

Federal Court



Cour fédérale

**Date: 20170201**

**Docket: IMM-2421-16**

**Citation: 2017 FC 126**

[ENGLISH TRANSLATION]

**Ottawa, Ontario, February 1, 2017**

**PRESENT: The Honourable Justice Martineau**

**BETWEEN:**

**JAHANGIR ALAM**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**DECISION AND REASONS**

[1] The applicant, a citizen of Bangladesh, is contesting the legality and/or reasonableness of the decision, rendered on April 27, 2016, by an immigration officer who denied his application for permanent residence as a skilled worker, i.e., purchasing manager (intended occupation).

[2] In accordance with the requirements of subsection 75(2) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (Regulations), in order to have his permanent resident application approved, the applicant must accumulate over one continuous year of full-time work experience and perform all the actions described in the lead statement for the occupation concerned, and during this period of employment, perform a substantial number of the main duties of the occupation concerned, including all of the “essential ” duties. Subsection 75(3) of the Regulations states that if the applicant fails to meet the minimum requirements, the application for a permanent resident visa shall be refused and no further assessment is required.

[3] The standard of review for the merit of the decision is reasonableness (*Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 SCR 190 at para. 47). The decision under review is largely discretionary. The determinations challenged by the applicant fall within the specialized expertise of the administrative decision-maker. In addition, the inadequacy of the reasons will also be reviewed from the standpoint of reasonableness, as the case law suggests since *Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador*, 2011 SCC 62, [2011] FCJ No. 62 at paras. 14 and 22 (*Sidhu v. Canada (Citizenship and Immigration)*, 2014 FC 176, [2014] FCJ No. 183 at paras. 17-18; *Ahmed v. Canada (Citizenship and Immigration)*, 2013 FC 1083, [2013] FCJ No. 1180 at para. 24 [*Ahmed*]; *Singh v. Canada*, 2015 FC 377, [2015] FCJ No. 341 at para 12; *Walia v. Canada (Minister of Citizenship and Immigration)*, 2016 FC 1171, [2016] FCJ No. 1156 at para. 13.

[4] For the reasons that follow, this application for judicial review must be dismissed.

[5] In the 10 years preceding his application for permanent residence, the applicant completed civil engineering and finance studies in Bangladesh. He then held various positions with two national and international telecommunications companies. Between 2007 and 2011, the applicant worked as a Procurement Senior Executive at Banglalink Digital Communication Limited in Ghulsan [Banglalink]. He contended that, in this position, he developed and implemented procurement strategies, negotiated supply contracts, entered into agreements for specific products and coordinated and piloted supplier improvement programs, in addition to preparing the budget. Since 2011, the applicant has been working for GrameePhone as a Sourcing Specialist. His job description is quite similar to his former job description in that he develops and maintains contracts, reviews expenses, builds strong relationships with vendors and suppliers, conducts negotiations, provides procurement governance, and works as a member of a cross-functional team to develop procurement policies and work procedures and methods.

[6] The occupation of purchasing manager, as defined by Canada's National Occupational Classification system (NOC) Career Handbook (CH), is a management position occupied by specialized middle managers. According to NOC 0113, purchasing managers plan, organize, direct, control and evaluate the activities of purchasing departments. They also develop and implement the purchasing policies of businesses and institutions in the public and private sectors. However, the parties' interpretations of the attestation letters provided by the employers differ. Essentially, the applicant claims to have performed all the management tasks listed in the lead statement of the intended occupation, if not a substantial part of them. He criticizes the officer for having failed to consider and review all the tasks listed in the documentation filed and for not

having provided adequate grounds for his denial, which is strongly contested by the respondent, who argues that the decision is reasonable in all respects.

[7] I agree with the respondent. Contrary to the applicant's claims, there are adequate grounds for the decision under review. According to the case law, the officer's interview notes and the Computerized Assisted Immigration Processing System (CAIPS) notes constitute grounds and may allow the Court to assess the reasonableness of the denial in question (*Ghirmatsion v. Canada (Citizenship and Immigration)*, 2011 FC 519, [2013] 1 FCR 261 at para. 8 referring to *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 at para. 44; *Khowaja v. Canada (Citizenship and Immigration)*, 2013 FC 823, [2013] FCJ No. 904 at para. 3; *Ahmed* at paras. 22-23). In this case, the grounds for denial are clear and transparent.

