

Federal Court



Cour fédérale

Date: 20170214

Docket: IMM-1645-16

Citation: 2017 FC 186

Ottawa, Ontario, February 14, 2017

PRESENT: The Honourable Mr. Justice Russell

BETWEEN:

RAVNEET BHATTI

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. INTRODUCTION

[1] This is an application under s 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [Act] for judicial review of the decision of an immigration officer at the Embassy of Canada in Warsaw [Visa Officer], dated April 15, 2016 [Decision], which denied the Applicant's application for permanent residence as a member of the Federal Skilled Worker [FSW] class.

II. BACKGROUND

[1] The Applicant is a 30-year-old citizen of India. In September 2014, she filed an application for permanent residence in Canada as a member of the FSW class under National Occupation Code 1123 [NOC], which includes professional occupations in marketing, advertising, and public relations. As part of her application, the Applicant included reference letters from the company Apus Life, which confirmed she had been employed at the firm as a Marketing Coordinator since July 2012.

[2] Upon initial review, the reviewing officer had concerns regarding the Applicant's employment documentation, which he noted as "limited" and "of poor quality," and recommended the information be verified via a telephone call. Consequently, a member of Citizenship and Immigration Canada [CIC] made two telephone calls to the Applicant and Apus Life on November 16, 2016, at which point the Applicant informed CIC that she had resigned from the position in July 2015.

[3] After the telephone verification calls were completed, the reviewing officer noted disparities between the answers provided by the Applicant and personnel at Apus Life. Most notably, the Applicant had stated that: she was unable to name any clients because Apus Life's company policy dictated that clients be dealt with as individuals, not as companies; Apus Life had clients in Pathankot and Rohtak (in Haryana); Apus Life held staff meetings monthly; Apus Life's accountants, including Arijit, came to the office a few times each month; and Apus Life's sales targets were 2 to 5 lacs a month. These answers contradicted those given by

Apus Life's current employees, who stated that: the Applicant had held a supervisory role rather than a marketing position; clients were always to be referred to by company, not name; Apus Life did not have clients in Pathankot or Haryana; Apus Life held staff meetings every Saturday; Apus Life's accountants, Virender and Rakesh, came to the office once a month; and Apus Life's sales target was 10 lacs a month.

[4] A procedural fairness letter dated December 10, 2015 outlined these concerns to the Applicant. The letter noted that due to the wide discrepancy between the answers provided by the Applicant and Apus Life during the telephone verification calls, the reviewing officer was not satisfied the Applicant had the stated work experience as a Marketing Coordinator at Apus Life. The letter also stated that the reviewing officer believed the Applicant had deliberately attempted to mislead CIC in a relevant matter that could induce an error in the administration of the Act. Consequently, the reviewing officer informed the Applicant that she was under consideration to be deemed inadmissible under s 40 of the Act for misrepresentation and would continue to be inadmissible for a period of five years. The letter concluded with an invitation for the Applicant to respond to the concerns within 30 days.

[5] The Applicant's response to the procedural fairness letter was received by CIC on January 14, 2016. In the response, the Applicant included proof of her work experience as a Marketing Coordinator at Apus Life in the form of three statutory declarations from herself and Apus Life representatives as well as two Form 16 tax returns prepared by Apus Life for 2014 and 2015.

III. DECISION UNDER REVIEW

[6] The Decision sent from a Visa Officer to the Applicant by letter dated April 15, 2016 determined that the Applicant did not qualify for immigration to Canada as a member of the FSW class.

[7] The Visa Officer determined that the Applicant was inadmissible to Canada due to misrepresentation under s 40 of the Act. Based on a balance of probabilities, the Applicant was found to have misrepresented her employment history as a Marketing Coordinator for Apus Life through the submission of a fraudulent letter of reference. The Applicant's response to the procedural fairness letter dated December 17, 2015 did not assuage the concerns regarding the Applicant's employment history. Consequently, the Applicant was deemed inadmissible to Canada for a period of five years from the date of the Decision.

