Federal Court  Cour fédérale

Date: 20230206

Docket: T-766-20

Citation: 2023 FC 175

Ottawa, Ontario, February 6, 2023

PRESENT: Madam Justice Sadrehashemi

BETWEEN:

JEAN-KYLE BIENVENU

Applicant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Petty Officer Second Class Jean-Kyle Bienvenu, CD Retired ("Mr. Bienvenu"), is a veteran of the Canadian Armed Forces. He served as a member of the Reserve Force from April 2002 until May 2015. In April 2018, Mr. Bienvenu applied for the Education and Training Benefit ("Benefit") provided for in the *Veterans Well-being Act*, SC 2005, c 21 [*Act*]. The Benefit provides veterans with financial support to attend post-secondary education

and training programs. Veterans Affairs Canada ("Veterans Affairs") denied Mr. Bienvenu's application, finding him not eligible because he did not meet the length of service requirement based on how service is calculated for Reserve Force members according to section 5.01 of the *Veterans Well-being Regulations*, SOR/2006-05 [*Regulations*].

[2] Mr. Bienvenu is not arguing that Veterans Affairs miscalculated the length of his service according to the *Regulations*. Rather, he is challenging the regulation itself and asking this Court to issue a declaration that section 5.01 of the *Regulations*, which sets out how to calculate length of service for Reserve Force members, is invalid because it is *ultra vires*. In other words, he argues that the Governor in Council, that is, the federal cabinet, exceeded the powers delegated to it by Parliament in the *Act.* In particular, Mr. Bienvenu argues that the definition of "service" for Reserve Force members in the *Regulations* as "days of service for which pay was authorized" is inconsistent with the purpose of the *Act*, namely "to show just and due appreciation" to veterans for their service to Canada.

[3] I do not agree. As I set out below, I find the Governor in Council's exercise of regulation-making power to be reasonable and, therefore, section 5.01 of the *Regulations* to be valid. I dismiss the application for judicial review.

II. Background

[4] Mr. Bienvenu served as a member of the Primary Reserve Force, Naval Reserve, from April 24, 2002 to October 31, 2014, and a member of the Supplementary Reserve from October 31, 2014 to May 2015. He was recognized for his exemplary military service on several

occasions, culminating in being awarded the Canadian Forces Decoration after 12 years of service. During his time as a member of the Primary Reserve Force, Mr. Bienvenu completed his undergraduate and law degrees. In general, Mr. Bienvenu was employed in the Primary Reserve Force on a Class “A” contract, which is for part-time service, from September to April of each year. He accepted full-time Class “B” or Class “C” contracts during most summers.

[5] On April 9, 2018, Mr. Bienvenu applied for the Benefit. Veterans Affairs refused his application on July 25, 2019 because he did not meet the minimum requirement of six years of qualifying service. On September 3, 2019, Mr. Bienvenu requested a review of that decision. On November 25, 2019, Veteran Affairs confirmed the initial decision, finding that Mr. Bienvenu’s service was comprised of 1,017 days of full-time service and 340.5 days of part-time service, which multiplied by a factor of 1.4, counted as 477 days of eligible service. This meant that Mr. Bienvenu had a total of 1,494 days of eligible service which is short of the 2,191 days (or six years) required for the Benefit. On January 23, 2020, Mr. Bienvenu requested a review of this decision, arguing that section 5.01 of the *Regulations*, which Veterans Affairs relied upon to make the eligibility determination, is *ultra vires* because it is inconsistent with the purpose of the *Act*. On June 17, 2020, Veterans Affairs confirmed the previous decision and refused Mr. Bienvenu’s application because he did not meet the length of service requirement. Mr. Bienvenu then applied for judicial review of this decision, asking this Court to issue a declaration that section 5.01 of the *Regulations* is invalid.

III. Preliminary Issues

[6] The Respondent brought a motion prior to the judicial review hearing, asking the Court to strike paragraphs 32, 44, 69, and 76 of Mr. Bienvenu's affidavit sworn on August 28, 2020 and to strike his second affidavit sworn on April 15, 2021 in its entirety. Mr. Bienvenu consented to the Respondent's motion. Accordingly, I have not considered these materials in coming to my determination.

[7] The parties also agree that the proper Respondent is the Attorney General of Canada. The title of the proceedings will be amended accordingly.

