Federal Court Cour fédérale

Date: 20221129

Docket: IMM-2128-22

Citation: 2022 FC 1649

Ottawa, Ontario, November 29, 2022

PRESENT: The Honourable Mr. Justice Ahmed

BETWEEN:

RAMNEET KAUR SOHI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Ramneet Kaur Sohi, seeks judicial review of a decision of a senior immigration officer (the "Officer") of Immigration, Refugees and Citizenship Canada dated February 26, 2021, denying the Applicant's Pre-Removal Risk Assessment ("PRRA") application pursuant to section 112 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 ("*IRPA*").

[2] The Officer found insufficient evidence to show that the Applicant would face a risk of persecution if returned to India, with the evidence speaking largely to generalized country conditions rather than personalized risk.

[3] The Applicant submits that the Officer's decision is unreasonable because the Officer failed to properly assess the evidentiary record, specifically regarding the Applicant's establishment in Canada and multi-faceted hardship in India.

[4] I find the Officer's refusal of the Applicant's PRRA application is reasonable. This application for judicial review is therefore dismissed.

II. Facts

A. *The Applicant*

[5] The Applicant is a 34-year-old citizen of India. Her mother, father, and two siblings are residing in India. The Applicant first arrived in Canada on August 13, 2011, with a study permit that was extended until November 30, 2014. She was unable to complete her studies.

[6] The Applicant then obtained a visitor record on December 22, 2014, which was extended until September 30, 2015. On September 30, the Applicant received a work permit, valid until October 1, 2016. She was issued another visitor record on February 3, 2016, which was valid until November 30, 2016, at which point she was briefly without status in Canada, while applying to extend her work permit.

[7] In May 2017, the Applicant retained an immigration consultant, Jagdeep Singh (Mr. "Singh") of Acme Overseas Consultants ("Acme"), to submit her work permit extension application.

[8] On January 19, 2017, the Applicant's work permit was extended until January 19, 2018, restoring her temporary resident status. On February 18, 2018, a subsequent permit extension was refused and she was once again without status.

[9] In April 2018, Mr. Singh advised the Applicant to apply for an extension of her visitor visa in order to maintain her status, which he submitted on her behalf. The Applicant's employer received a positive Labour Market Impact Assessment ("LMIA") for food service supervisors in May 2018 and Mr. Singh applied for a work permit for the Applicant, on the basis of this LMIA. The Applicant then realized that Mr. Singh had filed her work permit application incorrectly.

[10] On June 15, 2018, the Applicant and her employer went to the Osoyoos Border Crossing in British Columbia to obtain a work permit. An immigration officer at the border told the Applicant that she did not have valid status and was inadmissible to Canada. The Applicant claims that this was the result of Mr. Singh's negligence as her immigration consultant. She filed a complaint against Acme with the Immigration Consultants of Canada Regulatory Council.

[11] On August 14, 2019, the Applicant filed a refugee claim, but withdrew this claim on December 12, 2019. On December 23, 2019, the Applicant applied for a temporary resident permit ("TRP"), which was rejected as being incomplete.

[12] On March 3, 2020, a removal order was issued against the Applicant. She submitted the underlying PRRA application on March 16, 2020. She then submitted a second TRP application on July 9, 2020, which is still in progress.

[13] The Applicant received a letter on February 26, 2021, stating that her PRRA application was refused.

B. *Decision Under Review*

[14] The Officer found that the Applicant failed to establish a well-founded risk of persecution that would be forward-looking, ongoing, and personalized, as stipulated by sections 96 and 97 of the *IRPA*. The Officer stated that in reviewing the totality of evidence, the bulk of the Applicant's evidence and submissions speak to her difficulties in obtaining status in Canada, or vague and generalized hardships relating to her potential return to India.

[15] The Officer stated that the humanitarian and compassionate ("H&C") considerations advanced by the Applicant fall outside the purview of the PRRA application. The Officer also found that the evidence was largely related to generalized country conditions and did not provide a clear link to the Applicant's personal situation.

[16] The Officer acknowledged that while gender-based discrimination and violence exists generally in India, the Applicant provided little evidence to show that she would be at a consequential risk of this violence or that the level of discrimination she could face meets the threshold of risk under sections 96 or 97 of the *IRPA*. The Officer stated that there was minimal

evidence to substantiate the Applicant's claims that she would lose her independence in India or be forced into the role of a housewife, ultimately finding the psychological report provided by the Applicant to be speculative and of low probative value. The Applicant also failed to demonstrate how she would be particularly vulnerable to experiencing poor employment prospects in India, and that this is not simply a general experience shared by people in India.