[8] In the Global Case Management System [GCMS] notes, the reviewing officer's recommendation for a refusal based on misrepresentation was based upon the inconsistencies in the answers provided during the telephone verification calls and the Applicant's inability to identify any of her former employer's clients, which failed to satisfy the reviewing officer that the Applicant possessed the stated work experience. The designated officer responsible for reviewing misrepresentation confirmed the refusal for misrepresentation on the basis that the Applicant's response to the procedural fairness letter did not assuage the letter's stated concerns due to the Applicant's failure to satisfactorily explain why she was unfamiliar with the basic information of Apus Life's marketing program.

IV. ISSUES

[9] The Applicant submits that the following are at issue in this application:

- (a) Did the Visa Officer err in refusing the Applicant's application for permanent residence on April 15, 2016?
- (b) Did the Visa Officer err in finding the Applicant had submitted a fraudulent letter of reference from Apus Life without providing an opportunity to respond?

[10] The Respondent submits that the following is at issue in this application:

- (a) Was the Visa Officer's Decision reasonable?

V. STANDARD OF REVIEW

[11] The Supreme Court of Canada in *Dunsmuir v New Brunswick*, 2008 SCC 9 [*Dunsmuir*] held that a standard of review analysis need not be conducted in every instance. Instead, where the standard of review applicable to a particular question before the court is settled in a satisfactory manner by past jurisprudence, the reviewing court may adopt that standard of review. Only where this search proves fruitless, or where the relevant precedents appear to be inconsistent with new developments in the common law principles of judicial review, must the reviewing court undertake a consideration of the four factors comprising the standard of review analysis: *Agraira v Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36 at para 48.

[12] The first issue raised by the Applicant regards a visa officer's assessment of an application for permanent residence, which involves questions of mixed fact and law and is

reviewable under the standard of reasonableness: *Canada (Citizenship and Immigration) v Young*, 2016 FCA 183 at para 7; *Odunsi v Canada (Citizenship and Immigration)*, 2016 FC 208 at para 13.

[13] As a matter of procedural fairness, the second issue regarding whether the Visa Officer should have advised the Applicant about the concerns involving the supporting documentation in the procedural fairness letter will be reviewed under the standard of correctness: *Khosa v Canada (Citizenship and Immigration)*, 2009 SCC 12 at para 43 [*Khosa*].

[14] When reviewing a decision on the standard of reasonableness, the analysis will be concerned with “the existence of justification, transparency and intelligibility within the decision-making process [and also with] whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law.” See *Dunsmuir*, above, at para 47, and *Khosa*, above, at para 59. Put another way, the Court should intervene only if the Decision was unreasonable in the sense that it falls outside the “range of possible, acceptable outcomes which are defensible in respect of the facts and law.”

VI. STATUTORY PROVISIONS

[15] The following provisions from the Act are relevant in this proceeding:

Misrepresentation

40 (1) A permanent resident or a foreign national is inadmissible for misrepresentation

Fausses déclarations

40 (1) Emportent interdiction de territoire pour fausses déclarations les faits suivants :

(a) for directly or indirectly misrepresenting or withholding material facts relating to a relevant matter that induces or could induce an error in the administration of this Act;

a) directement ou indirectement, faire une présentation erronée sur un fait important quant à un objet pertinent, ou une réticence sur ce fait, ce qui entraîne ou risque d'entraîner une erreur dans l'application de la présente loi;

...

...

Application

Application

(2) The following provisions govern subsection (1):

(2) Les dispositions suivantes s'appliquent au paragraphe (1):

(a) the permanent resident or the foreign national continues to be inadmissible for misrepresentation for a period of five years following, in the case of a determination outside Canada, a final determination of inadmissibility under subsection (1) or, in the case of a determination in Canada, the date the removal order is enforced;

a) l'interdiction de territoire court pour les cinq ans suivant la décision la constatant en dernier ressort, si le résident permanent ou l'étranger n'est pas au pays, ou suivant l'exécution de la mesure de renvoi;

...

...

VII. ARGUMENTS

A. *Applicant*

(1) Procedural Fairness

[16] The Applicant submits that the Visa Officer breached the principles of procedural fairness in finding the letter of reference to be fraudulent without notifying the Applicant of

concerns regarding the letter and providing her with an opportunity to respond. The procedural fairness letter only referenced concerns regarding the discrepancies between the answers provided in the telephone verification calls, which the Applicant sought to assuage in her statutory declaration and additional supporting documentation. Furthermore, the GCMS notes demonstrate a concern with the author of the reference letter as being related to the Applicant, which is inaccurate and was never disclosed to the Applicant.