IV. Issue and Standard of Review

[8] The only issue on this judicial review is whether section 5.01 of the *Regulations* is *ultra vires*. Both parties argued that the Court should apply the reasonableness standard of review because none of the exceptions to reasonableness review recognized in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] apply here.

[9] Both parties relied on the Federal Court of Appeal's analysis in *Portnov v Canada (Attorney General)*, 2021 FCA 171 [*Portnov*]. *Portnov* held that reviewing courts should apply reasonableness review as set out in *Vavilov* when reviewing the validity of regulations. Neither party relied on the test articulated by the Supreme Court of Canada in *Katz Group Canada Inc v Ontario (Health and Long-Term Care)*, 2013 SCC 64 [*Katz*], namely that in order to strike a regulation, the Court must find it to be "irrelevant," "extraneous," or "completely unrelated" to

the statutory purpose of the enabling statute (*Katz* at para 28). The Federal Court of Appeal in *Innovative Medicines Canada v Canada (Attorney General*), 2022 FCA 210 [*Innovative Medicines*], a decision issued after this judicial review was heard, confirmed again that reasonableness review as articulated in *Vavilov* is the appropriate lens to review these decisions. *Innovative Medicines* acknowledged that the Alberta Court of Appeal, in *Auer v Auer*, 2022 ABCA 375 and *TransAlta Generation Partnership v Alberta (Minister of Municipal Affairs)*, 2022 ABCA 381, continued to apply the methodology set out in *Katz* when reviewing the validity of regulations.

[10] *International Air Transport Association v Canadian Transportation Agency*, 2022 FCA 211 [*International Air Transport Association*], another Federal Court of Appeal decision issued after this judicial review was heard, the day after *Innovative Medicines*, also considered the jurisprudence on whether courts reviewing the validity of regulations should apply a *Vavilov* standard of review analysis or the *ultra vires* doctrine (*International Air Transport Association* at paras 186-190). While Justice de Montigny noted that, post-*Vavilov*, "most intermediate appeal courts adopted the view that delegated legislation would henceforth be reviewed against [the reasonableness] standard," he also acknowledged this approach was not unanimous. Further, Justice de Montigny noted that the approach taken by the majority of the Supreme Court of Canada in *References re Greenhouse Gas Pollution Pricing Act*, 2021 SCC 11, which followed neither a *Vavilov* reasonableness review nor the *ultra vires* doctrine, signals "at the very least that the issue is far from settled."

[11] Given the parties' positions in this judicial review and the Federal Court of Appeal's determination in *Portnov* and *Innovative Medicines*, I will apply a reasonableness standard. I note, however, just as was the case in *Innovative Medicines* and *International Air Transport Association* (*Innovative Medicines* at paras 49-50; *International Air Transport Association* at para 191), the outcome would not change if I were to apply the test in *Katz*. Given my finding that the Governor in Council's decision to enact section 5.01 of the *Regulations* is reasonable, I would have also found, as should be clear from my reasons below, that Mr. Bienvenu has not demonstrated that section 5.01 of the *Regulations* is "irrelevant," "extraneous," or "completely unrelated" to the statutory purpose of the *Act*.

V. Analysis

[12] This judicial review asks whether the Governor in Council acted unreasonably by defining length of service for Reserve Force members in a way that exceeds the power delegated to it in the *Act*. Mr. Bienvenu argues that the definition of service for Reserve Force members is restrictive, running counter to the broad purpose of the *Act* "to show just and due appreciation to members and veterans for their service to Canada" (*Act*, s 2.1). At the core of this issue is the distinction in how length of service is calculated for Reserve Force members as opposed to Regular Force members in determining eligibility for the Benefit.

A. *Legal and Factual Constraints*

[13] There are a number of legal and factual constraints that would bear upon the reasonableness of the Governor in Council's interpretation of its power to enact the impugned

regulation (*Vavilov* at para 90). The first constraint is the statutory scheme. The Governor in Council's authority to enact section 5.01 of the *Regulations* is constrained by the enabling statute. In order to understand the scope of the enabling statutory provision, in this case section 5.93 of the *Act*, the Governor in Council would need to have considered the text, context, and purpose of the statutory scheme (*Vavilov* at para 120; *Innovative Medicines* at para 46; *Katz* at para 24).

