Federal Court  Cour fédérale

**Date: 20240521**

**Docket: IMM-6198-23**

**Citation: 2024 FC 766**

**Toronto, Ontario, May 21, 2024**

**PRESENT: Madam Justice Go**

**BETWEEN:**

**NAVJEET KAUR**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

# JUDGMENT AND REASONS

## I. Overview

[1] Ms. Navjeet Kaur [Applicant] is a 31-year-old citizen of India who applied for a Temporary Resident Visa [TRV] to attend her cousin's birthday celebrations on April 30, 2023.

[2] On April 11, 2023, a visa officer [Officer] refused the TRV application as the Officer was not satisfied the Applicant would leave Canada at the end of her authorized stay as directed by

paragraph 179(b) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [Decision]. The Officer's refusal was based on three factors: (1) the Applicant's purpose of visit did not align with a temporary stay, (2) the Applicant's low finances did not support her stated purpose of travel, and (3) the Applicant did not have significant family ties outside Canada.

[3] The Applicant seeks judicial review of the Decision. I dismiss the application as I find the Decision was reasonable.

## II. Issues and Standard of Review

[4] The Applicant submits that the decision was unreasonable.

[5] The Applicant also submits there was a breach of procedural fairness. However, the Applicant does not bring forward arguments on this issue other than claiming that she "cannot foresee the basis for the formed opinion and is therefore, prevented from responding." The Applicant did not address this argument at the hearing.

[6] In any event, the level of procedural fairness owed to TRV applicants is low and officers are not required to put TRV applicants on notice where the reasons for refusal relate to whether an applicant meets statutory requirements: see for example *Asl v Canada (Citizenship and Immigration)*, 2016 FC 1006 at para 23; *Al Aridi v Canada (Citizenship and Immigration)*, 2019 FC 381 at para 20; and *Mahmoudzadeh v Canada (Citizenship and Immigration)*, 2022 FC 453 at paras 14-15. In view of the lack of substantive argument before me and the jurisprudence, I need not address the issue of procedural fairness breach.

[7] The parties agree that the merits of the Decision should be assessed under the standard of review of reasonableness, as required by *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65.

[8] 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.

[9] 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.

## III. Analysis

[10] The Applicant submits the Decision was unreasonable because the Officer erred in their finding on the Applicant's family ties, financial situation, and that the Applicant would not abide by Canadian law and leave Canada at the end of her authorized stay.

[11] With respect to family ties, the Applicant submits the Officer overlooked evidence of significant ties that would compel her return to India.

[12] The Applicant relies on several cases to assert that family ties to an applicant's home country constitute evidence establishing the applicant would leave Canada at the end of their authorized stay, and where the evidence on record points in the opposite direction of an officer's findings, it can be inferred the officer did not review the evidence: *Rodriguez Martinez v Canada (Citizenship and Immigration)*, 2020 FC 293 [*Rodriguez Martinez*] at para 15 and *Kheradpazhooh v Canada (Citizenship and Immigration)*, 2018 FC 1097 [*Kheradpazhooh*] at para 18, respectively.

[13] I am not persuaded by the Applicant's argument. The cases the Applicant cites are distinguishable on the facts. In *Rodriguez Martinez*, Justice McHaffie faulted the visa officer for simply noting the family savings and income without any analysis of why they support a conclusion that the applicants would not leave Canada. In *Kheradpazhooh*, the Court found the officer ignored concrete evidence in the applicants' TRV applications establishing their strong

family and economic ties to Iran, and the officer's disregard of evidence that squarely contradicted the officer's conclusion was unreasonable: *Kheradpazhooh* at para 18.

[14] In the case at hand, other than stating that her parents "will remain in India at this time," the Applicant provided no submission or evidence with respect to her family ties. The Applicant made a new argument at the hearing stating that, as a daughter, she is expected to look after her parents as they age. I note that the Applicant did not make this submission in her TRV application and provided no evidence to that effect.

[15] In light of the insufficient evidence before them, the Officer's conclusion that the Applicant does not have significant family ties outside of Canada was not unreasonable.

[16] Turning now to the second issue the Applicant raises, the Officer's Global Case Management System notes indicate the Officer was concerned with the Applicant's financial status and low earnings, before concluding that the Applicant does not appear to be sufficiently well established and that the proposed visit would not be a reasonable expense.