[17] The Decision and the reasons do not indicate any concern with the supporting documentation nor do they indicate the reason why the letter was found to be fraudulent. This Court has found that where an officer finds a letter not to be credible or fraudulent, an applicant should be provided with an opportunity to respond to those concerns via an interview, which was not done in the present case: *Kaur v Canada (Citizenship and Immigration)*, 2011 FC 219 at para 28. Thus, the Visa Officer breached the duty of procedural fairness owed to the Applicant.

(2) Reasonableness

[18] The Applicant argues that the Visa Officer erred by failing to give proper consideration to the documentary evidence and only focusing on the telephone verification calls, which suggests the Visa Officer had a closed mind and there was an absence of any true weighing of the positive and negative evidence.

[19] The Applicant contends that the supporting documentation should have been given more positive weight. The initial review viewed the documentation as positive and corresponding with the duties of the NOC; thus, it should not have been characterized as “of poor quality.”

Additionally, the discrepancies resulting from the telephone verification calls can be explained by the fact that the CIC member making the calls did not speak with Apus Life employees, but with employees of other companies who worked in the same office as Apus Life. This is demonstrated in paragraph 7 of the GCMS entry referencing the telephone calls, whereby Neetu states she works for Hecures Division rather than Apus Life.

[20] In her response to the procedural fairness letter, the Applicant submitted a variety of documents, including statutory declarations by third parties with knowledge of the Applicant's employment history as well as income tax certificates relating to her employment at Apus Life that verify the one-year qualifying period of work experience necessary for eligibility as a FSW. This documentation was not reasonably dealt with in a clear and intelligible manner in the reasons for the Decision. Instead, the focus was on the information provided during the telephone verification calls.

[21] In summary, the Applicant submits that the Decision was incorrect as well as unreasonable and should be quashed and reconsidered by a different visa officer.

B. *Respondent*

(1) Procedural Fairness

[22] The Respondent submits that the Visa Officer provided the Applicant with an opportunity to respond to the case against her. The procedural fairness letter stated there were concerns regarding the discrepancies between the Applicant's answers and the Apus Life employees'

answers on the day of the telephone verification calls. The procedural fairness letter also noted that the Applicant was under consideration for a finding of misrepresentation under s 40 of the Act. Although the procedural fairness letter did not specifically state that there was a concern that the Applicant's reference letter was fraudulent, it follows that if the Applicant could not have claimed the stated work experience as a Marketing Coordinator at Apus Life, the reference letter was fraudulent. Thus, the concerns regarding the reference letter were implied in the procedural fairness letter and the fact that the concerns were not explicitly stated did not compromise the Applicant's opportunity to respond to the concerns.

[23] In the Applicant's response to the procedural fairness letter, nearly all of the discrepancies in the evidence were addressed, which indicates she understood the nature of the concerns about her application. However, the Applicant has not been able to point to any evidence that, upon disclosure, would have affected her submission; thus, the Applicant has not established that the procedural fairness letter was deficient.

[24] In regards to the tax certificates, the Respondent submits that the Visa Officer was under no obligation to provide the Applicant with an opportunity to respond to concerns regarding them. The Visa Officer did not have concerns regarding the tax certificates as they only served to demonstrate the Applicant had been employed by Apus Life for a certain period for a certain salary, which the Visa Officer did not take issue with. Rather, the Visa Officer was concerned with whether the Applicant had been employed by Apus Life as a Marketing Coordinator, and since the tax certificates did not refer to the position held by the Applicant, the Visa Officer was under no obligation to provide the Applicant an opportunity to respond to them.

[25] Likewise, the third-party statutory declarations did not assuage the discrepancies in answers between the telephone verification calls because they failed to satisfactorily explain why the Applicant did not have a basic knowledge of Apus Life's marketing program. Since the Applicant had already been notified of concerns regarding the discrepancies and given an opportunity to respond, the Visa Officer was not obligated to provide a further opportunity to respond to the same concerns.