[14] Section 5.93 of the *Act* provides:

5.93 The Governor in Council may make regulations	5.93 Le gouverneur en conseil peut prendre des règlements :
(a) prescribing how the length of service in the reserve force is to be determined for the purposes of paragraph 5.2(1)(a);	a) prévoyant, pour l'application de l'alinéa 5.2(1)a), la manière d'établir la durée du service dans la force de réserve;
(b) respecting what constitutes honourable release for the purpose of paragraph 5.2(1)(b);	b) régissant ce qui constitue une libération honorable pour l'application de l'alinéa 5.2(1)b);
(c) providing for the periodic adjustment of the maximum cumulative amount referred to in subsection 5.2(2);	c) prévoyant le rajustement périodique de la somme cumulative maximale prévue au paragraphe 5.2(2);
(d) defining *educational institution* for the purposes of paragraph 5.3(1)(a);	d) définissant *établissement d'enseignement* pour l'application de l'alinéa 5.3(1)a);
(e) prescribing the education or training that may or may not be approved by the Minister under section 5.5; and	e) prévoyant les cours ou la formation qui peuvent ou ne peuvent pas être approuvés par le ministre au titre de l'article 5.5;
(f) defining what constitutes incarceration in a correctional institution for the purposes of section 5.8.	f) définissant, pour l'application de l'article 5.8, ce qui constitue l'incarcération dans un établissement correctionnel.

[15] The *Act* has no express constraints on the Governor in Council's ability to prescribe how the length of service for Reserve Force members is calculated. This relatively unconstrained statutory grant of power is, however, limited to a defined task, namely prescribing how to calculate length of service in the Reserve Force in order to determine eligibility for the Benefit.

[16] The other statutory constraint bearing on the Governor in Council would be the purpose of the enabling statute. Mr. Bienvenu's challenge rests on the view that the Governor in Council exceeded its authority by creating a regulation that is inconsistent with the *Act*'s purpose. The *Act* has an overarching broad purpose set out in section 2.1:

Purpose	**Objet**
2.1 The purpose of this Act is to recognize and fulfil the obligation of the people and Government of Canada to show just and due appreciation to members and veterans for their service to Canada. This obligation includes providing services, assistance and compensation to members and veterans who have been injured or have died as a result of military service and extends to their spouses or common-law partners or survivors and orphans. This Act shall be liberally interpreted so that the recognized obligation may be fulfilled.	2.1 La présente loi a pour objet de reconnaître et d'honorer l'obligation du peuple canadien et du gouvernement du Canada de rendre un hommage grandement mérité aux militaires et vétérans pour leur dévouement envers le Canada, obligation qui vise notamment la fourniture de services, d'assistance et de mesures d'indemnisation à ceux qui ont été blessés par suite de leur service militaire et à leur époux ou conjoint de fait ainsi qu'au survivant et aux orphelins de ceux qui sont décédés par suite de leur service militaire. Elle s'interprète de façon libérale afin de donner effet à cette obligation reconnue.

[17] This purpose applies to a suite of services, assistance, and compensation for members, veterans and their families provided for in the *Act*, including members and veterans who have been injured or have died as a result of military service. The broad purpose applies to both members of the Reserve Force and the Regular Force.

[18] The factual context would also be relevant (*Vavilov* at para 90; *Portnov* at para 44). As noted, a key feature of the statutory scheme is the difference between the two components of the Canadian Armed Forces: the Regular Force and the Reserve Force. These differences would be a further contextual constraint.

[19] The Regular Force "consists of officers and non-commissioned members who are enrolled for continuing, full-time military service" (*Act,* s 5.11). The Reserve Force "consists of officers and non-commissioned members who are enrolled for other than continuing, full-time military service when not on active service" (*Act,* s 5.11). Generally, military service in the Regular Force is continuous and full-time, whereas in the Reserve Force military service is likely to be part-time, though reservists can voluntarily take on full-time contracts. In other words, military service in the Reserve Force, as opposed to the Regular Force, consists of more varied types of service contracts, including part-time and periods of voluntary full-time service. According to the evidence filed in this judicial review, reservists often serve in the Canadian Armed Forces while pursuing full-time civilian careers and/or post-secondary education.

