Federal Court  Cour fédérale

Date: 20240521

Docket: IMM-2894-23

Citation: 2024 FC 767

Vancouver, British Columbia, May 21, 2024

PRESENT: Madam Justice St-Louis

BETWEEN:

KEXIN CHEN

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] In 2015, Ms. Chen arrived in Canada to study. In May 2022, she completed her university studies and, per the information contained in the Certified Tribunal Record [CTR], the same month she applied to Immigration, Refugees and Citizenship Canada [Immigration Canada] for a Post-Graduate Work Permit [PG Work Permit].

[2] On October 4, 2022, an immigration officer denied Ms. Chen the PG Work Permit she sought because she had not maintained full time studies as required by the PG Work Permit program. Along with the refusal, the immigration officer informed Ms. Chen she was required to leave Canada, as her last study permit had expired on July 31, 2022.

[3] On October 13, 2022, Ms. Chen applied, through a representative, for a restoration of her status under section 182 of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [Regulations] and again, for a work permit under the PG Work Permit program. In the written representations submitted on her behalf, Ms. Chen's circumstances were explained. It was also acknowledged that Ms. Chen had been informed that studying part-time could have had an impact on her eligibility for a work permit and that she had indeed been enrolled for fewer than 12 credits during the Fall 2017; Fall 2020; and Winter 2021 semesters.

[4] It is not entirely clear, as discussed at the hearing, if Ms. Chen included an application for a study permit along with her restoration and PG Work Permit applications. The CTR contains no study permit application and the letter submitted on her behalf makes no mention of a study permit application. The letter does indicate that "In addition to the work permit application fee $155 and the open work permit fee $100, she has also enclosed the receipt for the study permit application fee $150 and the restoration fee $200" (CTR at p 16). However, the fee receipt that was submitted with the application confirms Ms. Chen paid an amount of $350.00 which covers only the restoration and the work permit (CTR at p 26).

[5] On February 15, 2023, an immigration officer [Officer] denied Ms. Chen's applications for a PG Work Permit and for restoration of status. In the February 15, 2023 letter sent to the Applicant, the Officer stated that :

> A visitor, worker or student who loses temporary resident status for failure to comply with the following conditions imposed under:
> • paragraph 185(a),
> • any of subparagraphs 185(b)(i) to (iii), or
> • paragraph 185(c) [of the Immigration and Refugee Protection Act, SC 2011, c 27]
> may be eligible for restoration of temporary resident status if an application is submitted within 90 days after loss of status and if following examination it is established that the applicant meets the initial requirements for their stay and has complied with any other conditions imposed. In your case, you have not maintained full time student status in Canada during each academic session of the program studied; therefore you are not eligible to have your temporary resident status restored.
>
> Since you no longer hold temporary resident status in Canada your application for a work permit is also refused

[6] The Officer's notes in the GCMS system indicate that:

> Client is requesting restoration of temporary resident status and a permit. Client last entered Canada on 2021/06/29 and was authorized to remain in Canada as a temporary resident on a study permit until 2022/10/04. Client has remained in Canada since without authorization. Client has failed to comply with the condition imposed under R185(a) to leave Canada by 2022/10/04. As per A47(a) temporary resident status has been lost. Has applied for and is not eligible for restoration consideration under R182. Application for restoration is refused. Client submitted application for PGWP (W307494807) on 2022/10/13. They provided the required documents. Eligibility However upon review client was part-time in Fall 2017, Fall 2020 and Winter 2021. To be eligible for the Post-grad work permit Client should have maintained full-time student status in Canada during each academic session of the program or programs of study they have completed and submitted as part of their post-graduation work permit application. Exceptions can be made only for the following: -leave from studies -final academic session Client doesn't qualify as full time studies,

> client is not eligible for a post-gradation work permit. I am therefore refusing this application under R205(c)(ii).

[7] It is not clear if Ms. Chen was, or not, required to include a study permit application along with her restoration and PG Work Permit application; the Immigration Canada program delivery instructions seem to require it. However, the Officer did not take issue with this aspect so I will not address it.

[8] As was unequivocally confirmed during the hearing of this application, Ms. Chen does not challenge the Officer's decision to refuse her PG Work Permit application since she did not maintain full-time studies. Ms. Chen challenges solely the refusal of her restoration of status application.

[9] In this regard, Ms. Chen takes issue particularly with the manner in which her restoration application was denied given the Officer's reasons. Ms. Chen asserts that (1) given the language of section 182 of the Regulations, her restoration application could not be refused on the basis of her failure to maintain full-time student status as mentioned in the refusal letter; (CTR at p 33); and (2) based on the fact that her temporary resident status had been lost, as indicated in the Global Case Management System Notes [GCMS notes], as this is precisely the aim of the restoration (CTR at p 1).

