Federal Court  Cour fédérale

Date: 20240207

Docket: IMM-6568-22

Citation: 2024 FC 201

Calgary, Alberta, February 7, 2024

PRESENT: Madam Justice Go

BETWEEN:

NAZANIN GHOLAMI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Ms. Nazanin Gholami, the Applicant, is a 33-year-old citizen from Iran. She applied for a study permit on November 16, 2021, after being accepted into a Master's of Arts in Leadership at Trinity Western University on September 29, 2021. The Applicant's spouse intended to come to Canada with her for the duration of her proposed studies.

[2] On June 30, 2022, a visa officer [Officer] rejected the Applicant's study permit application, finding her purpose of visit was inconsistent with a temporary stay and that the Applicant did not have significant family ties outside of Canada [Decision].

[3] The Applicant seeks judicial review of the Decision. For the reasons set out below, I dismiss the application.

II. Preliminary Issue

[4] Pursuant to subsection 5(2) *Federal Courts Citizenship, Immigration, and Refugee Protection Rules*, SOR/93-22; subsection 4(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27; and Rule 76(a) of the *Federal Court Rules*, SOR/98-106, the Respondent's name is amended to the Minister of Citizenship and Immigration.

III. Issues and Standard of Review

[5] The Applicant argues the Officer breached the duty of procedural fairness and the Decision was unreasonable.

[6] The presumptive standard of review for the merits of the Decision is reasonableness, and the circumstances of this case do not warrant a departure from this standard, as set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*].

[7] 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 and 133-135.

[8] For a decision to be unreasonable, the applicant must establish that the decision contains flaws that are sufficiently central or significant: *Vavilov* at para 100. Not all errors or concerns about a decision will warrant intervention. A reviewing court must refrain from reweighing evidence before the decision-maker, and it should not interfere with factual findings absent exceptional circumstances: *Vavilov* at para 125. Flaws or shortcomings must be more than superficial or peripheral to the merits of the decision, or a "minor misstep:" *Vavilov* at para 100.

[9] On procedural fairness, as the Respondent submits, the standard of review for procedural fairness has been equated to correctness, where the Court is to examine whether the process followed was fair, having regard to all the circumstances: *Canadian Pacific Railway v Canada (Attorney General)*, 2018 FCA 69 at para 54.

IV. Analysis

[10] The Applicant did not appear at the hearing, and asked the Court to consider her written submissions, which I did.

A. *The Officer did not breach the duty of procedural fairness*

[11] The Applicant argues that she should have been provided with the opportunity to respond to the Officer's findings, and failing to do so was a breach of the duty of procedural fairness.

[12] I reject the Applicant's arguments.

[13] The duty of procedural fairness owed by visa officers is at the low end of the spectrum: *Zamor v Canada (Citizenship and Immigration)*, 2021 FC 479 at para 15. The Applicant bore the onus of demonstrating she would leave Canada at the end of her authorized stay.

[14] As this Court has confirmed, where an officer's concern "arises directly from the requirements of the legislation or related regulations, a visa officer will not be under a duty to provide an opportunity for the applicant to address his or her concerns:" *Hajiyeva v Canada (Citizenship and Immigration)*, 2020 FC 71 [*Hajiyeva*] at para 8 citing *Hassani v Canada (Citizenship and Immigration)*, 2006 FC 1283 at para 24.

[15] In this case, I find the Officer was not obliged to notify the Applicant of their concern as it pertained to the sufficiency of the Applicant's evidence.

B. *The Decision was reasonable*

[16] While the Applicant makes a number of arguments to challenge the reasonableness of the Decision, many of these arguments do not correspond to the reasons of the Officer as provided in the Global Case Management System [GCMS] notes. The Applicant appears to have relied on some template submissions developed by counsel that may or may not apply to the case at hand.

[17] Of the myriad of arguments raised, two main points emerge which I will address below:

a. The Applicant takes issue with the Officer's finding that her chosen master's program would be a redundant course of action and that it does not appear to be a logical progression in her career path. The Applicant also submits the Officer erred by finding her previous employment and education was inconsistent with her career progression.

b. The Applicant submits the Officer erred by basing their refusal on her lack of ties to Iran and failed to justify this finding.

i. Purpose of the Master's Program

[18] The Applicant has two previous degrees from Iran, a Bachelor's in Architecture and Urbanism and a Master's in Architectural Engineering. She is currently employed at Boozhgan Architecture Studio [Boozhgan] as a project manager.

[19] In her study plan, the Applicant explained the master's program would benefit her career in architecture and highlighted the importance of leadership skills to the field of architecture, as well as her promotion at Boozhgan as the firm's CEO Assistant after the completion of her studies.