[20] There are other differences. For example, Regular Force members can be deployed without their consent; Reserve Force members must generally give their consent or volunteer to be deployed, except in rare circumstances. Regular Force members could also be posted without their consent to different locations inside or outside of Canada; Reserve Force members, not on active service, can generally choose their unit affiliation anywhere in Canada or accept a posting outside Canada. In general, Reserve Force members are subject to fewer and more flexible obligations, duties, and responsibilities than Regular Force members. Reserve Force members

are also, however, subject to some requirements (such as fitness and appearance) that they must meet at all times even when engaged in part-time military service.

[21] In summary, there are a number of constraints that would bear upon the Governor in Council's interpretation of the scope of its power under section 5.93 of the *Act*. First, Parliament did not expressly constrain the Governor in Council's delegated power to determine how length of service in the Reserve Force would be calculated. Second, the Benefit fits within a statutory scheme whose overarching purpose is "to show just and due appreciation" for military service in both the Reserve Force and the Regular Force. Third, there are significant differences between the nature of military service in the Reserve Force, which is generally part-time with the ability to volunteer for full-time contracts of varying lengths, and the Regular Force, which consists of continuous, full-time service.

B. *Impugned Regulation*

[22] In a challenge to the validity of a regulation, the reasons for a decision of the Governor in Council can be found in "the text of the legal instruments it is issuing" (here, section 5.01 of the *Regulations*) and the Regulatory Impact Analysis Statement for the impugned regulation (*Portnov* at para 34; *Innovative Medicines* at para 48).

[23] Section 5.01 of the *Regulations* provides that the length of service in the Reserve Force "is to be determined in accordance with section 3 of the *Canadian Forces Superannuation Regulations.*"

[24] Section 3 of the *Canadian Forces Superannuation Regulations*, CRC, c 396 [*Superannuation Regulations*] provides the following:

3 (1) Days of Canadian Forces service are

(a) in the regular force, days of service for which pay was authorized to be paid and days of leave for maternity or parental purposes granted under the *Queen's Regulations and Orders for the Canadian Forces*; and

(b) in the reserve force,

(i) days of service for which pay was authorized to be paid except that any day of service or which pay was authorized to be paid for a period of duty or training of less than six hours is considered to be 1/2 of a day,

(ii) in the proportion determined under subsection (3), days in a period of exemption or leave referred to in paragraph 2(b) of the *Reserve Force Pension Plan Regulations*, and

(iii) in the proportion of 1/4 of a day for each day, days in a period before April 1, 1999, if the records of the Canadian Forces or the Department of National Defence permit the verification of the duration of the period but not the number of days of service for which pay was authorized to be paid.

(2) Each day of service for which pay was authorized to be paid and during which the contributor served on Class "A" Reserve Service within the meaning of article 9.06 of the *Queen's Regulations and Orders for the Canadian Forces* shall count as 1 2/5 days of Canadian Forces service.

3 (1) Les jours de service accomplis dans les Forces canadiennes sont les jours suivants :

a) s'agissant de la force régulière, les jours de service pour lesquels le versement d'une solde a été autorisé et les jours de congé de maternité ou parental accordés en vertu des *Ordonnances et règlements royaux applicables aux Forces canadiennes*;

b) s'agissant de la force de réserve :

(i) les jours de service pour lesquels le versement d'une solde a été autorisé, sauf que tout jour de service pour lequel le versement est autorisé pour une période de service ou de formation de moins de six heures est considéré comme un demi-jour,

(ii) dans la proportion établie conformément au paragraphe (3), les jours d'une période d'exemption ou de congé visée à l'alinéa 2b) du *Règlement sur le régime de pension de la force de réserve*,

(iii) dans la proportion d'un quart chacun, les jours d'une période antérieure au 1er avril 1999, dans le cas où les dossiers des Forces canadiennes ou du ministère de la Défense nationale permettent d'établir la durée de cette période, mais non le nombre de jours de service qu'elle compte pour lesquels le versement d'une solde a été autorisé.

(2) Chaque jour de service pour lequel le versement d'une solde a été autorisé et durant lequel le contributeur est en service de réserve de classe « A » au sens de

l'article 9.06 des *Ordonnances et règlements royaux applicables aux Forces canadiennes* compte pour 1,4 jour de service accompli dans les Forces canadiennes.

