



Date: 20221216

Docket: IMM-2305-22

Citation: 2022 FC 1745

Ottawa, Ontario, December 16, 2022

PRESENT: The Honourable Mr. Justice Lafrenière

BETWEEN:

GAGANDEEP SINGH

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] This is an application for judicial review of a visa officer [Officer] decision dated April 22, 2022 [Decision] refusing the Applicant's study permit application pursuant to section 216(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR].

[2] For the reasons below, the application is dismissed.

II. Background

[3] The Applicant is a 26-year-old citizen of India. He earned a Bachelor of Arts degree at Punjabi University Patiala in 2017. Since 2018, the Applicant has been employed as a supervisor with United Chemicals Industries in Panchkula, Punjab.

[4] In December 2021, the Applicant applied for a study permit to study in Canada through the Student Direct Stream [SDS]. The SDS is an expedited study permit processing program for those who are applying to study in Canada at a post-secondary designated learning institution [DLI].

[5] The application package submitted by the Applicant contains various documents, including a letter of motivation stating that the Applicant seeks to advance his education in Canada by pursuing an Advanced Diploma in Human Resource Management [the Program] at Robertson College – Winnipeg offered by Assiniboine Community College in Brandon, Manitoba. The application package contains a Family Information Form showing that the Applicant is single and resides with his two parents in Punjab. The Applicant also provided proof of means of financial support, an IELTS test report form, educational documents, and an employment certificate.

[6] On March 1, 2021, the Officer refused the Applicant's application because they were not satisfied that the Applicant would leave Canada at the end of his stay based on the purpose of his visit.

[7] The Applicant challenges the Officer's finding on the basis that the reasons provided lack a logical chain of analysis and fail to link the supporting material submitted by the Applicant to the decision made.

III. Issues and Standard of Review

[8] The Applicant argued in his written submissions that there was a breach of procedural fairness by the Officer; however, the argument was not developed, nor pursued at the hearing. Therefore, the determinative issue is whether the Decision is unreasonable in light of the evidence before the Officer.

[9] The standard of review for a visa officer's decision is reasonableness. A reasonable decision is one 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 (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 85). The burden is on the Applicant to satisfy the Court "that any shortcomings or flaws relied on...are sufficiently central or significant to render the decision unreasonable" (*Vavilov* at para 100). A reasonable decision is justified in light of the facts and "the reasonableness of a decision may be jeopardized where the decision maker has fundamentally misapprehended or failed to account for the evidence before it" (*Vavilov* at para 126).

IV. Analysis

[10] The Officer's reasons are set out in their Global Case Management System [GCMS] notes below.

On review of all information including client's previous educational and work history, their motivation to pursue studies in Canada at this point does not seem reasonable. Client is requesting a SP to attend a post-graduate program at Assiniboine Community College Client submitted transcripts in order to substantiate academic proficiency. Transcripts indicate low to low average marks in core subjects. I am not satisfied client demonstrates the academic proficiency necessary to complete studies in Canada. Client has not satisfied me that the course of study is reasonable given the high cost of international study in Canada when weighed against the potential career/employment benefits. On balance, I am not satisfied that the applicant is a bona fide student who will depart Canada at the end of the period authorized for their stay. Application refused as per R216 (1) (b).

[11] As can be seen from the above, the Officer denied the study permit application for essentially two reasons. First, the transcripts provided by the Applicant did not demonstrate he had the academic proficiency to complete the studies in Canada. Second, the proposed studies did not appear reasonable given the high costs of international studies weighed against the lack of potential career and employment benefits.

A. *Ability to complete the studies*

[12] The Applicant submits the Officer's decision, even with a charitable interpretation, is neither intelligible nor reasonable when read in conjunction with the evidence provided. The Applicant points out that he applied to the DLI and secured a letter of acceptance. According to the Applicant, this indicates that the Applicant's grades he obtained from his earlier education

are not “low to low average” as they meet the DLI’s academic requirements; otherwise, the DLI would not have accepted the Applicant into the Program.

[13] The Applicant further submits that the Immigration, Refugees and Citizenship Canada guidelines on “Study permits: Assessing the application” do not give the Officer the discretion to evaluate the Applicant’s academic performance for acceptance into the Program. He claims that by looking at the Applicant’s grades, the Officer fettered their discretion. For the reasons that follow, I do not find these two arguments to be persuasive.

[14] An applicant for a study permit bears the burden of establishing they “will leave Canada by the end of the period authorized for their stay” as required by paragraph 216(1)(b) of the IRPR. Visa officers have wide discretion in their assessment of applications and considerable deference must be given to an officer’s decision given their level of expertise: *Penez v Canada (MCI)*, 2017 FC 1001 at para 10; *Nimely v Canada (Citizenship and Immigration)*, 2020 FC 282 at para 7 [*Nimely*].