[10] Finally, Ms. Chen submits that neither the refusal letter nor the GCMS notes contain any other grounds that would reasonably justify the refusal of the Applicant's restoration request.

[11] The Respondent, the Attorney General of Canada, argues that the decision is reasonable, and that the reasons are sufficient.

[12] For the reasons below, I will dismiss the Application for judicial review.

II. Analysis

[13] I agree with the parties that I must review the Officer's decision under the reasonableness standard (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at paras 16–17, 23–25; *Lawrence v Canada (Citizenship and Immigration)*, 2021 FC 607 at paras 19–20).

[14] A reasonable decision is one that is internally coherent and justified in light of the legal and factual constraints that bear on it (*Vavilov* at paras 85, 99, 106-106). The decision maker must take the evidentiary record and the general factual matrix that bear on its decision into account and its decision must be reasonable in light of them (*Vavilov* at para 126). Furthermore, in order to intervene, I must find an error in the decision that is sufficiently central or significant to render the decision unreasonable (*Ocran v Canada (Citizenship and Immigration)*, 2022 FC 175 at para 16, citing *Vavilov*, at para 100; *Canada (Citizenship and Immigration) v Mason*, 2021 FCA 156, at para 36; *Alexion Pharmaceuticals Inc v Canada (Attorney General)*, 2021 FCA 157, at para 13).

[15] The burden is on the applicant to show that there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency (*Vavilov* at para 100).

[16] I note that subsection 182(1) of the Regulations allows for restoration of the temporary resident status of a visitor, worker or student within 90 days after that status is lost if, namely, an examination reveals that they meet the initial requirements of their stay.

[17] I also note that in the context of a restoration of status application from a foreign student that comes with an application for a PG Work Permit, subsection 182(1) of the Regulations has been interpreted to mean that an applicant, whose study permit has expired and who needs a PG Work Permit, is required to show that he or she meets the requirements for a PG Work Permit and not those for a study permit (*Abubacker v Canada (Citizenship and Immigration*), 2016 FC 1112 at para 13).

[18] As Ms. Chen did not meet the full-time study requirement of the PG Work Permit program, it was thus reasonable for the Officer to find that she was not eligible for restoration pursuant to subsections 182(1) and 179(d) of the Regulations. This is consistent with the case law from the Court.

[19] The reasonableness review is not a line-by-line treasure hunt for error (*Vavilov* at para 102) and the Court must consider the administrative decision maker's reasoning and conclusion as a whole (*Vavilov* at para 102; *Agraira v Canada (Public Safety and Emergency*

Preparedness), 2013 SCC 36 at para 53; *Communications, Energy and Paperworkers Union of Canada, Local 30 v Irving Pulp & Paper Ltd*, 2013 SCC 34 at para 54). In this case, I am satisfied the Officer was aware and alert to the general factual matrix and to the legal constraints; as the case law directed them, he examined if Ms. Chen met the PG Work Permit requirements, found she did not, and consequently denied her the restoration of status she sought.

[20] I acknowledge that the Officer's language could have been better and clearer. However, I must bear in mind that the written reasons given by an administrative body must not be assessed against a standard of perfection (*Vavilov* at para 91). As Mr. Justice Denis Gascon stated in *Paulo v Canada (Citizenship and Immigration)*, 2020 FC 990 at para 62:

> [T]he reasons for a decision do not need to be perfect or even comprehensive. They only need to be comprehensible and justified. The reasonableness standard does not concern a decision's degree of perfection, but only its reasonableness (*Vavilov* at para 91; *Bhatia v Canada (Citizenship and Immigration)*, 2017 FC 1000 at para 29).

[21] Ms. Chen has not demonstrated the Officer's decision is unreasonable.

III. Conclusion

[22] For the above reasons, I will dismiss the application. The parties have not proposed any certified questions and none arises.

JUDGMENT in IMM-2894-23

THIS COURT'S JUDGMENT is that:

1. The Application for judicial review is dismissed.

2. No question is certified.

3. No costs are awarded.

"Martine St-Louis"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-2894-23
STYLE OF CAUSE:	KEXIN CHEN v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	VANCOUVER, BRITISH COLUMBIA
DATE OF HEARING:	MAY 15, 2024
JUDGMENT AND REASONS:	ST-LOUIS J.
DATED:	MAY 21, 2024

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