[25] According to the impugned regulation, the length of service in the Reserve Force is generally determined by "days of service for which pay was authorized to be paid." There are two exceptions: any day where a veteran was paid for less than six hours is counted as a half-day of service and each day of Class "A" Reserve Service (generally a part-time service contract) is calculated as 1.4 days of qualifying service.

[26] The Regulatory Impact Analysis Statement for the impugned regulation states that Parliament created the Benefit "to help veterans successfully transition from military to civilian life, achieve their education and future post-military employment goals, and better position them to be more competitive in the civilian workforce." This interpretation of the objective of the Benefit is further supported by the Hansard documenting Parliament's debate of the legislation. At the second reading in the House of Commons, the Finance Minister at the time explained that the proposed legislation would "help veterans transition from military service to civilian life" as the Benefit would provide "more money for veterans to go back to school."

[27] Under the impugned regulation, a Reserve Force member would be eligible for the Benefit sooner if they completed more periods of full-time service. If the Reserve Force member mainly engaged in part-time military service, it would take longer to qualify. This is consistent with the objective of the Benefit, namely, to help veterans successfully transition from military to civilian life. There would be less opportunity to pursue post-secondary education or training for

Regular Force members and members on full-time military service contracts in the Reserve Force.

[28] The basis for the distinction between how length of service is calculated for time spent in the Reserve Force versus time in the Regular Force is readily apparent in the *Act*. To be eligible for the Benefit, a veteran must have "served for a total of at least six years in the regular force, in the reserve force or in both" (*Act*, s 5.2(1)(a)). The *Act* does not provide any further guidance on how to calculate length of service for Regular Force members. Therefore, the length of service for Regular Force members is calculated based solely on years of service. For Reserve Force members, however, the *Act* provides that for the purposes of determining eligibility for the Benefit, the Governor in Council may make regulations "prescribing how the length of service in the reserve force is to be determined" (*Act*, s 5.93(a)).

[29] The issue is, therefore, not that the *Regulations* draw a distinction between how length of service is calculated for Reserve Force members and Regular Force members. This distinction is clearly grounded in the *Act*. The issue is whether the manner in which length of service for Reserve Force members is calculated in the *Regulations* is a reasonable exercise of the power delegated by Parliament.

[30] Before I address Mr. Bienvenu's further arguments, I want to address a submission made during oral argument that turns on this issue. Throughout oral submissions, Mr. Bienvenu's counsel argued: "A year is a year." I understood the Applicant's counsel to mean that the appropriate way to calculate length of service for Reserve Force members is to count their years

of service only and not calculate anything further. This is, in fact, how length of service is calculated for Regular Force members.

[31] An analysis of the validity of section 5.01 of the *Regulations* begins with Parliament's decision that the Governor in Council may prescribe how length of service is calculated for service in the Reserve Force, as opposed to service in the Regular Force. This must mean that there is a basis in the *Act* to draw a distinction. The "a year is a year" argument ignores this clear indication from Parliament that for the purposes of determining eligibility for the Benefit, calculating the length of service in the Reserve Force may require a further qualification, unlike military service in the Regular Force.

[32] The question remains, however, whether the *manner* in which the Governor in Council calculated length of service in the Reserve Force by enacting section 5.01 of the *Regulations* overstepped the power that Parliament delegated to it. I address these arguments in the next section.

C. *Specific Arguments Challenging Validity*

[33] Mr. Bienvenu argues that the Governor in Council defined length of service for reservists in a restrictive way that is inconsistent with the purpose of the parent statute. He raises three issues: i) it is improper to rely on a definition for length of service from another piece of legislation relating to pension benefits; ii) service in the Reserve Force cannot be counted only as days paid because service in the Reserve Force extends beyond the days for which a reservist is

paid; and iii) in other contexts, Parliament has defined service for reservists in ways not tied to the "days of service for which pay was authorized."

[34] Mr. Bienvenu makes two arguments specific to the use of the length of service definition from the *Superannuation Regulations*. First, he argues using this definition means that the Governor in Council delegated its authority to make the regulations to the Minister of Defence. I do not agree. I do not accept that deciding to use a definition from another set of regulations is akin to delegating one's authority to the body that initially drafted the definition. The Applicant cited no authority for this proposition.