[17] The Applicant takes issue with the Officer's assessment and submits that she provided evidence of sufficient funds. The Applicant submits she has full-time employment in India, holds significant assets amounting to $241,920, and her bank balance is $24,900, which, she submits, demonstrates her ability to expense her visit to Canada.

[18] I reject the Applicant's submissions for two reasons. First, the case law suggests it is not unreasonable for an officer to refuse an application based on an applicant's low earnings in their country of origin and the Court has accorded high deference to visa officers in that respect: see for example *Anand v Canada (Citizenship and Immigration)*, 2019 FC 372 at para 30 and *Lydie v Canada (Citizenship and Immigration)*, 2018 FC 1129 at paras 24-27. The evidence before the Officer indicates that the Applicant makes 16,400 rupees a month from her employment as a nurse, a job she started just several months prior to her TRV application. According to the Respondent, 16,400 rupees is roughly equivalent to $260 per month. It was not unreasonable for the Officer to characterize this amount as "low earning."

[19] Second, as the Respondent points out, and I agree, much of the assets the Applicant declares in her evidence appears to be her parents' assets. It was thus not unreasonable for the Officer to find that there was insufficient proof of financial status/funds on file for the Applicant herself.

[20] The Applicant argued at the hearing that while the assets are held under her parents' name, these assets would be passed on to her, as would normally be the case in India. Just like the Applicant's new argument concerning family ties, there is nothing in the record to support this new assertion.

[21] Finally, the Applicant submits there was no evidence before the Officer to suggest that she would not comply with Canadian law and that it was unreasonable for the Officer to conclude she would not leave Canada, without explaining how this decision was reached.

[22] I disagree.

[23] Contrary to the Applicant's submission, the Officer did provide an explanation based on the purpose of the visit, the Applicant's insufficient ties and establishment, and the Applicant's insufficient proof of funds on file. While the Applicant may disagree with the Officer's conclusion, I reject the Applicant's assertion that this conclusion was unsupported by the evidence.

[24] The Applicant cites *Cervjakova v Canada (Citizenship and Immigration)*, 2018 FC 1052 [*Cervjakova*]. I agree with the Respondent that *Cervjakova* is distinguishable, albeit for different reasons.

[25] In *Cervjakova*, Justice Norris took issue with the basis of the officer's conclusion that the applicant had not complied with Canadian immigration law and found the officer's conclusion that the applicant did not have the financial means was also not reasonably supported by the record.

[26] Here, the Officer's assessment of the Applicant's low earning and insufficient proof of financial funds was supported by the record, so was the Officer's finding of insufficient ties and establishment. These findings informed the Officer's consideration of the reasonableness of the Applicant's purpose of visit, which led to the Officer not being satisfied that the Applicant would leave Canada at the end of the period of authorized stay. While the reasons were brief, they were

sufficient to meet the requisite standard of justification, transparency, and intelligibility: *Vavilo*v at para 98.

## IV. Conclusion

[27] The application for judicial review is dismissed.

[28] There is no question for certification.

**JUDGMENT in IMM-6198-23**

**THIS COURT'S JUDGMENT is that**:

1. The application for judicial review is dismissed.

2. There is no question for certification.

"Avvy Yao-Yao Go"
Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

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| **DOCKET:** | IMM-6198-23 |
| **STYLE OF CAUSE:** | NAVJEET KAUR v THE MINISTER OF CITIZENSHIP AND IMMIGRATION |
| **PLACE OF HEARING:** | HELD VIA VIDEOCONFERENCE |
| **DATE OF HEARING:** | MAY 13, 2024 |
| **JUDGMENT AND REASONS:** | GO J. |
| **DATED:** | MAY 21, 2024 |

**APPEARANCES:**

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|---|---|
| Amit Vinayak | FOR THE APPLICANT |
| Lorne McClenaghan | FOR THE RESPONDENT |

**SOLICITORS OF RECORD:**

| | |
|---|---|
| Amit Vinayak<br>Amit Vinayak Law Office<br>Brampton, Ontario | FOR THE APPLICANT |
| Attorney General of Canada<br>Toronto, Ontario | FOR THE RESPONDENT |