[15] Contrary to the Applicant’s assertion, an applicant’s skills and abilities may be taken into account in determining whether an application meets the requirements of paragraph 216(1)(b) of the IRPR: *Siddiqua v Canada (Citizenship and Immigration)*, 2022 FC 1263 at para 24; *Bougrine v Canada (Citizenship and Immigration)*, 2022 FC 528 at para 15. As stated in *Patel v Canada (Citizenship and Immigration)*, 2020 FC 517 at para 24, “Wanting to undertake a course of studies in which one was unlikely to succeed could raise questions about whether an applicant is a bona fide student who will leave Canada by the end of the period authorized for their stay.”

[16] I am mindful that an applicant's prospects for success is something immigration officers should approach with care. However, in this case, I find that it was reasonable for the Officer to express concerns about the Applicant's ability to complete the proposed studies based on the evidence before them.

[17] The objective evidence shows that the Applicant completed his Bachelor of Arts in 2017 and that he received low grades throughout his studies. The mark sheet for his Senior Secondary (12th Class) Examination Certificate also indicates similar scores. Therefore, there is an evidentiary basis for the Officer's concerns.

[18] The Applicant's arguments overlook paragraph 216(1)(b) of the IRPR, which requires that a visa officer shall only issue a study permit where the foreign national establishes that they will depart Canada at the end of the proposed stay. The Officer's concerns about the Applicant's poor grades were tied to paragraph 216(1)(b) and, in my view, were properly considered.

B. *The Applicant's Study Plan*

[19] It is important to bear in mind that the Applicant's academic record was but one of many factors that the Officer was required to analyze in assessing the Applicant's study permit application. The Officer's central concern was that the Program did not make sense from either a career or an educational perspective or from a financial point of view. In my view, the evidence before the Officer, or rather lack thereof, justifies this concern.

[20] First, the Applicant provides only vague reasons in his motivation letter to explain why he wants to pursue a post-graduate program in human resources in Canada or how the Program would benefit his career. Second, the Applicant's statements provide the Officer with no concrete reasons why he could not pursue the same studies in India. Third, there is no indication that a promotion or another job offer is contingent upon the studies being completed, nor does the Applicant provide any evidence to support his claim that "employment is also available in industrial, commercial and government organizations."

[21] While there is evidence that the Applicant paid a tuition fee deposit of \$15,725.00 and the Applicant's parents undertook to pay for his tuition and living expenses for his study and stay in Canada, I do not consider it unreasonable for the Officer to question why the Applicant would incur such high costs for international study in Canada when there was insufficient evidence of potential career and employment benefits.

[22] The Applicant claims that the Officer failed to address various evidence including the Applicant's family ties in their home country, the letter from his employer, the Applicant's stable employment history, or the Applicant's letter of motivation, which details the Applicant's career goals. However, there is a presumption that a decision-maker weighed and considered all the evidence presented to it, and the contrary has not been shown.

[23] The Officer's reasons, when read in conjunction with the record, allow the Court to understand the factors that were taken into account that led to the refusal and the basis for the Officer's concerns. In my view, it was open for the Officer to be sceptical of the Applicant's

evidence relating to the purpose of his visit in light of his poor grades and his failure to provide a compelling reason to study in Canada at great expense. I am satisfied from both the explicit words in the reasons and the implicit or implied things in the record, that the Officer was alive to the key issues, including the legislative requirements, and reached a decision on them.

[24] This Court has repeatedly confirmed that deference is owed to visa officer's decisions, and in light of the volume of visa applications to be processed, an officer's reasons do not need to be lengthy or detailed (*Lingepo v Canada (Citizenship and Immigration)*, 2021 FC 552 at para 13, cited with approval in *Ocran v Canada (Citizenship and Immigration)*, 2022 FC 175 at para 15).

[25] When considering the reasons and record holistically, I am not persuaded the Officer acted unreasonably in their analysis. It is apparent that the factors cited by the Officer led to their concern that the Applicant was using a study permit as a means to facilitate entry to Canada, rather than educational advancement, and the conclusion that the Applicant would not leave Canada at the end of his stay.

[26] The Decision is transparent, justifiable and intelligible and is within the range of acceptable outcomes based on the evidence before the Officer.

V. Conclusion

[27] For the reasons above, the application for judicial review is dismissed.

[28] There is no question of general importance for certification.

JUDGMENT IN IMM-2305-22

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. No question of general importance is certified.

"Roger R. Lafrenière"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2305-22

STYLE OF CAUSE: GAGANDEEP SINGH v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

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