

Federal Court



Cour fédérale

Date: 20240117

Docket: IMM-8644-22

Citation: 2024 FC 73

Toronto, Ontario, January 17, 2024

PRESENT: The Honourable Madam Justice Furlanetto

BETWEEN:

RUZBEH MIRABDOLLAH YANI

Applicant

and

**MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] Mr. Ruzbeh Mirabdollah Yani [Applicant] seeks judicial review of an August 24, 2022 decision [Decision] of an Officer at Immigration, Refugees and Citizenship Canada [IRCC], refusing his application for a study permit pursuant to the *Immigration and Refugee Protection Act*, SC 2001, c 27 and subsection 216(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227.

[2] The Respondent has conceded that the Officer erred in their analysis on family ties. In my view, this error is fatal to the Decision. Further, it is my view that the Officer made a reviewable error in failing to engage with contradictory evidence relating to the purpose of the Applicant's visit. The application is accordingly granted.

I. Background

[3] The Applicant is an Iranian national. He is 47 years old, married, has two daughters, and lives with his family in Iran. The Applicant owns two family elevator and escalator manufacturing businesses. The Applicant has worked in the elevator business since his youth and sought to pursue post secondary studies in vertical transportation [VT] technologies following his graduation from high school. At the time, however, no school in Iran offered such programs. Instead, he completed a Bachelor's Degree in Industrial Engineering followed by a Master's Degree in the same discipline. He currently teaches various professional courses in industrial engineering while working professionally in the VT and construction industry.

[4] The Applicant applied for a study permit after admission to the Mechanical Technician – Elevating Devices diploma program at Durham College in Oshawa, Ontario [Program]. The Applicant's study permit application was initially refused on July 14, 2021 because the Officer was not satisfied that the Applicant would leave Canada at the end of his stay. The Applicant filed an application for leave and for judicial review and entered into a settlement with the Respondent, which allowed him the opportunity to submit updated documents, including an updated Study Plan and employment documentation. On August 24, 2022, the Application was again refused.

[5] In the Decision, the Officer stated they were not satisfied that: i) the Applicant had significant family ties outside Canada; and ii) that the purpose of the visit was consistent with a temporary stay.

[6] The Global Case Management System [GCMS] notes provided additional reasons for the Decision, namely that:

- the Program was at a lower academic level than the Applicant's completed studies and that given the Applicant's education and work experience, the Applicant had already achieved the benefits of the Program;
- the Program did not make sense in view of the Applicant's background as he taught professional courses in industrial engineering and worked in the VT and construction industry; and
- while the Applicant would be traveling without his spouse, his ties to Iran were not sufficiently great to motivate departure from Canada.

II. Analysis

[7] The determinative issue on this application is whether the Decision was reasonable.

[8] A reasonable decision is "based on an internally coherent and rational chain of analysis" and is "justified in relation to the facts and law that constrain the decision maker": *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at para 85; *Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67 at paras 2, 31. In the case of a

study permit application, this Court has recognized that decisions of an officer need not be comprehensive and an officer may provide brief or even limited reasons. However, they must be sufficient to understand why the application was refused and to allow the Court to find they provide the justification, transparency, and intelligibility required of a reasonable decision: *Barril v Canada (Citizenship and Immigration)*, 2022 FC 400 at para 12; *Vavilov* at paras 91-95, 99-100.

[9] The Respondent admits that the Officer erred by failing to consider the Applicant's family ties to Iran. While the Officer noted that the Applicant's spouse would not be accompanying the Applicant to Canada, they failed to consider that the whole of the Applicant's family, including his spouse, two children and parents reside in Iran. The suggestion that the ties to Iran are not sufficiently great is explicitly contrary to the evidence.

[10] The Respondent asserts that the finding on family ties while erroneous is not central to the Decision and is insufficient to render the Decision unreasonable; however, I cannot agree. Unlike *Ocran v Canada (Citizenship and Immigration)*, 2022 FC 175, where the issue of family ties was one of several grounds raised for refusing the application, family ties is one of only two reasons cited by the Officer for denying the Applicant's request. It is more than a peripheral or superficial issue: *Vavilov* at para 100. Rather, it is an important pull factor for the Applicant returning to Iran. The failure of the Officer to consider family ties in this manner is, in my view, a reviewable error that is sufficient to render the Decision unreasonable: *Moradbeigi v Canada (Citizenship and Immigration)*, 2023 FC 1209; *Shaeri v Canada (Citizenship and Immigration)*, 2023 FC 1596; *Masouleh v Canada (Citizenship and Immigration)*, 2023 FC 1159.

[11] Further, I agree with the Applicant that the Officer erred in failing to consider the purpose and benefits of the Program as they relate to the Applicant's business and employment when evaluating the purpose of the stay.

[12] The Applicant's previous studies are in industrial engineering, but were completed more than 10 years ago. While the Officer focussed their analysis on the education and work experience of the Applicant, there is no indication that the Officer considered the explanation given by the Applicant of his business' struggles to remain up-to-date on the latest VT technologies, including green technologies and safety directives, or of the lack of available training in these areas. The reasons of the Officer do not indicate that they considered what the Program could offer in view of what the Applicant described as the only specific professional hands-on program of its type in an English-speaking country.

[13] The failure of the Officer to refer to the Applicant's stated purpose for taking the Program makes it unclear whether the Officer considered these important aspects of the Applicant's Study Plan. Nor is it clear whether the Officer considered the letter from the Dean of the University of Applied Science and Technology where the Applicant lectures, which supported the Applicant's enrollment in the Program as promoting his knowledge in the field.

[14] The Respondent points to other aspects of the Applicant's *curriculum vitae* and courses that he took in the United Kingdom and Austria in an effort to argue that it was the Applicant's burden to explain why he could not take an alternative course to update his skills instead of pursuing the Program overseas in Canada. However, this is not an argument that was raised in

the Officer's reasons. Nor is there any evidence that an alternative program currently exists. Rather, the reasons suggest that the Officer did not engage with the specifics of the Program and the stated benefits to the Applicant, but instead focussed solely on the Officer's perception of whether there was any benefit to be achieved based on the Applicant's education and employment background. In my view, this falls short of the justification necessary for a reasonable decision.

[15] For all of these reasons, the application is granted and the study permit application shall be referred back to a different officer for redetermination.

[16] There was no question for certification proposed by the parties and I agree that none arises in this case.

JUDGMENT IN IMM-8644-22

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted; the August 24, 2022 decision is set aside; and the Applicant's study permit application is referred back to be redetermined by a different officer in accordance with these reasons.

2. No question of general importance is certified.

"Angela Furlanetto"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-8644-22

STYLE OF CAUSE: RUZBEH MIRABDOLLAH YANI v MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HEARD BY VIDEOCONFERENCE

DATE OF HEARING: JANUARY 11, 2024

JUDGMENT AND REASONS: FURLANETTO J.

DATED: JANUARY 17, 2024

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