

Federal Court



Cour fédérale

**Date: 20230912**

**Docket: IMM-6778-22**

**Citation: 2023 FC 1233**

**Toronto, Ontario, September 12, 2023**

**PRESENT: The Honourable Mr. Justice Ahmed**

**BETWEEN:**

**HAMEEDA BIBI**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] The Applicant, Hameeda Bibi, seeks judicial review of a decision by a Senior Immigration Officer (the “Officer”) dated June 27, 2022, denying her application for permanent residence from within Canada on humanitarian and compassionate (“H&C”) grounds, pursuant to section 25 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (“IRPA”).

[2] The Officer found insufficient evidence that the Applicant's establishment in Canada, the best interests of the children ("BIOC"), her family ties, and the country conditions in the Applicant's home country warranted granting H&C relief.

[3] The Applicant submits that the Officer unreasonably assessed the H&C factors raised in her application and made erroneous findings without due regard to the evidence, rendering the decision unreasonable.

[4] For the reasons that follow, I find that the Officer's decision is reasonable. This application for judicial review is dismissed.

## **II. Facts**

### **A. *The Applicant***

[5] The Applicant is a 74-year-old citizen of Pakistan. She is divorced and has one child, Javid Mohammad (Mr. "Mohammad"), who is a Canadian citizen.

[6] The Applicant claims that following her divorce from her ex-husband in 1973, she lived with Mr. Mohammed in Pakistan. When Mr. Mohammed eventually relocated to Canada as an adult, she moved to stay with her brother and his family. She claims that her brother's family became reluctant to care for her after her brother's death. The Applicant allegedly faced difficulties in Pakistan as a divorcee, given that divorce and being a single mother continue to be stigmatized in Pakistani culture and society.

[7] The Applicant first arrived in Canada as a visitor on January 25, 2015. Since then, she has resided with Mr. Mohammad, his wife, and her three grandchildren. The Applicant has obtained several extensions of her visitor record during her stay in Canada, with the most recent being valid until January 27, 2022.

[8] The Applicant claims that during her time in Canada, she has developed a close relationship with her grandchildren, particularly her special needs grandchild, Shahmir, who she cares for and who finds comfort in her. The Applicant claims that if she returns to Pakistan, Shahmir would be significantly impacted.

[9] The Applicant further claims that she would experience hardships in Pakistan as an elderly, single woman. It is now difficult for her to care for herself and she requires the support of her son and his family, which is the norm in Pakistani society. The Applicant contends that it is not possible for her son and his family to return with her to Pakistan as they are settled in Canada and Shahmir requires a certain level of medical care that would not be available to him in Pakistan.

[10] The underlying H&C decision is the Applicant's third H&C application. She first applied for permanent residence on H&C grounds on October 24, 2016, which was refused on December 13, 2017. She then made an H&C application on August 22, 2018, which was refused on June 23, 2020. The underlying H&C application was submitted on August 31, 2021.

B. *Decision under Review*

[11] In a decision dated June 27, 2022, the Officer refused the Applicant's H&C application. The Officer found that the Applicant provided insufficient evidence weighing in favour of granting H&C relief, considering the factors of establishment, the BIOC, family ties, and the country conditions in Pakistan.

[12] The Officer noted that the Applicant had participated in her local mosque for religious programs and community involvement and had made friends with women her age. The Officer acknowledged the statutory declarations by the Applicant's neighbour and friend, who attested to the Applicant's difficulties in Pakistan, their relationship with the Applicant, and her positive character. Although finding that this evidence demonstrates some community involvement, the Officer noted that the Applicant has resided in Canada for seven years and in light of this period, there is little information to indicate that the Applicant is well established in Canada.

[13] The Officer acknowledged the Applicant's strong bond with her grandchildren and the letters of support submitted by her grandchildren and her friend's grandchildren. The Officer also accepted that the children benefit from and would miss the Applicant's presence. However, the Officer found little documentary evidence to corroborate the Applicant's submission that Shahmir has health issues such that the Applicant is involved in caring for him on a day-to-day basis. The Officer found little evidence to demonstrate the challenges that her son and his wife face in caring for Shahmir such that the Applicant's absence would impact the BIOC. The Officer concluded that the Applicant provided insufficient evidence to demonstrate that her son

or daughter-in-law could not seek alternate child care arrangements to care for their children in the Applicant's absence. The Officer found that family separation is a normal consequence of removal and is not in itself sufficient to grant H&C relief.

