Federal Court



Cour fédérale

Date: 20240724

**Docket: IMM-9578-23** 

**Citation: 2024 FC 1165** 

Toronto, Ontario, July 24, 2024

**PRESENT:** The Honourable Justice Battista

**BETWEEN:** 

SIMRANPREET SINGH

**Applicant** 

and

# THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

### <u>JUDGMENT AND REASONS</u> (Delivered from the Bench at Toronto, Ontario, on July 23, 2024)

- [1] This is an application for judicial review of a refusal of the Applicant's application for a work permit supported by a Labour Market Impact Assessment. The Applicant was offered employment as a dump truck driver by a company named Kingdom Team in Caledon and Brampton, Ontario.
- [2] The application was refused on the basis that the Applicant did not meet the educational requirements for the position. After correctly stating that the National Occupational Classification position description states that it usually requires a high school diploma, the Officer refused the

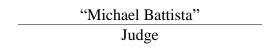
application because the Applicant did not provide proof of a high school diploma. I agree with the Applicant that the Officer turned a non-mandatory requirement into a mandatory requirement and therefore erred.

- [3] After erroneously refusing the application for this reason, the Officer added that the application should also be refused due to the absence of evidence that the Applicant had sufficient English language skills to perform the duties required. The Officer appeared to be under the incorrect impression that language tests were required to demonstrate English language fluency. In the process, the Officer ignored an array of other evidence indicating the Applicant's language fluency, including his successful Ontario education in English, a letter from his prospective Ontario employer verifying his ability to interpret instructions and perform the job, and the Applicant's acquisition of an Ontario driver's licence.
- [4] The decision is unreasonable and will be set aside.

## **JUDGMENT in IMM-9578-23**

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

- 1. The application for judicial review is granted.
- 2. The decision on the Applicant's work permit application is quashed and the matter will be redetermined by a different officer.
- 3. The Applicant withdrew his initial request for costs and therefore no costs are awarded.
- 4. There is no question for certification.



#### **FEDERAL COURT**

## **SOLICITORS OF RECORD**

**DOCKET:** IMM-9578-23

**STYLE OF CAUSE:** SIMRANPREET SINGH v THE MINISTER OF

CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** JULY 23, 2024

**JUDGMENT AND REASONS:** BATTISTA J.

**DATED:** JULY 24, 2024

**APPEARANCES**:

Peter Salerno FOR THE APPLICANT

Desmond Jung FOR THE RESPONDENT

**SOLICITORS OF RECORD:** 

Green and Spiegel LLP FOR THE APPLICANT

**Barristers and Solicitors** 

Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT

Toronto, Ontario