(2) Reasonableness

[26] The Respondent submits that reasons for the Decision are justified, transparent, and intelligible.

[27] The reasons for finding the letter of reference to be fraudulent are readily apparent in the Decision; namely, the telephone verification calls demonstrated the Applicant was not familiar with the basic information of Apus Life's marketing program, thereby indicating that the reference letter claiming that the Applicant had been a Marketing Coordinator for over a year was fraudulent.

[28] The Decision also demonstrates that the Visa Officer weighed the documentary evidence against the telephone verification evidence but found that the former did not overcome the latter. In *He v Canada (Citizenship and Immigration)*, 2012 FC 33 at para 28, the Court found that the visa officer did not close his mind in giving more weight to a telephone verification call than a procedural fairness letter; the visa officer simply did not find the explanations provided to be plausible. Similarly, in the present case, the Visa Officer did not close his mind in assigning

more weight to the telephone verification calls. As an example of the consideration of the additional evidence, the Visa Officer noted in the GCMS notes that one of the declarants in the Applicant's further supporting documentation had changed their statement from the answer given in the telephone verification call.

[29] In response to the Applicant's argument that the supporting documentation was not of poor quality and should have been accorded more positive weight, the Respondent submits that it was clear from the beginning that the documentation was of poor quality; in fact, the quality of the documentation necessitated the telephone verification call. As for the Applicant's submission that the telephone verification evidence be accorded less weight due the CIC member speaking to non-Apus Life employees, the Respondent points out that the CIC member called the telephone number provided by the Applicant herself, who was responsible for providing the appropriate contact person. Additionally, the other companies, including Hecures, are not wholly unrelated to Apus Life; Hecures is a co-subsiary with Apus Life and shares office space, phone numbers, and employees. Moreover, the CIC member attempted to speak with a Director of Apus Life but was brushed off, which is no fault of the CIC member and does not support the Applicant's argument that the CIC member did not speak to the appropriate people. Finally, the Respondent takes issue with the Applicant's present attempt to explain the discrepancies; the appropriate time for explanations was in her response to the procedural fairness letter, not the present judicial review.

[30] Furthermore, as stated above, the tax certificates were not probative of the Applicant's claim as a Marketing Coordinator and, as such, did not warrant explicit mention in the reasons.

Likewise, although there is a note that one of the reference letter authors is a cousin to the Applicant, it was not necessary to put this information to the Applicant because it is immaterial to the Decision and does not affect the finding that she was not a Marketing Coordinator at Apus Life as claimed. The finding was based on the poor documentation, inconsistent answers provided in the telephone verification calls, and the Applicant's inability to provide basic information about the marketing program in which she claimed she had worked for 3 years.

[31] In summary, the Respondent submits that the Decision was reasonable and made in accordance with the duty of fairness.

VIII. ANALYSIS

A. *General*

[32] In her original application, the Applicant represented that she had had significant work experience as a Marketing Coordinator for "2-3 YEARS." She listed her main duties as follows:

1. Establishing the objective of a marketing campaign and preparing advertising plans accordingly
2. Implements marketing and advertising campaigns. Engaged in online marketing initiatives such as paid search advertising, social media and advertising in newspaper
3. Developing business and planning marketing strategies in coordination with the manager to achieve monthly targets.
4. Generating purchase orders and invoices.
5. Prepares marketing reports by monitoring the monthly sales.
6. Creating company's brand awareness.

7. Notifying the customers about the vital characteristics of the product we are selling.
8. Assists in collating marketing materials as needed and maintains files for graphic related project.
9. Being the key contact for customer feedback responds to the queries quickly and maintains strong long-term customer relationships.
10. Maintain email lists for internal and external communications.
11. Communicates clearly the progress of monthly/quarterly initiatives to internal and external stakeholders.
12. Acting as a liaison between the company and the manufacturers
13. Handling the day to day work including client visits and interaction with the agencies as and when required.
14. Achieving monthly collection targets as set by the company from time
15. Assisting the manager with day to day marketing tasks and coordinating marketing tasks and activities as requested.