[14] Noting the Applicant's submission that she experienced the trauma of being a single mother in a culturally and religiously conservative country like Pakistan, the Officer found that she provided little evidence to elaborate on these norms, or to demonstrate the hardships she previously faced in Pakistan such that she would face similar challenges upon her return.

[15] Regarding the Applicant's submission that she is elderly and unable to lead her life on her own, the Officer once again found a scarcity of details and evidence speaking to the nature of the limitations on her independence or her specific dependencies on her son and daughter-in-law.

[16] The Officer noted the Applicant's submission that her son has been unsuccessful in applying for permanent residence for the Applicant under the family class sponsorship program on three separate occasions, and that temporary visa applications are expensive. The Officer acknowledged these challenges but ultimately found little evidence to indicate why the Applicant's son could not submit another application at a future time or could not afford the costs associated with extending the Applicant's visitor status.

[17] Regarding the difficulties the Applicant may face upon return to Pakistan and the country conditions that may pose hardship, the Officer found little evidence to: indicate that her siblings could not assist in her re-integration into the country; demonstrate the extent of her emotional

well-being following her divorce in Pakistan; and demonstrate that she would be unable to find adequate medical care in Pakistan.

[18] The Officer ultimately found that the Applicant provided insufficient evidence to establish that H&C relief is warranted in her circumstances.

### **III. Issue and Standard of Review**

[19] The sole issue raised in this application is whether the Officer's decision is reasonable.

[20] The standard of review is not disputed. The parties agree that the applicable standard of review is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16–17, 23–25) (“*Vavilov*”). I agree.

[21] Reasonableness is a deferential, but robust, standard of review (*Vavilov* at paras 12-13). The reviewing court must determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible and justified (*Vavilov* at para 15). A reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision-maker (*Vavilov* at para 85). Whether a decision is reasonable depends on the relevant administrative setting, the record before the decision-maker, and the impact of the decision on those affected by its consequences (*Vavilov* at paras 88-90, 94, 133-135).

[22] For a decision to be unreasonable, an applicant must establish the decision contains flaws that are sufficiently central or significant (*Vavilov* at para 100). Not all errors or concerns about a decision will warrant intervention. A reviewing court must refrain from reweighing evidence before the decision-maker, and it should not interfere with factual findings absent exceptional circumstances (*Vavilov* at para 125). Flaws or shortcomings must be more than superficial or peripheral to the merits of the decision, or a “minor misstep” (*Vavilov* at para 100; *Canada (Citizenship and Immigration) v Mason*, 2021 FCA 156 at para 36).

#### **IV. Analysis**

[23] The Applicant submits that the Officer’s decision failed to adequately consider the H&C factors raised in her application and made findings without regarding to the evidence provided. In my view, the Applicant has failed to raised a reviewable error in the Officer’s decision.

[24] The Applicant submits that the Officer’s reasons exhibit a failure to meaningfully consider her personal circumstances, leaving her in a position of not knowing why her personal circumstances were not accepted and were insufficient to ground H&C relief. The Applicant cites this Court’s decision in *Zhou v Canada (Citizenship and Immigration)*, 2022 FC 1046 for the proposition that the Officer was required to demonstrate *why* the Applicant’s evidence pointing to the H&C factors was insufficient to establish H&C relief in her case, only stating that it was insufficient. The Applicant further submits that the Officer’s reasons do not adequately consider her family ties or her circumstances as an elderly woman who is increasingly dependant on her son and his family for her care.

[25] Citing this Court's decision in *Baco v Canada (Citizenship and Immigration)*, 2017 FC 694, the Applicant submits that it is unreasonable for the Officer to discount her degree of establishment merely because it is at a level that is expected of someone who has been in Canada for the same amount of time, rather than adequately assessing the evidence pointing to positive establishment.