[20] The Officer observed that the Applicant's intended study would not benefit her, given the Applicant's educational and professional background. In the GCMS notes the Officer found:

> "The client's previous studies were in an unrelated field. The client's previous employment and educational history demonstrate an inconsistent career progression. The client has studies in the same academic level as the proposed studies in Canada. In light of the PA's previous studies and current career, the intended program is a redundant course of action and does not appear to be a logical progression in their career path. Previous university studies in Master of Architecture. Currently employed as a Project Manager. PA does not demonstrate to my satisfaction compelling reasons for which the international educational program would be of benefit."

[21] The Applicant explains that her previous degrees were in architecture and as she is in pursuit of a higher managerial position, she needs to acquire knowledge in leadership. Therefore, the Applicant submits that her proposed study program is based on her career goals and not necessarily her level of education. The Applicant also submits that there is consistency in her education and career—she has degrees in architecture and she is employed in an architectural company. The Applicant repeats the proposed study in leadership will allow her to secure her promotion as CEO Assistant. The Applicant questions how the Officer found her proposed study program both unrelated to her field and a redundant course of action.

[22] I find the Applicant's submission lacks merits. As the Respondent points out, and I agree, the Applicant's assertion that her promotion as CEO Assistant was contingent upon her completion of the proposed master's program is not supported by the evidence. While the leave of absence letter from Boozhgan does recognize that the Applicant is seeking studies in Canada, the recognition is only limited to that. More importantly, neither the job offer nor the leave of

absence letter refer to the requirement of the Applicant to upgrade her education as a condition of any job promotion.

[23] In the absence of any evidence speaking to the need for the educational upgrade as a condition of the job promotion, the Officer's conclusion that the intended program is a "redundant course of action" and not a "logical progression" of the Applicant's career path was reasonable.

ii. Family and Other Ties

[24] In the GCMS notes, the Officer observed the following:

> "PA is traveling with their spouse, I have concerns that the ties to Iran are not sufficiently great to motivate departure from Canada. The ties to Iran are weaken with the intended travel to Canada by the client as the travel involves their immediate family; the motivation to return will diminish with the applicant's immediate family members presiding with them in Canada."

[25] The Applicant submits the Officer erred by basing their refusal on her lack of ties to Iran and failed to justify this finding. The Applicant argues she submitted evidence to the contrary to demonstrate her familial and economic ties to Iran. This evidence includes the Family Information form, study plan, assets, job promotion, leave of absence letter, as well as proof of the husband's work and expected return to work in Iran. The Applicant argues that faced with all the evidence, the Officer erred in finding her ties militated towards Canada.

[26] I am not persuaded by the Applicant's submission.

[27] First, the jurisprudence confirms that visa officers are not required to provide extensive reasons for their decisions to be reasonable, given the large volume of these decisions: *Nimely v Canada (Citizenship and Immigration)*, 2020 FC 282 at paras 6-7.

[28] As well, the fact an applicant's family wishes to join them in Canada is a relevant consideration when assessing ties, although this finding must be weighed against other evidence relevant to the applicant's motivation to return to their country of residence at the end of their stay: *Vahdati v Canada (Citizenship and Immigration)*, 2022 FC 1083 at para 10; *Shahrezaei v Canada (Citizenship and Immigration)*, 2023 FC 499 at paras 18-20; *Sayyar v Canada (Citizenship and Immigration)*, 2023 FC 494 at paras 15-16; and *Jafari v Canada (Citizenship and Immigration)*, 2023 FC 183 at paras 18-20.

[29] In *Hajiyeva* at para 5, Justice Diner held that it was open for the officer to find that the applicant's evidence and supporting documentation fell short of demonstrating she would leave Canada at the end of her study period, based on the evidence that her immediate family intended to accompany the applicant to Canada.

[30] I draw the same conclusion here. In view of the intent of the Applicant's husband to accompany her to Canada, and the finding made by the Officer with regard to the redundancy of the program of study, it was open to the Officer to conclude that the Applicant has not satisfied that she would depart Canada at the end of the period authorized for the stay. The Applicant may disagree with the Officer's weighing of the evidence; she fails to point to any reviewable errors in the Decision.

[31] The Applicant cites several decisions to assert the Officer's finding on the issue of family ties was not founded in the evidence before them, and therefore, unreasonable. I find these decisions distinguishable on the facts, as I find the Officer's finding in this case was reasonably supported by the evidence that the Applicant provided.

V. Conclusion

[32] The application for judicial review is dismissed.

[33] There is no question for certification.

JUDGMENT in IMM-6568-22

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. The Respondent's name is amended to the Minister of Citizenship and Immigration.

3. There is no question for certification.

"Avvy Yao-Yao Go"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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