[33] As the Visa Officer notes, the Applicant submitted “Limited documentation of poor quality to support employment – three letters, no pay slips, bank statements, ITRs etc.” This meant that verification of the Applicant’s “position, responsibilities, duties, salary, holidays, houses, etc” was required.

[34] The verification process resulted in significant discrepancies and, as the Visa Officer informed the Applicant in the procedural fairness letter, he was “not satisfied you indeed have the stated work experience at Apus Life as a Marketing Coordinator.” It is important to keep this finding in mind. The Visa Officer did not find that the Applicant was not employed by Apus Life, or that she did not have a Marketing Coordinator designation. He found that she had

not demonstrated that she has the “experience” that she claimed to have and that, in fact, she has tried to mislead the Visa Officer on the matter of her “experience.”

[35] When it comes to the final decision it was “experience” that was, once again, emphasized:

Based on the inconsistencies in PA’s responses and the responses from co-workers, and noting that the PA could not identify any of the Companies [*sic*] clients, I am not satisfied PA indeed has the work experience as stated in her application as a Marketing Co-Ordinator for Apus Life. Recommend refusal for misrepresentation.

[emphasis added]

[36] It is necessary to keep the “experience” concern in mind when reviewing the Applicant’s submissions and the documentation that she provided in response to the fairness letter. This is because the Applicant’s submissions and the supporting documentation she provided do not address the Visa Officer’s concerns about actual “experience” as a Marketing Coordinator and do not support the representation regarding experience that was set out in her initial application.

[37] In the full Decision found in the GCMS notes, the Visa Officer’s conclusions are as follows:

PA provided documents stating she was employed at Apus Life as Marketing Co-ordinator from July 2012 to September 2014. PA provided two employment reference letters from Manager Sonoli Singh, and from General Manager Sangram Singh. An employment verification call was made on 13 November 2015 to Apus Life and subsequently to the PA.

The verification team first spoke to Apus Life employee Neetu, who worked at Apus Life during PAs stated employment period. When asked what was PA’s role at Apus Life, Neetu replied she

was supervising staff. When asked what were the sales targets Neetu replied 10 Lacs. When asked to name clients of Apus Life Neetu stated Maya Drugs, Sichar, and B.D. Pharma in West Bangel. When PA was asked these same questions she started, monthly sales targets were 2.5 to 5 Lacs., [sic] PA was not able to name any clients, stating that this was because she dealt with clients on an individual basis; when pressed she provided two male names and the cities where they are from. PA was asked for the name of the company Chartered Accountant, but was unable to give this information.

A PFL was sent on 17 December 2015 asking PA to respond to the inconsistencies identified in the phone verification of 13 November 2015. PA provided three statutory declarations and two Form 16 Tax Returns prepared by Apus Life for 2014; and 2015. I have reviewed all the information on this file including the response to PFL of 13 November 2015. In her PFL response PA provided signed statutory declarations from the Apus Life employees spoken to on the verification telephone call; two employees now have changed their statements and claim PA did work for Apus Life as Marketing Co-Ordinator. Sangram Singh, General Manager of Apus Life who originally provided a reference letter for PA, provided statutory declaration stating that PA was employed as Marketing Co-Ordinator, and that he did not want to speak to the CIC verification person because he was too busy, but we could now call and he will be happy to speak to us. I note that Sangram Singh is married to Sonali Singh, Manager of Opus [sic] Life. Sonali Singh is the sister pf PA's cousin. Based on the inconsistencies in PA's responses and the responses from co-workers, and noting that the PA could not identify any of the Companies [sic] clients; I am not satisfied PA indeed has the work experience as stated in her application as a Marketing Co-Ordinator for Apus Life. Recommend refusal for misrepresentation .

Misrepresentation review

Based on the balance of probabilities, applicant appears to have misrepresented her employment history with Apus Life as Marketing Co-ordinator from July 2012 to September 2014. Comprehensive verifications by telephone by DELHI-IM with Apus Life and with the applicant revealed that the applicant was not familiar with basic information of Apus Life's Marketing program.

This misrepresentation relates to a relevant matter that could have induced an error in the administration of the act insofar as it allowed the applicant's application to meet Ministerial Instructions and to be put into processing, and to meet Minimum Requirements for Experience.