[26] The Respondent maintains that the Officer's decision is reasonable. Contrary to the Applicant's submission, the Respondent submits that the Officer considered the fact that the Applicant's son, her son's family, and her brother live in Canada, and that the Applicant has a strong relationship with these members of her family and her grandchildren. The Respondent submits that it is open to the Officer to find that the existence of a close relationship between the Applicant and her family members is insufficient to demonstrate interdependency and reliance such that H&C relief is warranted. The Respondent submits that this case is analogous to the situation in *Kaur v Canada (Citizenship and Immigration)*, 2021 FC 1242 ("*Kaur*"), where this Court found that the officer adequately considered the applicant's ties to her son and his family, and that she had been living with them for seven years, but reasonably found that this contact could be maintained in her home country while her application is processed (at para 18). The Respondent submits that the same reasoning can be applied here.

[27] The Respondent also submits that the Officer reasonably assessed the BIOC impacted by the Applicant's removal. The Respondent contends that the Officer's finding is reasonable in light of the evidence, of which there is little to demonstrate that the Applicant's grandchildren are dependant on her such that her absence would cause them hardship beyond the normal



consequences of removal, or that alternative child care arrangements could not be made for the children in the Applicant's absence. The Respondent once again cites *Kaur* for the proposition that it is open to the Officer to find that family separation between a child and an extended family member such as a grandparent is insufficient to ground H&C relief. The Respondent further submits that regarding Shahmir and his health needs, for which the Applicant alleges she provides support, the Officer intelligibly explained that there is little evidence demonstrating the nature of his needs and the extent or nature of the Applicant's involvement in his day-to-day life.

[28] Lastly, the Respondent submits that the Officer reasonably considered the country conditions in Pakistan, for which the Applicant once again provided minimal evidence to demonstrate the hardships she faced and would likely face again upon removal.

[29] I agree with the Respondent. The Officer's reasons are clear, cogent, and responsive to the Applicant's evidence submitted in support of her application. Although not specifically demarcated, the content of the reasons consider each of the four factors raised by the Applicant as relevant to her H&C application, and the evidence surrounding each of these factors. I note that a bulk of the Applicant's submissions disagree with the Officer's exercise of weighing the evidence and in so doing, seek that this Court reweigh the evidence. This is not this Court's role on reasonableness review (*Vavilov* at para 125).

[30] Regarding the Applicant's establishment, it is open to the Officer to find that the letters of support and other evidence of establishment are insufficient to demonstrate integration into Canada such that her removal would cause hardship. While I agree with the Applicant that the

“expected” degree of establishment based on the length of stay is not in itself sufficient to dismiss the Applicant’s establishment, the Officer’s reasons do not commit this error. Rather, the Officer also explains why the letters of support lack sufficient detail regarding the nature of her involvement in her community and why the Applicant’s evidence of her connection to her son and his family is insufficient to demonstrate hardship beyond family separation as a normal consequence of removal. The Officer is open to weigh the evidence of establishment and find it to be insufficient to ground H&C relief.

[31] I further agree with the Respondent that the Officer reasonably considered the BIOC. The Officer cogently considered and accepted the Applicant’s strong bond with her grandchildren, particularly Shahmir, and recognized that her absence would result in some hardship and adjustment for them. The Officer reasonably found that the Applicant failed to discharge her onus to provide sufficient evidence to demonstrate how the extent to which her grandchildren are dependent on her, such that her removal would undermine the children’s best interests, such as the inability to seek alternative child care arrangements or the degree of the Applicant’s involvement in Shahmir’s day-to-day needs. Absent this evidence, it is open to the Officer to find that separation between the Applicant and her grandchildren is alone insufficient to warrant H&C relief (*Kaur* at para 24).

[32] The Officer’s reasons clearly considered and reasonably found that the Applicant’s evidence regarding the country conditions in Pakistan are largely vague. The Officer reasonably concluded that this evidence lacks sufficient detail about the kind of hardship she claims to have faced before and that she alleges she will continue to face upon her return to Pakistan.

[33] For these reasons, I find that the Applicant has failed to raise a reviewable error in the Officer's decision.

**V. Conclusion**

[34] This application for judicial review is dismissed. The Officer's decision is reasonable in light of the Applicant's evidence. No questions for certification were raised and I agree that none arise.

**JUDGMENT in IMM-6778-22**

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

1. This application for judicial review is dismissed.
2. There is no question to certify.

“Shirzad A.”

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Judge

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

**DOCKET:** IMM-6778-22

**STYLE OF CAUSE:** HAMEEDA BIBI v THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** JULY 10, 2023

**JUDGMENT AND REASONS:** AHMED J.

**DATED:** SEPTEMBER 12, 2023

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