

Federal Court



Cour fédérale

Date: 20120705

Docket: T-9-11

Citation: 2012 FC 852

Calgary, Alberta, July 5, 2012

PRESENT: The Honourable Mr. Justice Zinn

BETWEEN:

REHANA AZIZ SHAH

Applicant

and

**MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an appeal of a decision of a Citizenship Judge who did not approve Mrs. Shah's application for citizenship.

[2] Mrs. Shah is a citizen of Pakistan. She became a permanent resident of Canada on September 24, 2002, and submitted an application for citizenship on November 5, 2008.

[3] On November 9, 2010, Mrs. Shah attended an interview with a Citizenship Judge. The Citizenship Judge assessed her physical presence in Canada, her language skills and her knowledge of Canada.

[4] After the interview, the Citizenship Judge sent the applicant a letter entitled "ADDITIONAL INFORMATION REQUEST FOR CITIZENSHIP APPLICATION". That letter states: "You may provide additional supporting documents and/or evidence that you deem relevant to proving your physical presence in Canada throughout your relevant period 6 Nov. 2004 – 6 Nov. 2008." She was given 30 days to submit that information.

[5] Before the expiry of the 30 day period, the very next day, in fact, Mrs. Shah received a letter rejecting her citizenship application. The Citizenship Judge found that she failed to satisfy the language requirement at paragraph 5(1)(d) and the knowledge requirement at paragraph 5(1)(e) of the *Citizenship Act*, RSC 1985, c C-29. The Citizenship Judge's comment relating to Mrs. Shah's language abilities are reproduced below:

The applicant was able to say hello and tell me her name, but unable to spell it when asked. She indicated the weather was cold outside, and able to understand to sit down.

- 1) I asked the applicant to tell me about her country and she began talking about her family. She was unable to tell me about the weather there, foods, or holidays, as I had requested. She was able to use a short sentence or two, but unable to use connector words.

To confirm, I asked her to tell me about her family. She was able to tell me how many sons and daughters she had and some of their occupations, but unable to form complete sentences or use connector words.

- 2) I asked the applicant to tell me about her first day in Canada. She understood the idea of her first day, but was unable to form sentences

or describe any event that happened that day. Any verbs used were in present tense.

To confirm, I asked her what she did before coming to Canada. No verbs used were in past tense.

- 3) Applicant was able to express satisfaction with living in Canada, but not in sentences, and did not express dissatisfaction.

To confirm, I asked what season she liked the best and which she liked the least. She expressed satisfaction with holidays and December. She expressed it was very nice and Christmas was very cold.

- 4) I asked her where she likes to go shopping, and directions for how she would get there. She was unable to do this clearly.
- 5) She was able to identify items in my office when asked specifically which objects I pointed to.
- 6) When asked about what she does in her free time, she listed several nouns, and used very few verbs, all in present tense. She was unable to formulate a proper sentence.

[6] As for the applicant's knowledge test, the Citizenship Judge wrote:

At the hearing, you were able to answer eleven out of 20 questions correctly. A score of fifteen out of 20, is required to pass. You were unable to answer fully and correctly questions in respect to voting procedures related to elections, and one or more of the chief characteristics of each of: Canadian political and military history, social and cultural history, political structure; physical and political geography, and characteristics of Canada, other than those referred to above.

[7] The Citizenship Judge considered whether or not to make a recommendation for an exercise of discretion under subsections 5(3) and 5(4) of the Act but found there was no evidence presented at the hearing to justify it.

[8] Mrs. Shah submits that the Citizenship Judge was prevented from issuing her decision until the 30 day period for providing the additional information had passed. I do not agree. The additional documentation related to Mrs. Shah's presence in Canada, not her abilities in English or her knowledge of Canada. As the decision to reject her application was made based on those failures, and not her presence in Canada, there was no impediment to the Citizenship judge rendering her decision, notwithstanding the earlier request for additional information.

[9] I further find that the decision of the Citizenship judge as to Mrs. Shah's language ability was reasonable. She made her submissions to this Court through an interpreter. Moreover, she brought with her to the citizenship hearing the same interpreter. Both appear to have been upset when the Judge indicated that the interpreter was to remain silent during the hearing. When a part of the purpose of the hearing is to assess language ability, that is an appropriate request. The fact that an applicant brings an interpreter with her strongly suggests that language may be an issue.

[10] Mrs. Shah asks the Court to recognize that her English skills are adequate. As she spoke not one word of English during the hearing of this appeal that is not possible, even if the Court could substitute its opinion for that of the Citizenship judge. She says that a person of her age is likely to stumble when asked the fast and direct questions that she was by a Citizenship Judge with an oriental accent which was hard to understand. However, no such complaint was made to the Citizenship Judge and it is too late to raise such issues for the first time on appeal.

[11] Mrs. Shah says that she is the sole caretaker of her 64-year-old husband who wishes to travel to Pakistan and that she has to go with him and, for piece of mind, would like her citizenship

application completed before then. She further says that she and her husband are incapable of spending the winters in Canada. As a result, she says that if she were to submit a new citizenship application she would be refused due to not meeting the minimal physical presence in Canada requirement. All this may be correct, however, none are sufficient to suggest that the Citizenship Judge erred in her decision or that there are sufficient grounds to return this for consideration as to whether to make a recommendation that citizenship be granted notwithstanding her failures regarding language and knowledge of Canada.

[12] A grant of citizenship from a country where one was not born is a privilege, not a right. The citizens of Canada, through their government, have established minimum requirements that one must meet if the privilege of citizenship and the rights that come with it are to be granted. An ability to communicate with other citizens and to have a basic fundamental knowledge of the history, political structure, and characteristics of Canada are reasonable requirements to be granted the privilege of citizenship.

[13] The appeal is dismissed.

JUDGMENT

THIS COURT'S JUDGMENT is that the appeal of the decision of the Citizenship Judge denying the application for citizenship is dismissed.

"Russel W. Zinn"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-9-11

STYLE OF CAUSE: REHANA AZIZ SHAH v.
MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: Calgary, Alberta

DATE OF HEARING: July 4, 2012

**REASONS FOR JUDGMENT
AND JUDGMENT:** ZINN J.

DATED: July 5, 2012

APPEARANCES:

Rehana Aziz Shah	ON HER OWN BEHALF / SELF-REPRESENTED
Jamie Churchward	FOR THE RESPONDENT

SOLICITORS OF RECORD:

REHANA AZIZ SHAH Calgary, Alberta	ON HER OWN BEHALF / SELF-REPRESENTED
MYLES J. KIRVAN Deputy Attorney General of Canada Prairie Region Edmonton, Alberta	FOR THE RESPONDENT