Federal Court Cour fédérale

Date: 20240830

Docket: IMM-12435-22

Citation: 2024 FC 1363

Vancouver, British Columbia, August, 30, 2024

PRESENT: THE CHIEF JUSTICE

BETWEEN:

SAMIRA ASHRAFI AMLASHI, POOLAD MAHMOODI NOORI, RADIN MAHMOODI NOORI, and NILA MAHMOODI NOORI

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] The Applicants are a family of four who sought to come to Canada from Iran to enable the Principal Applicant, Ms. Samira Ashrafi Amlashi, to pursue a Master of Business Administration (**"MBA"**) degree at Trinity Western University. In furtherance of this goal, Ms. Ashrafi Amlashi submitted an application for a study permit. Her spouse, Mr. Poolad Mahmoodi Noori, applied for a work permit. The couple also sought visitor visas for their two children.

[2] An immigration officer (the **"Officer"**) refused the family's applications after determining that the Applicants had not established that they would leave Canada by the end of their authorized period of stay.

[3] The Officer's rejection of Ms. Ashrafi Amlashi's application (the **"Decision"**) was grounded in two principal findings. First, the Officer concluded that her funds and financial situation were insufficient to support her stated purpose of travel. Second, the Officer found that Ms. Ashrafi Amlashi did not have significant family ties outside of Canada.

[4] The Officer rejected the applications of Mr. Mahmoodi Noori and the couple's two children on the basis that Ms. Ashrafi Amlashi's study permit application was refused.

[5] The Applicants maintain that both of the Officer's reasons for rejecting Ms. Ashrafi Amlashi's application were unreasonable. For the reasons that follow, I agree. Consequently, the Decision will be set aside and remitted to a different immigration officer for reconsideration.

II. Relevant Legislation

[6] Paragraph 20(1)(b) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [***IRPA***] provides that every foreign national who seeks to enter or remain in Canada as a temporary resident must establish that they hold a visa or other document prescribed by the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [***IRPR***] and will leave Canada by the end of the period authorized for their stay.

[7] Pursuant to subsection 216(1) of the *IRPR*, an immigration officer must issue a study permit to a foreign national if they establish that they meet various requirements. These include meeting the requirements of Part 12 of the *IRPR*, and satisfying the officer that they will leave Canada by the end of the period authorized for their stay.

[8] Pursuant to section 220 of the *IRPR*, and subject to certain exceptions that do not apply in the present circumstances, an officer shall not issue a study permit to a foreign national unless the officer makes certain determinations regarding the foreign national's financial resources. Specifically, the officer must find that the foreign national has sufficient and available financial resources, without working in Canada, to (a) pay the tuition fees for the course or program of studies that they intend to pursue, (b) maintain themselves and any family members who are accompanying them during their proposed period of study, and (c) pay the costs of transporting themselves and their family members to and from Canada.

III. Standard of Review

[9] The standard applicable to the Court's review of the Decision is whether it is reasonable. In reviewing the reasonableness of a decision, the Court's overall focus will be upon whether the decision is appropriately justified, transparent and intelligible: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, at para 86 [***Vavilov***]; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21, at paras 59–60 [***Mason***]. In other words, the Court will consider whether it is able to understand the basis upon which the Decision was made and then determine whether it falls "within a range of possible, acceptable outcomes which are defensible

in respect of the facts and the law": *Vavilov*, at para 86, quoting *Dunsmuir v New Brunswick*, 2008 SCC 9, at para 47.

[10] A decision which is appropriately justified, transparent and intelligible is one that reflects "an internally coherent and rational chain of analysis" and "is justified in relation to the facts and the law that constrain the decision maker": *Vavilov*, at para 85; *Mason*, at paras 8 and 64–65. The decision should also reflect that the decision-maker "meaningfully grapple[d] with key issues or central arguments raised by the parties": *Vavilov*, at para 128; *Mason*, at para 74.

[11] For the purposes of the present application, it bears underscoring that it is not enough for the outcome of a decision to be *justifiable*. The decision itself must be appropriately *justified*, having regard to the relevant legal and factual constraints: *Vavilov*, at paras 86, 99, 105–107; *Mason*, at paras 59 and 66.

IV. Analysis

A. *Was the finding regarding the financial information supplied by Ms. Ashrafi Amlashi unreasonable?*

[12] In support of her application, Ms. Ashrafi Amlashi provided an affidavit from her spouse in which he undertook to pay for her education expenses, as well as for the family's living expenses and other costs in Canada. She also provided financial information pertaining to three bank accounts held by her spouse in Iran, as well as one of her bank accounts. Collectively, the funds in these accounts amounted to the equivalent of approximately $56,675. In addition, Ms.

Ashrafi Amlashi provided evidence that she had already paid $10,000 of her tuition fees, which were approximately $18,000 for the first year of the MBA program.