[8] The officer is of the opinion that the duties of the applicant are not those of a purchasing manager. Rather, they are similar to those of a team leader, or those of a procurement specialist, as the title of his current job suggests:

When he was working at Banglalink, he was responsible for purchasing local merchandise and commercial services. Similarly, when he was working at GrameePhone, he was responsible for purchasing and certain categories of goods. Neither job involved performing the main duties of the management position described in NOC 0113. In fact, he was a member of cross-functional teams and played an important role in purchasing and procurement, but it would appear to be more as a team leader or, as the title of his position suggests, as a specialist.

Based on the information at my disposal, I am not convinced that the Purchasing Manager performed the main duties, let alone all of the essential duties described in the lead statement for NOC 0113.

[9] However, pursuant to paragraph 75(2)(b) of the Regulations, the applicant was required to demonstrate to the officer that he had performed all of the essential duties listed in the occupational description for position 0113 during one year of full-time work experience or full-time equivalent for part-time work over the 10 years. Although he never had the title of “manager”, the applicant argues that the tasks described in his application are identical or similar to those listed in the NOC system for the position of Purchasing Manager. In this case, the officer’s notes indicated that he had considered all the evidence, but finally found that the duties performed by the applicant in his previous jobs did not match the job description for the position of Purchasing Manager, as set out in NOC 0113.

[10] The officer is solely responsible for determining whether the letters from the applicant’s former employers are sufficient to demonstrate that he meets the requirements of the Regulations (minimum qualifications). The officer was under no obligation to provide a detailed or comparative analysis in the notes or the refusal letter for every single task (*Lake v. Canada (Minister of Justice)*, 2008 SCC 23, [2008] 1 SCR 761 at para. 46). The officer’s finding is an acceptable outcome given the applicable law and the evidence on the record. In this case, the officer found that the applicant appeared to be more of a team leader or specialist, but not a manager who directs and controls a purchasing department. This finding is not unreasonable given the evidence on the record. In fact, the applicant’s supervisor at GrameePhone signed the letter of attestation as “chief procurement officer.” In addition, the letter of attestation provided by his employer at Banglalink indicated that the applicant was working with their supply chain managers.

[11] Incidentally, the respondent goes so far as to say that the applicant's professional profile is rather similar to that of a purchasing officer (see NOC 1225), which the applicant obviously challenges. I do not need to rule on this peripheral issue. What is material in this case is the incomplete and inconclusive nature of the evidence brought to the attention of the officer. In this regard, counsel for the applicant submitted an able argument at the hearing which, at first glance, might suggest that the officer was mistaken, or at least, that another outcome was possible, but this is not the applicable standard for reviewing the reasonableness of an officer's decision. The Court is not hearing an appeal; it is conducting a judicial review. While it can be argued that the applicant performs several duties of a purchasing manager, it can also be argued that the applicant does not exercise real decision-making or management power in his department. The frequency and importance of the so-called "essential" duties are not really specified by both employers. Admittedly, the applicant is a procurement specialist and is expected to work with his managers to develop cost reduction initiatives, but supporting and collaborating with his manager is not the same as performing a manager's duties. As a result, the applicant has not discharged his burden of proof in that he failed to demonstrate that he met the requirements of the Regulations. Consequently, the officer did not commit a reviewable error.

[12] For all of these reasons, this application for judicial review is dismissed. The solicitors did not raise any questions of general importance.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that** this application for judicial review is dismissed.

No question is certified.

“Luc Martineau”

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-2421-16

**STYLE OF CAUSE:** JAHANGIR ALAM v. THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** MONTRÉAL, QUEBEC

**DATE OF HEARING:** JANUARY 18, 2017

**JUDGMENT AND REASONS:** MARTINEAU J.

**DATED:** FEBRUARY 1, 2017

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