[17] On the Applicant's submission that she would experience severe depression and anxiety if removed to India, the Officer stated that a risk to life under section 97 of *IRPA* cannot be assessed based on the home country's inability to provide adequate healthcare. Nevertheless, the Applicant did not advance evidence showing she could not receive effective treatment or support for these conditions in India.

III. Issue and Standard of Review

[18] The application for judicial review raises the sole issue of whether the Officer's decision to refuse the PRRA application is reasonable.

[19] The standard of review is not disputed. The parties agree that the applicable standard of review is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16–17, 23–25) ("*Vavilov*"). I agree. This is also consistent with this Court's review of PRRA determinations: *Lai v Canada (Minister of Citizenship and Immigration)*, 2007 FC 361 at para 55; *Figurado v Canada (Solicitor General)*, 2005 FC 347.

[20] Reasonableness is a deferential, but robust, standard of review (*Vavilov* at paras 12-13). The reviewing court must determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible and justified (*Vavilov* at para 15). A reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision-maker (*Vavilov* at para 85). Whether a decision is reasonable depends on the relevant administrative setting, the record before the decision-maker, and the impact of the decision on those affected by its consequences (*Vavilov* at paras 88-90, 94, 133-135).

IV. Analysis

[21] The Applicant submits that the Officer failed to properly consider central aspects of the evidence in her PRRA application, specifically relating to her establishment in Canada, and the overall and cumulative risk she would face if returned to India.

[22] The Applicant submits that the Officer did not meaningfully engage with the evidence showing her strong establishment in Canada. She submits that her entire life and career are here and the Officer was not attentive to the degree of her connection to Canada.

[23] The Applicant further submits that the Officer did not properly consider evidence relating to the hardships she would face upon her return to India. She states that the cultural and economic structure of India's job market would make it difficult for her to find work. Conservative Indian society does not promote women's freedom and she would be pressured into becoming a mother and housewife, stripping her of personal and financial independence.

[24] The Applicant has been depressed because of her difficulty in maintaining status in Canada and she submits that her mental health would be worsened if removed to India, which is corroborated by Dr. Pilowsky's psychological report. The Applicant also takes issue with the Officer's decision to grant little probative value to Dr. Pilowksy's report and characterize it as speculative. She submits that the Officer's reasons exhibit a lack of attentiveness to the multiple aspects of hardship and cumulative risk she faces upon return to India.

[25] The Respondent submits that the Officer's reasons allow clear and intelligible insight into the basis for the decision and the factors considered. Despite the Officer's conclusion about the persuasiveness of the evidence, the reasons indicate that all of the Applicant's evidence was weighed and assessed in light of the risks described under sections 96 and 97 of *IRPA*.

[26] The Respondent submits that in lieu of evidence to the contrary, the Officer should be presumed to have considered all evidence put before them and the reasons exhibit this consideration. The Officer properly assessed the psychological report speaking to the Applicant's mental health conditions, and visa officers are free to give little or no weight to expert reports if they provide reasons why, which the Respondent submits that the Officer did here. It was within the Officer's discretion to find that the report did not show that the risk to the Applicant would rise to the level of persecution, torture, or cruel and unusual treatment in India.

[27] In my view, the Officer's refusal of the Applicant's PRRA application is reasonable on several accounts. It is important to note that a bulk of the Applicant's submissions explain how the Officer should have weighed the evidence and could have arrived at a particular conclusion.

However, reasonableness review does not involve reweighing or reassessing the evidence, and this Court cannot intervene in an otherwise justified, intelligible, and transparent decision (*Vavilov* at para 125). The question on reasonableness review is whether, viewing the decision as a whole, is justified in light of the facts and evidence (*Vavilov* at para 126).

[28] On the Applicant's submission that the Officer did not properly account for her establishment in Canada, establishment is not a central consideration in the assessment of a PRRA application. While I do not find that the strength of one's connections to Canada are entirely unrelated to the hardship one might face upon removal, the main question in a PRRA is whether the Applicant's situation rises to the level of personalized risk as a Convention refugee or a person in need of protection, under sections 96 or 97 of the *IRPA*. The Officer's reasons show an awareness of the Applicant's evidence relating to establishment, stating, "counsel lays out H&C factors to be considered such as establishment in Canada." The Officer reasonably found that these considerations are not within the purview of a PRRA assessment.

