Federal Court  Cour fédérale

Date: 20220803

Docket: IMM-2717-20

Citation: 2022 FC 1162

Ottawa, Ontario, August 3, 2022

PRESENT: The Honourable Madam Justice Elliott

BETWEEN:

ZAHIDA BIBI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Zahida Bibi, is a 63-year-old citizen of Pakistan who seeks to overturn a decision made by Officer C (the Officer) of the Case Processing Centre Edmonton, on June 4, 2020. The Officer rejected the Applicant's request for restoration of her temporary resident status (the Decision).

[2] For the reasons that follow, I am dismissing this application. The Applicant made few submissions and provided no evidence to persuade the Officer that she will leave Canada at the end of her authorized period of stay.

II. **Background Facts**

[3] The Applicant arrived in Canada on July 15, 2016 on a valid visitor visa to visit her son who is a Canadian citizen. She was authorized to remain in Canada as a temporary resident until November 28, 2019.

[4] On May 28, 2019, the Applicant submitted a Humanitarian and Compassionate (H&C) application for permanent residence status.

[5] On November 28, 2019, the Applicant's temporary resident visa expired.

[6] On or about January 31, 2020, the Applicant submitted an application to restore her status as a temporary resident pursuant to section 182 of the *Immigration and Refugee Protection Regulations* SOR/2002-227 (the *IRPR*).

[7] On June 4, 2020, the Officer refused the extension application. The Applicant remained in Canada without authorization, in violation of subsection 185(a) of the *IRPR*.

III. **The Decision**

[8] The Global Case Management Notes (GCMS) in the Certified Tribunal Record contain the reasons for the Decision. They are brief as very little was submitted in support of the application.

[9] The notes indicate that the Applicant has been in Canada since July 15, 2016. The letter submitting the application indicated the Applicant is 63 years old, physically weak and unable to care for herself. The Officer noted there was no doctor's note or any documents to show the Applicant was in need of care.

[10] The Officer found no evidence had been provided regarding the Applicant's ties to her home country and found "ties appear to be weak." This, coupled with the fact that the Applicant indicated in her application that she is reliant on her eldest son in Canada, led to the Officer being not satisfied that the Applicant remained a bonified (*sic*) visitor that will leave at the end of their stay.

[11] The Officer refused the application and the restoration pursuant to *IRPR* section 179 as the Applicant did not meet the initial requirements.

IV. **The Issue and Standard of Review**

[12] The Applicant submits that the Officer erred in refusing the restoration application on the ground that the Applicant would not leave Canada at the end of her authorized stay.

[13] The standard of review presumptively is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, at para 10 (*Vavilov)*. This presumption is subject to certain exceptions, none of which are present in this application.

[14] The argument put forward by the Applicant in support of the issue she has raised is somewhat difficult to follow.

[15] She alleges that, as she received an acknowledgement of her extension application on August 9, 2019, before the expiry of her authorization to stay dated of August 15, 2019, she had "implied status until the final decision was made on her extension application". There is no quarrel with that statement as it is set out in in subsection 183(5) of the *IRPA*.

[16] The Applicant then refers to section 182 of the *IRPA*, which provides the Applicant with a window of 90 days from the date of losing her temporary resident status to make application to restore her status and notes that her application was submitted within the 90-day period. There is no quarrel with that proposition.

[17] The Applicant cites the reference by the Officer to the fact that she is eligible for restoration and argues that this is a reviewable error because the decision is not clear as to what requirements were not met by the Applicant.

[18] The Applicant sets out in argument the Officer's detailed reasons in the GCMS notes, including the reference at the end that:

> Ties appear to be weak. I am not satisfied that client remains a bonified visitor that will leave at the end of their stay. Refused as per R 179. As the Application is refused so is restoration refused, as they have not meet (*sic*) the initial requirement.

[19] Unfortunately, the Applicant may not have understood that the reference to R 179 incorporates subsection 179(b) of the *IRPR*, which is that the Applicant will not leave Canada by the end of the period authorized for their stay.

[20] The Applicant made no submissions with respect to R 179. To the contrary, the letter submitting the Applicant's restoration application provided a number of reasons supporting her H&C application indicating she planned to remain in Canada until that application is finalized.

V. **Conclusion**

[21] The onus is on the Applicant to show the Decision was unreasonable.

[22] For all the reasons set out above, I find she has failed to meet that burden.

[23] This application is dismissed.

[24] No serious question of general importance was posed for certification and I find none exists on these facts.

JUDGMENT IN IMM-2717-20

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. No question of general importance is certified.

"E. Susan Elliott"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-2717-20
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