

Federal Court



Cour fédérale

**Date: 20191113**

**Docket: IMM-42-19**

**Citation: 2019 FC 1417**

**Ottawa, Ontario, November 13, 2019**

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

**BETWEEN:**

**ADNAN MARUF CHOWDHURY**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Introduction

[1] This judicial review concerns the refusal by a visa officer in Singapore to issue a work permit on the basis of concern that the Applicant would not leave Canada at the end of the authorized period.

II. Background

[2] The Applicant, a citizen of Bangladesh, works as “head meat cutter” at a meat shop where he only completed an in-house meat cutting course before becoming “head”.

[3] He applied for a work permit for full-time employment as the supervisor of butchers in a local supermarket in Toronto. The supporting Labour Market Impact Assessment was issued to support the work permit and an application for permanent residence.

[4] The visa officer [Officer] rejected the work permit because the Applicant had not demonstrated that he met the job requirements nor had he established that he would leave Canada by the end of his authorized stay based upon his personal assets and financial status.

[5] The Officer was concerned with the lack of information about how the Applicant was promoted to head meat cutter; he was unsatisfied with supporting but unsigned documents; and he was unsatisfied with the Applicant’s language proficiency. The Officer was also not satisfied with the Applicant’s salary evidence and his absence of proof of funds or other indicia of financial wealth. This lack of satisfactory evidence of establishment in Bangladesh and lack of financial resources caused the Officer to be concerned that once in Canada, the Applicant would not leave Canada.

III. Issues

[6] There are two issues in this judicial review:

1. Whether there was a breach of procedural fairness; and
2. Whether the decision on its merits is supportable.

IV. Analysis

[7] Despite the excellent argument of Ms. Joundi for the Applicant, this judicial review will be dismissed.

[8] The standard of review for procedural fairness is correctness or better said, the Court must determine whether the procedure is fair.

The standard of review on the decision itself is reasonableness as held in *Dunsmuir v New Brunswick*, 2008 SCC 9, and followed as recently as *Baran v Canada (Citizenship and Immigration)*, 2019 FC 463 at para 15 [*Baran*].

A. *Procedural Fairness*

[9] The Applicant's point on this matter is that the Officer did not give notice of his concerns. This is argued to be very important in appreciating that the Applicant had a dual intent – to obtain a work permit and to obtain permanent residency.

[10] No duty to give notice exists in this case. The level of procedural fairness is low (see *Baran* at para 15). It is not for an officer to highlight the deficiencies in an application.

[11] While cases like *Li v Canada (Citizenship and Immigration)*, 2012 FC 484, indicate that such notification may be required as an exception to the general rule, this is not such a case. There is nothing unusual about this case that would trigger such an obligation – there is no ambiguity in the law or holding out of the potential for notification nor any basic unfairness. The “live-in caregiver” cases do not have application to these facts.

B. *Reasonableness*

[12] The Applicant argues that the Officer applied the wrong test by not considering whether the Applicant would leave if his permanent resident application was rejected.

[13] It is noteworthy that his then counsel made submissions on the Applicant leaving Canada after his work permit expired but did not address leaving if permanent residency was denied. Nor was dual intent raised.

[14] The Officer’s concern was that the Applicant had few ties to Bangladesh and little incentive to leave Canada. It was a reasonable concern in all the circumstances. It is not for the Court to reweigh the evidence and substitute its conclusions for those of the Officer.

[15] Further, the Officer had reasonable grounds for concluding that the Applicant would have difficulty meeting the job requirements due to the absence of supervisory experience and

insufficiency of language skills (no language other than English was suggested as the workplace language).

[16] I have concluded that the decision is reasonable.

V. Conclusion

[17] For all these reasons, the judicial review will be dismissed. There is no question for certification.

**JUDGMENT in IMM-42-19**

**THIS COURT'S JUDGMENT is that** the application for judicial review is dismissed.

"Michael L. Phelan"

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Judge

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

**DOCKET:** IMM-42-19

**STYLE OF CAUSE:** ADNAN MARUF CHOWDHURY v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** OCTOBER 29, 2019

**JUDGMENT AND REASONS:** PHELAN J.

**DATED:** NOVEMBER 13, 2019

**APPEARANCES:**

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