Date: 20180515

Docket: A-247-17

Citation: 2018 FCA 93

CORAM: **DAWSON J.A.**
                  GLEASON J.A.
                  WOODS J.A.

BETWEEN:

GAURAV MEHRA

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Vancouver, British Columbia, on May 15, 2018.

Judgment delivered from the Bench at Vancouver, British Columbia, on May 15, 2018.

REASONS FOR JUDGMENT OF THE COURT BY: WOODS J.A.

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Vancouver, British Columbia, on May 15, 2018).

__WOODS J.A.__

[1]   Mr. Mehra has applied to the Court for judicial review of a decision of the Social

Security Tribunal, Appeal Division issued on July 17, 2017 (2017 SSTADEI 272). The decision

deals with a claim for employment insurance benefits under the *Employment Insurance Act*, S.C.

1996, c. 23.

[2]   The decision of the Appeal Division upheld an earlier decision of the Tribunal's General Division which was issued on December 6, 2016. The General Division had determined that Mr. Mehra was ineligible to receive employment insurance benefits because he had recently left an employment voluntarily and without just cause. Pursuant to sections 29 and 30 of the *Employment Insurance Act*, this circumstance disqualifies an individual from receiving benefits.

[3]   In this application, Mr. Mehra submits that the Appeal Division erred in upholding the General Division. He submits that he had just cause for leaving the employment because he had an outstanding offer of another job at the time. Under section 29 of the Act, the fact of another job offer, if established, could potentially affect whether Mr. Mehra was entitled to benefits.

[4]   The General Division considered Mr. Mehra's evidence concerning the job offer and determined that he was not credible on this point. Accordingly, it was concluded that Mr. Mehra did not qualify for benefits because he had left his recent employment voluntarily and without just cause. This decision was appealed to the Appeal Division which concluded that there was no reason to interfere with the General Division's credibility finding. The appeal was accordingly dismissed.

[5]   The question to be decided is whether the Appeal Division made a reviewable error in dismissing the appeal. In making this determination, the Court must give some deference to the decision of the Appeal Division and apply a reasonableness standard of review (*Hurtubise v. Attorney General*, 2016 FCA 147).

[6]   Based on the record and the submissions of the parties, we are of the view that the applicant has not shown that Appeal Division made any reviewable error in dismissing the appeal. With respect to the credibility findings in particular, based on the differing versions of events given by Mr. Mehra, there was no basis for the Appeal Division to interfere with the findings of the General Division.

[7]   I turn now to Mr. Mehra's submissions to the Court.

[8]   Mr. Mehra's primary argument is that some of the factual findings made by the Appeal Division are incorrect. However, it is not sufficient for Mr. Mehra to simply state that the facts are incorrect. It is necessary to provide satisfactory support for this submission, which Mr. Mehra has failed to do. Moreover, these facts were not crucial to the credibility finding.

[9]   Mr. Mehra also submits that he has been prejudiced by a delay in the review of his claim. The claim was submitted on September 10, 2015 and it was not until April 21, 2016 that Mr. Mehra was informed that he did not qualify. We are not satisfied that this constitutes an undue delay in the context of the *Employment Insurance Act*. The administration of a broad based government program such as employment insurance benefits is bound to result in a slower review process than many applicants would like. Section 52 of the *Employment Insurance Act* provides a statutory review period of up to 36 months. The time taken to review Mr. Mehra's application in this case is reasonable in the circumstances. We reject his submission that he has been unreasonably prejudiced by delay.

[10]   Mr. Mehra submits further that the General Division showed a bias against him in the hearing. The Appeal Division determined otherwise. Mr. Mehra has not demonstrated that the Appeal Division erred in reaching this conclusion.

[11]   Finally, a few days before this hearing Mr. Mehra filed a motion which sought leave of the Court to introduce new evidence concerning the new job offer. The motion was disposed of at the commencement of the hearing.

[12]   The motion was opposed by the Crown on the ground that the introduction of new evidence is generally not allowed in this type of proceeding, and there are no circumstances in this case which would justify an exception to this rule. We agree with the Crown's submission. The purpose of this application for judicial review is to determine whether the decision of the Appeal Division was reasonable based on the record before it. Accordingly, it is not relevant for evidence not before the Tribunal to be introduced. The motion to introduce new evidence was therefore dismissed.

[13]   In conclusion, we are of the view that the application for judicial review should be dismissed. Costs were not sought and none will be awarded.

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"Judith Woods"

J.A.

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FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-247-17

(APPEAL FROM A DECISION OF THE SOCIAL SECURITY TRIBUNAL APPEAL DIVISION, DATED JULY 17, 2017, TRIBUNAL FILE NO. AD-17-36)

STYLE OF CAUSE: GAURAV MEHRA v. ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: VANCOUVER, BRITISH COLUMBIA

DATE OF HEARING: MAY 15, 2018

REASONS FOR JUDGMENT OF THE COURT BY: DAWSON J.A.
GLEASON J.A.
WOODS J.A.

DELIVERED FROM THE BENCH BY: WOODS J.A.

APPEARANCES:

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