On 17 December 2015, we sent PA a PF letter detailing our concerns. PA's response and supporting documentation does not assuage my concerns, as they do not satisfactorily explain why the applicant was unfamiliar with basic information of Apus Life's Marketing program. I therefore find this information to be of little significance.

Minimum Requirements for Experience not met. Application refused.

Applicant is inadmissible to Canada as per A40(1)(a), and continues to be inadmissible to Canada as per A40(2)(a), for a period of 5 years as of today's date[.]

[38] The Applicant has raised both procedural fairness and reasonableness issues and I will review each in turn. The Applicant's emphasis at the application hearing before me was different from her written submissions so that I will deal with both.

B. *Procedural Fairness*

[39] In her written submissions, the Applicant argues as follows:

18. The decision says that the applicant was found to "appear to have misrepresented your employment history with Apus Life as Marketing Co-ordinator" and "appear to have submitted a fraudulent letter of reference from Apus Life."
19. However, nowhere in the procedural fairness letters, or in the reasons for decision, is any assertion made that the applicant's letter of reference from Apus Life was fraudulent as stated in the decision. Nor are any reasons given for believing that the applicant's letter of reference from Apus Life was fraudulent, as stated in the decision.

20. What the procedural fairness letters had stated was that “There is a wide discrepancy in your answers and the answers obtained from employees of APUS Life. I am not satisfied you indeed have the stated work experience at APUS Life as a Marketing Co-Ordinator.”
21. The applicant responded to the wording of the procedural fairness letters by providing her own Statutory Declaration explaining the alleged discrepancies and I also providing a variety of third party documents in support of her stated work experience. Those documents included Statutory Declarations by third parties knowledgeable of the applicant’s work history as well as Form 16 certificates that had been filed by Apus Life under the Income-tax Act, 1961 prior to the date of any verification calls and prior to any procedural fairness letter.
22. Nowhere in the reasons for decision is proper regard given to Income Tax filings that had been filed with government authorities by the applicant’s former employer Apus Life prior to the verification calls and which were provided by the Applicant to the visa office in response to the procedural fairness letters. Those tax filings certify with respect to taxes deducted at source on salary for Ravneet Bhatti as an employee of Apus Life Private Limited.
23. The Certificates filed by Apus Life under the Income-tax Act, 1961 provided by the applicant in response to the procedural fairness letters covered the periods of 1-Apr-2014 to 31-Mar-2015 and for 1-Apr-2015 to 10-July-2015. Together, they supported her work experience and covered a period of more than one year and therefore more than the period of qualifying work experience necessary for a Federal Skilled Worker application.
24. In *Kaur v. Minister of Citizenship and Immigration*, the Federal Court held that, where an officer found a letter to be not credible or fraudulent, they should have convoked an interview with the applicant to provide her with an opportunity to respond to those concerns.
25. No further letter was sent by the visa office to Ms. Bhatti indicating any concerns with the documents she had provided following her response to the procedural fairness letters. No interview was requested.
26. The officer’s focus on the information provided during the verification calls to the exclusion of the documentary evidence

suggests a closed mind with disregard for the documentary evidence and an absence of any true weighing of the positive and negative evidence.

27. The visa office's failure to advise the applicant of any concerns with the documents she had submitted, including her reference letter and the third party Statutory Declarations and the Income-tax Act, 1961 filings was a breach of the duties of procedural fairness and natural justice that were owed to the Applicant. It further suggested a closed mind. The decision was therefore incorrect.

[footnotes omitted]

[40] The procedural fairness letter to the Applicant read as follows:

Subsection 16(1) of the act states:

16(1) A person who makes an application must answer truthfully all questions put to them for the purpose of the examination and must produce a visa and all relevant evidence and documents that the officer reasonable [sic] requires.

You stated in your application and supporting documents that you were employed as a Marketing Co-Ordinator, NOC 1123 at APUS Life from July 2012 to July 2015. I note that in a telephone interview of 13 November 2015 you were asked a series of questions regarding your stated employment. Subsequent calls were made on the same day to APUS Life. There is a wide discrepancy in your answers and the answers of obtained from employees of APUS Life. I am not satisfied you indeed have the stated work experience at APUS Life as a Marketing Co-Ordinator.

