

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

JUDGMENT AND REASONS

(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.

“Michael Battista”

Judge

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:

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