[35] Mr. Bienvenu's second point focuses on the purpose of the statute enabling the *Superannuation Regulations*. The statute enabling the *Superannuation Regulations* is the *Canadian Forces Superannuation Act*, RSC 1985, c C-17 [*Superannuation Act*], which deals with the administration of pension plans. In the Applicant's submission, its purpose is to alleviate poverty among those who are retired from the workplace. Mr. Bienvenu argues that the purpose of the *Superannuation Act* is unrelated to the purpose of the *Act* of showing just and due appreciation to members and veterans. The difference in purposes, he argues, supports his view that section 5.01 of the *Regulations*, which adopts a definition for length of service from the *Superannuation Regulations*, is incompatible with the purpose of the *Act*. In my view, Mr. Bienvenu overstates the relevance of the purpose of the *Superannuation Act*. A definition or a method of calculation may serve different purposes. The diverging purposes are not a sufficient basis to find the impugned regulation incompatible with its enabling statute.

[36] Mr. Bienvenu also argues that calculating a reservist's service based only on days where pay was authorized fails to show "just and due appreciation" for service beyond days paid. Specifically, Mr. Bienvenu points to the appearance and fitness requirements that reservists must maintain even when they are not being paid.

[37] The Respondent points out that the *Regulations* account for this extra service by counting each day of service during a part-time contract (Class "A" contract) as 1.4 days. Mr. Bienvenu's counsel argued that there was no evidence to show that this extra 0.4 of time is sufficient to account for the extra service required of reservists even when they are not being paid

[38] I note first there is no evidence before me to indicate that using this calculation (1.4 days for each day of service during a part-time service contract) is insufficient to account for the extra time required of reservists. But, more importantly, this type of granular assessment of the Governor in Council's policy choice on how to calculate qualifying time is not an issue I can consider. When addressing a claim that a regulation is *ultra vires*, the task of the reviewing court is not to assess the policy merits of the impugned regulations (*Portnov* at paras 47-49; *Katz* at paras 27-28; *Bertrand v Acho Dene Koe First Nation*, 2021 FC 287 at para 95). There may be disagreement about whether this calculation method is the *most* just way to calculate qualifying days of service for the Benefit. But, even if the Applicant demonstrated that, which I do not accept he did, this still would not be a basis to find the Governor in Council's decision to enact the impugned regulation unreasonable.

[39] Mr. Bienvenu points to other ways Veterans Affairs calculates service that is independent of days paid. An example he relies heavily upon is his award of the Canadian Forces Decoration after serving for 12 years. He notes that there is no distinction between whether the military service was in the Reserve Force or the Regular Force for the purpose of awarding the Canadian Forces Decoration. 12 years are 12 years.

[40] This argument is similar to the "a year is a year" argument I addressed above. It does not recognize that, in this *Act*, Parliament has clearly provided for the possibility of a distinction in how length of service is calculated between the two components of the Canadian Armed Forces. Further, that there are other ways to show appreciation for military service that have different eligibility requirements is not a sufficient basis to show that the Governor in Council unreasonably exceeded the powers granted to it by Parliament. Mr. Bienvenu's other example, the minimum 10 years of bar membership required of judicial candidates for the federal bench, is wholly irrelevant.

D. *Section 5.01 of the Regulations is Valid*

[41] Mr. Bienvenu has not met the burden of demonstrating the Governor in Council acted unreasonably. I reached this conclusion by evaluating the legislative and factual constraints bearing upon the Governor in Council's interpretation of their power to enact the impugned regulation, the Governor in Council's reasons as can be gleaned from the text of the impugned regulation and the Regulatory Impact Analysis Statement, and Mr. Bienvenu's arguments challenging the validity of the impugned regulation.

[42] The Governor in Council's decision to make section 5.01 of the *Regulations* is consistent with a relatively unconstrained delegation of authority and accords with the broader context and purpose of the *Act*. I see no basis to find that the Governor in Council acted unreasonably.

VI. Disposition

[43] The application for judicial review is dismissed. The Attorney General of Canada is not seeking costs. Given the nature of the matter and that costs are not sought, I decline to award costs.

JUDGMENT IN T-766-20

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed;

2. The title of the proceedings is amended to name Attorney General of Canada as the Respondent; and

3. No costs are awarded.

"Lobat Sadrehashemi"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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