Therefore, it is my belief that you do not meet the requirements of subsection 75(2)(a) and that you have deliberately tried to mislead me in a relevant matter which could induce an error in the administration of the Immigration and Refugee Protection Act and I am considering recommending to my supervisor that you be found inadmissible to Canada for misrepresentation pursuant to subsection 40(1)(a) of the Act. A finding of such inadmissibility would render you inadmissible to Canada for a period of five years according to section 40(2)(a):

40(1) A permanent resident or a foreign national is inadmissible for misrepresentation

(a) for directly or indirectly misrepresenting or withholding material facts relating to a relevant matter that induces or could induce an error in the administration of this Act

40(2) The following provisions govern subsection (1):

(a) the permanent resident or the foreign national continues to be inadmissible for misrepresentation for a period of five years following, in the case of a determination outside Canada, a final determination of inadmissibility under subsection (1) or, in the case of determination in Canada, the date the removal order is enforced.

[41] In essence, the procedural fairness letter tells the Applicant that “there is a wide discrepancy in your answers and the answers obtained from employees of APUS Life” and that the Visa Officer believes “you have deliberately tried to mislead me in a relevant matter that could induce an error in the administration” of the Act, and that the Visa Officer will recommend that the Applicant be found inadmissible under s 40(2)(a). The relevant matter is “the stated work experience.”

[42] Clearly, then, the Applicant was placed on notice that significant discrepancies had arisen from the CIC member’s interviews of Apus Life employees and that the Visa Officer had concluded that the Applicant’s permanent residence application misrepresented her submissions that she had significant experience as a Marketing Coordinator at Apus Life. The Visa Officer specifically refers to what “you stated in your application and supporting documents,” so that it is clear that the Visa Officer does not believe the “supporting documents,” or what the Applicant represented as her “Main Duties.” The supporting documents included the letter of reference.

[43] The tax filings were not addressed because they say nothing about the Applicant's actual "experience." They tell the Visa Officer that the Applicant has worked for Apus Life and that she represents herself as a "Marketing Co-ordinator," but they do not address the Visa Officer's concern that the Applicant has "the stated work experience."

[44] The Applicant also provided the Visa Officer with third-party declarations that purported to explain inconsistencies arising from the telephone verification evidence, but, as the Visa Officer indicates in his reasons, they did not alleviate his concerns because "two employees now have changed their statements and claim PA did work for Apus Life as Marketing Co-Ordinator" and the declarations did not adequately explain the "inconsistencies in [the Applicant's] responses from co-workers," and they did not alleviate the concerns that the Applicant "could not identify any of the Companies [*sic*] clients," which is a significant failing for someone who claims to be a Marketing Coordinator. In other words, the additional documentation provided by the Applicant in response to the procedural fairness letter is not persuasive because it does not confirm the Applicant's "stated work experience." The "stated work experience" makes much of the Applicant's contact with customers but she only mentions a few of them and her supporting documentation does not speak to her actual experience.

[45] So the Visa Officer gave the Applicant sufficient information about his concerns to allow her to understand what was needed in her response, and he fairly assessed that response and gave reasons once it was provided. The Officer was under no obligation to provide the Applicant with a "running score" or a further opportunity to respond to his continuing concerns. See *Liao v Canada (Minister of Citizenship and Immigration)*, 2000 Canlii 16440 at paras 23-25.

[46] The Applicant raises further procedural issues in her Reply in that she says the Visa Officer had a closed mind about the responses she provided to the procedural fairness letter in that he gave more weight to the initial telephone verification call evidence. This is not a “closed mind” issue. The Visa Officer simply gave more weight to the spontaneous answers he received on the telephone verification call, which he was entitled to do and, as he states, the Applicant failed to satisfy him as to her “stated work experience.”

[47] The Applicant also says that the Visa Officer’s note that “Sangram Singh is married to Sonali Singh, Manager of Apus Life. Sonali Singh is the sister of PA’s cousin” is incorrect and was not put to her.