[13] Ms. Ashrafi Amlashi maintains that this financial information clearly met the requirements that were applicable at the time she submitted her application, namely, to provide proof of $20,000 in funds (not including tuition), given that she would be accompanied by three family members.[1]

[14] In the form letter sent to Ms. Ashrafi Amlashi regarding the refusal of her application, two reasons were given for the Officer's determination that she would not leave Canada at the end of her stay. The first reason was that her "assets and financial situation are insufficient to support the stated purpose of travel for yourself (and any accompanying family member(s), if applicable)." In the Officer's notes, which form part of the Decision for the purposes of this Application, the findings made by the Officer with respect to the financial information supplied by Ms. Ashrafi Amlashi consisted of the following two sentences:

> I note, the account with most fund [***sic***] was opened in 2022, which lends to the point that the bank account was opened for the visa application, and was required to so [***sic***] in order to meet financial establishment and sustainability for the first, and subsequent year(s) of studies. *The presence of the new account does not satisfy me that the applicant will have access to the funds provided in support of the application.* [Emphasis added.]

[1] According to Ms. Ashrafi Amlashi, applicants were required to provide proof of $10,000 for themselves, as well as $4,000 for the first accompanying family member, and $3,000 for each accompanying family member, to cover living expenses for the first year of the study program. This was not disputed by the Respondent.

[15] The Respondent maintains that the record clearly supports the conclusion reached by the Officer. In this regard, the Respondent notes that the new account in question was a savings account that was opened in February 2022, and that had a history of single transaction. That transaction consisted of a long term deposit entry with a value of approximately $48,949. The Respondent adds that this long term deposit represented the bulk of the financial resources relied upon by Ms. Ashrafi Amlashi to demonstrate her ability to pay for her tuition fees and the living expenses of her family in Canada. The Respondent further asserts that the supporting banking transaction records supplied by Ms. Ashrafi Amlashi did not meet the requirements of the *IRPR*.

[16] Beyond the foregoing, the Respondent notes that “even when bank accounts demonstrate sufficient funds, officers must also be satisfied as to the source, nature and stability of these funds” and be able to “determine the likelihood of future income and ability to pay for subsequent years of education and living expenses while in Canada”: *Sani v Canada (Minister of Citizenship and Immigration)*, 2024 FC 396, at para 27.

[17] The fundamental flaw in the Respondent’s submissions is that they are essentially directed towards demonstrating that the Decision with respect to Ms. Ashrafi Amlashi’s financial resources was *justifiable*, rather than towards establishing that it was appropriately *justified*: see the jurisprudence cited at paragraph 11 above.

[18] It would have been reasonably open to the Officer to find that the long term nature of the deposit in question failed to establish that Ms. Ashrafi Amlashi would have access to those funds. Alternatively, it would have been reasonably open to the Officer to have concerns

regarding the source, nature and stability of the funds in the long term deposit. However, that is not what the Officer wrote. The Officer's reasons stated: "*The presence of the new account* does not satisfy me that the applicant will have access to the funds provided in support of the application" (emphasis added). This clearly indicates that it was the mere presence of the new account that provided the basis for the Officer's concerns. This conclusion was not appropriately justified.

[19] Indeed, taken together with the statement in the form letter quoted in the second sentence of paragraph 14 above, that conclusion was also unintelligible. This is because that statement explained that one of the two reasons for the refusal of the study permit was that Ms. Ashrafi Amlashi's "assets and financial situation *are insufficient* to support the stated purpose of travel …" (emphasis added). The Officer's notes did not mention anything whatsoever about the insufficiency of Ms. Ashrafi Amlashi's financial resources. Instead, the notes reveal that the Officer was not satisfied that she would have *access* to the funds in question. Taken together, the form letter and the Officer's notes do not reflect "an internally coherent and rational chain of analysis": *Vavilov*, at para 85; *Mason*, at paras 8 and 65.

[20] I recognize and accept that the administrative context in which decisions about study permits are made is such that detailed reasons are not required to be provided: *Peiro v Canada (Citizenship and Immigration)*, 2019 FC 1146, at para 15. Given the very large volume of applications and resources available for processing these applications, it will suffice if an immigration officer briefly states the reasons why an applicant failed to establish that they meet the financial criteria or other requirements of the *IRPR*. Stated differently, "common sense and

ordinary logic" may suffice in this context: *Vavilov*, at para 88. Provided that the Officer's reasons are appropriately justified, transparent and intelligible, they may be as brief as a few sentences. However, it bears underscoring that they must also be internally coherent and rational, including in relation to any reasons provided in any "form letter" sent to the applicant. Those basic requirements of justification and intelligibility were not met here. Consequently, the Decision was unreasonable.

