, must transcend the interests of the parties and must raise an issue of broad significance or general importance. In consequence, the question must have been dealt with by the Federal Court and must necessarily arise from the case itself (as opposed to arising out of the way in which the Federal Court may have disposed of the case): *Lewis v. Canada (Public Safety and Emergency Preparedness)*, 2017 FCA 130 at paras. 35-36; *Mudrak v. Canada (Citizenship and Immigration)*, 2016 FCA 178 at para. 16, 485 N.R. 186; *Zhang v. Canada (Citizenship and Immigration)*, 2013 FCA 168 at para. 9, [2014] 4 F.C.R. 290; *Varela v. Canada (Minister of Citizenship and Immigration)*, 2009 FCA 145 at paras. 28-29, [2010] 1 F.C.R. 129; *Canada (Minister of Citizenship and Immigration) v. Zazai*, 2004 FCA 89 at paras. 11-12, 318 N.R. 365; and *Liyanagamage v. Canada (Secretary of State)*, 176 N.R. 4 at para. 4, [1994] F.C.J. No. 1637 (A.D.).

[4] Here, the question certified provided as follows:

Given that s 133(1)(j) and s 34 of the *Immigration and Refugee Protection Regulations* were amended and came into force on January 2, 2014, should the [Immigration Appeal Division of the Immigration and Refugee Board of Canada (the IAD)] have retroactively applied the amended version of these regulations given that the Applicant's sponsorship application for permanent residence on behalf of her father and her brother was received on June 5, 2008?

[5] This question is not dispositive as the appellant met neither the previous nor the amended income requirements for sponsorship. The visa officer determined that the appellant did not meet the previous version of these requirements, and the IAD held that this determination was correct in law – as it is. There is no dispute that the appellant did not meet the more stringent amended income requirements that came into force in January of 2014. Thus, it matters not which version of the requirements was applied, and the certified question is therefore not dispositive of the appeal as the appellant has no entitlement to favourable humanitarian and compassionate consideration.

[6] This appeal must accordingly be dismissed as we have no jurisdiction to hear it.

“Mary J.L. Gleason”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-162-17

STYLE OF CAUSE: NAVDEEP KAUR SRAN v. THE
MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: Calgary, Alberta

DATE OF HEARING: JANUARY 17, 2018

REASONS FOR JUDGMENT OF THE COURT BY: RENNIE J.A.
GLEASON J.A.
LASKIN J.A.

DELIVERED FROM THE BENCH BY: GLEASON J.A.

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