[48] I agree that this was not put to the Applicant. She argues that it amounts to unspecified extrinsic evidence that was relied upon by the Visa Officer and that this was procedurally unfair.

[49] When the Decision is read as a whole, it is clear that this matter did not need to be placed before the Applicant because, although the Visa Officer noted it, it is not a factor in his final Decision which is based upon poor documentation, the inconsistencies that arose from the verification telephone calls, the Applicant’s failure to provide basic information about Apus Life and, in particular, the fact that “she could not identify any of the Companies [*sic*] clients” so that she was not able to show that she had the “stated work experience.” The relationship between the Applicant and Sangram Singh has no significance for the central issues of concern which was that the Applicant had misrepresented her “stated work experience” and had not provided any documentation to refute this finding.

[50] I can find no procedural fairness error in the Decision.

C. *Reasonableness*

[51] The Applicant also says that “the decision was also unreasonable” but fails to state any grounds of unreasonableness in her written Memorandum of Argument.

[52] In her Reply to the Respondent’s Memorandum of Argument, she, in effect, raises some reasonableness issues for the first time so that, strictly speaking, this is not proper reply and her arguments are not properly before the Court. However, just to reassure her that I have looked at all matters of concerns to her, I have examined her reasonableness arguments in full and, had they been made properly, they would not have made any difference to my conclusions.

[53] The Applicant complains that it was not proper for the Visa Officer to characterize her application as being of poor quality because the initial review of her work experience was positive and appeared to support her application. However, as the Decision as a whole makes clear, the verification was needed because of “Limited documentation of poor quality to support employment – three letters – no pay slips, bank statements, ITRs etc.”

[54] The Applicant also complains that the Visa Officer did not, in fact, call Apus Life, her former employer, for verification, but called employees of other companies. The evidence is clear, however, the Visa Officer called the number provided by the Applicant and spoke with employees of Apus Life and related companies. Hecures is a subsidiary of Apus Life and shares

the same office space, phone number and employees. The employee who answered the CIC member's call confirmed that the member had reached Apus Life.

[55] In any event, these matters were never raised by the Applicant in her response to the procedural fairness letter, so that the Visa Officer cannot be faulted for not considering them at this point in the process.

[56] The Applicant now complains that the CIC member did not speak to anyone who knew her well, but the member phoned Apus Life and attempted to speak to Mr. Singh who refused to assist and accused the member of wasting the time of these employees he had spoken to. Mr. Singh was the Applicant's Manager and the Visa Officer cannot be faulted if Mr. Singh refused to cooperate.

[57] In my view, the Applicant has not established that the Decision has any reviewable error based upon unreasonableness.

[58] In oral submissions before me, the Applicant relied upon the extrinsic evidence issue referred to above for lack of procedural fairness. As I have already pointed out, the relationship between the Applicant and Mr. Sangram Singh is just not relevant to the central issue in the Decision that the Applicant has misrepresented her "experience" as a Marketing Coordinator.

[59] On reasonableness, the Applicant in oral argument emphasized the nature of the documentation that she provided in response to the procedural fairness letter and that it confirms

she was a “Marketing Co-ordinator” at Apus Life. The Applicant misses the basis of the Decision which was that she failed to establish with clear evidence that she has the “stated work experience” she had claimed to have in her application for permanent residence. As the jurisprudence of this Court has consistently made clear, the Applicant has a responsibility to provide the Visa Officer with independent evidence in response to his concerns. See *Iqbal v Canada (Citizenship and Immigration)*, 2016 FC 533. In this case, the central concern was misrepresentation with regard to the Applicant’s “stated work experience,” not with regard to whether she has worked at Apus Life or that the Applicant was referred to on some documents (eg. the tax returns) as a Marketing Coordinator.

[60] The Applicant’s oral arguments do not establish either procedural unfairness or unreasonableness.

[61] Counsel agree there is no question for certification and the Court concurs.

JUDGMENT

THIS COURT'S JUDGMENT is that

1. The application is dismissed.
2. There is no question for certification.

“James Russell”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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STYLE OF CAUSE: RAVNEET BHATTI v THE MINISTER OF
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PLACE OF HEARING: WINNIPEG, MANITOBA

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