B. *Was the finding that Ms. Ashrafi Amlashi did not have significant family ties outside of Canada unreasonable?*

[21] In the form letter that explained the basis for the rejection of Ms. Ashrafi Amlashi's application, the second principal reason given was that she "do[es] not have significant family ties outside Canada." In the Officer's notes, the treatment of Ms. Ashrafi Amlashi's family consisted of the following:

> PA will be accompanied by spouse and two dependent child. The ties to their home country are weaken [***sic***] with the intended travel to Canada involving their immediate family, as the motivation to return will diminish with the applicant's immediate family members residing with them in Canada. Lack of travel history noted which could be used to gauge past compliance to immigration laws of countries with strong migration pull factors. Weighing the factors in this application. I am not satisfied that the applicant will depart Canada at the end of the period authorized for their stay.

[22] The foregoing reasons failed to engage, let alone grapple, with the evidence provided by Ms. Ashrafi Amlashi regarding her ties to Iran. This was unreasonable. Among other things, the Statement of Purpose filed in support of her application included two significant paragraphs that set out her reasons for returning to Iran. These reasons included her "intense emotional

attachment" to her father, mother and sister who live there; attending to her parents' needs, obtaining the benefit of the retirement pension to which she has been contributing; getting a promotion in her job; starting a family business; and taking care of her various assets and properties.

[23] It would have been reasonably open to the Officer to find that these various considerations did not constitute sufficiently strong ties to Iran to establish that Ms. Ashrafi Amlashi and her family would leave Canada at the end of her studies here. However, at a minimum, the Officer needed to briefly state the basis for such a finding. The Officer failed to do so.

[24] Instead, the Officer's notes simply focused on the fact that the family's ties to Iran were weakened by the fact that they would all be in Canada, and that this would reduce the family's motivation to return home, given that they would all be together in this country.

[25] The Officer was not required to address all of the ties to Iran that were identified by Ms. Ashrafi Amlashi: *Vavilov*, at para 128. However, it was unreasonable for the Officer to fail to engage and grapple with the most important ties that she had identified: *Masouleh v Canada (Citizenship and Immigration)*, 2023 FC 1159, at paras 30-35; *Jafari v Canada (Citizenship and Immigration)*, 2023 FC 183, at paras 18-19 [***Jafari***].

[26] It was also unreasonable for the Officer to have treated the family's plans to travel to Canada together as a decisive adverse factor in the Decision: *Vahdati v Canada (Citizenship and*

Immigration), 2022 FC 1083, at para 10; *Jafari*, at para 19. Common experience suggests that Canadians who pursue studies abroad often travel there with their spouse and young children, and then return to this country. Taken alone, a foreign national's plans to do the same here do not provide a reasonable basis for concluding that they are unlikely to leave Canada at the end of their study period. This is particularly so given that the study permit regime specifically contemplates that applicants may bring multiple family members with them to Canada.

[27] Having regard to the foregoing, the fact that an applicant plans to come to Canada with their entire immediate family is, at most, a factor that weakens their ties to their home country. Taken together with the absence of any convincing evidence of strong ties to that country, that factor can provide a reasonable basis for concluding that the applicant is unlikely to leave Canada at the end of their stay here. However, that conclusion must be briefly justified, including by addressing any principal ties to the home country that have been identified by the applicant. Here, the Officer's notes did not address those ties whatsoever. This was not only unreasonable, but it also gave rise to a disconnect between the form letter, which stated that Ms. Ashrafi Amlashi does not have significant family ties outside Canada, and the Officer's notes, which did not address the family ties to Iran that she had identified.

[28] In summary, for the reasons set forth above, the Officer's treatment of Ms. Ashrafi Amlashi's family ties in Iran was not reasonable. It did not fall "within a range of possible, acceptable outcomes which are defensible in respect of the facts and the law": see paragraph 9 above.

[29] I will pause to add in passing that the absence of a record of returning to one's home country from other travels abroad is at best a neutral factor. Conversely, where such a record exists, it is incumbent upon an immigration officer to engage with it.

V. Conclusion

[30] For the reasons provided above, the Decision will be set aside and remitted to a different decision-maker.

[31] Given the conclusions that I have reached, it is unnecessary to consider the additional submissions made by the Applicants with respect to procedural fairness.

[32] I agree with the parties that the legal and factual matrix of this Application does not give rise to a serious question of general importance for certification.

JUDGMENT in IMM-12435-22

THIS COURT'S JUDGMENT is that:

1. This Application is granted. The Decision is set aside and remitted back for redetermination by a different immigration officer.

2. The legal and factual matrix of this Application does not give rise to a serious question of general importance for certification.

"Paul S. Crampton"
Chief Justice

FEDERAL COURT

SOLICITORS OF RECORD

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