[29] This is particularly accurate in light of this Court's jurisprudence affirming that H&C considerations are distinct from the question of whether an applicant is a Convention refugee or a person in need of protection: *Ranganathan v Canada (Minister of Citizenship and Immigration)*, [2001] 2 FC 164 at para 17; *Varga v Canada (Minister of Citizenship and Immigration)*, 2006 FCA 394 at para 12; *Eid v Canada (Citizenship and Immigration)*, 2010 FC 639 at paras 2-3. The Officer reasonably assessed the evidence in line with these legal constraints.

[30] The Officer's reasons reveal a holistic consideration of the Applicant's evidence of potential hardship in India and the resulting conclusion is justified in light of this evidence. The reasons set out the threshold of risk that must be met when assessing PRRA applications, and mention each of the key evidence provided by the Applicant. The Officer notes that the Applicant "specifies a number of negative generalized country conditions," explicitly recognizes that "conditions in India are far from perfect," and acknowledges that "gender-based violence is more common in India than Canada, as well as that it is theoretically possible that the applicant may experience gender-based violence upon her return." The Officer was attentive to the evidence about the potential hardships the Applicant would face in India, specifically identifying her fears of societal judgement and pressure to become a homemaker.

[31] The Officer goes on to explain why this evidence is insufficient to meet the particular risk required in PRRA applications, and even indicates what evidence the Applicant may have proffered to show this risk, "such as an indication of prior negative experiences of the applicant and/or those of other similarly situated female family members." The Officer also explains that this evidence does not describe how the Applicant's hardship would be ongoing, personalized, or rise to the level of risk required in a PRRA. The Applicant's evidence did not point to a personal risk she would face, but largely to general conditions in India that she may be subject to, such as the difficulty in finding work, the conservative and male-dominated culture, and societal pressure. Ultimately, the Officer reasonably weighed this evidence in light of the threshold required under *IRPA* (*Vavilov* at para 125, citing *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 64).

[32] It is also reasonable for the Officer to grant little weight or probative value to the psychological report provided by the Applicant. The reasons show that the Officer considered the report in the assessment of evidence, stating that the Applicant expressed her fear of societal judgement and stigma in her submissions and in the psychological report. The reasons also acknowledge the Applicant's mental health conditions and her fear of worsening depression and anxiety, which is the main subject of Dr. Pilowsky's report.

[33] I agree with the Respondent that although an immigration officer must consider an expert report in making their decision, they are not obliged to agree with the report's recommendation (*Kanagashapesan v Canada (Public Safety and Emergency Preparedness)*, 2019 FC 1504 at para 35). This Court has stated that although officers are not obliged to grant such expert reports any particular weight, they must explain why (*Jesuthasan v Canada (Citizenship and Immigration)*, 2018 FC 142 at para 48). The Officer provides this explanation, noting the report's lack of explanation for the belief that the Applicant's mental health would worsen in India and lack of evidence to show how her circumstances would lead to a personalized risk to her life, beyond a general connection between country conditions and an individual's mental wellbeing. The Officer reasonably concluded that although the Applicant's mental health may be affected by her removal, there is nothing on the record to show that she would face barriers to accessing supports for her mental health in India, such that the risk rises to the level prescribed under sections 96 and 97 of the *IRPA*.

[34] In my view, the Officer's finding that the Applicant's evidence does not meet the threshold set out in the *IRPA* does not mean that this evidence was not weighed or considered in

making the PRRA decision. In fact, the Officer explicitly acknowledges the Applicant's potential hardship, but assessed the evidence in the context of the definitions laid out in the *IRPA* to conclude that the risk is not sufficiently personalized or specific. The Officer fulfilled their role of applying the relevant threshold to the evidence before them, and provided justified and intelligible reasons in doing so.

V. Conclusion

[35] The Officer's refusal of the PRRA application is reasonable. It is justified in light of the evidentiary record, with clear and intelligible reasons. This application for judicial review is therefore dismissed. No questions for certification were raised, and I agree that none arise.

JUDGMENT in IMM-2128-22

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. There is no question to certify.

"Shirzad A."
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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