Federal Court  Cour fédérale

Date: 20250102

Docket: IMM-4214-23

Citation: 2025 FC 6

Toronto, Ontario, January 2, 2025

PRESENT: The Honourable Mr. Justice A. Grant

BETWEEN:

AMIRMASOOD TEIMOORI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] Mr. Amirmasood Teimoori applied for a work permit to come to Canada in order to help run a company that he owns with his sister and brother-in-law. A Visa Officer refused the application, finding that Mr. Teimoori had not demonstrated that the company is large enough to support the executive or management function that he was intending to provide.

[2] For the reasons that follow, I have concluded that the Visa Officer's decision was reasonable, and I will therefore dismiss this application for judicial review.

I. BACKGROUND

A. *Facts*

[3] Mr. Teimoori is a citizen of Iran. As mentioned, he, along with his sister and his brother-in-law, own and operate two plastic surgery medical device companies: Amiran Rad Tajhiz [Amiran], an Iranian company; and its Canadian affiliate, Aston Medical Group Corporation [Aston]. Mr. Teimoori, his sister and brother-in-law own 100% of the shares of both companies.

[4] The Applicant holds an "Associate's Degree" in Civil Engineering from the Islamic Azad University. He has been the director and engineering manager of Amiran since 2007. In or around 2022, Amiran decided to transfer the Applicant to the position of Vice-President and engineering manager at Aston in Canada, contingent on the issuance of a Canadian work permit. As a result, he applied for an Intra-Company Transferee work permit to come to Canada.

[5] In support of his work permit application, Mr. Teimoori submitted the following:

a) a financial statement setting out that the Canadian subsidiary (Aston) had a net loss of $4,925 on total sales of $28,162 in 2019 and a net loss of $11,626 on total sales of $52,350 in 2020;

b) the Applicant's employment contract set out that he will be paid $80,000 per annum plus overtime, plus a bonus if revenues exceeded $4,000,000 per annum;

c) a letter from the company's accountant stating: "The company now plans to bring on board a technical and after-sale support manager for the sophisticated medical devices it markets to the medical profession. In our opinion, this move will greatly

boost the company's sales levels, and will also enhance the company's ability to attract new clients, as well as to retain existing ones"; and

d) counsel's submissions setting out that the hiring of the Applicant will enable the company to significantly expand its client base.

B. *Decision under Review*

[6] A Visa Officer rejected the Applicant's work permit pursuant to s.205(a) of the *Immigration and Refugee Protection Regulations* [IRPR]. The Officer found that Mr. Kazemi had not demonstrated that "the company is large enough to support executive or management function."

[7] In notes entered into the Global Case Management System, which form part of the reasons for decision, the Officer stated:

> Pursuant to the guidelines for assessing start-up companies, when transferring executives or managers, the company must demonstrate that it will be large enough to support executive or management function. The applicant has provided financial statements for 2020 and 2019 to demonstrate that the Canadian company is currently doing business in Canada. 2020 financial statements state a gross revenue of roughly $30000 with a net loss of roughly $11000. Given the stated revenues and not taking into account the consequent net loss, I am not satisfied that the company is large enough to support executive or management function.

[8] The Officer additionally noted that both the Applicant's sister and brother-in-law currently reside in Canada, and so found that Mr. Teimoori had not demonstrated that his role in Aston is required in Canada, given its current small scale and the fact that the two other

shareholders are already residents. The Officer found that the Applicant had provided insufficient documentation as to how the Applicant's role differs from the two other shareholders' roles (who are already residing in Canada) and why his role is required in Canada.

II. ISSUES

[9] The sole issue that arises on this application is whether the decision of the Visa Officer was reasonable. In arguing that the decision under review is unreasonable, the main concern raised by the Applicants is that the Officer did not adequately consider the evidence provided in support of the application.

III. STANDARD OF REVIEW

[10] The standard of review applicable to the substance of a visa officer's decision is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 23 [*Vavilov*]; *Ardestani v Canada (Citizenship and Immigration)* 2023 FC 874 at para 16.

IV. ANALYSIS

[11] The crux of the Applicant's argument is that, in refusing his application, the Visa Officer did not have adequate regard to the reasons why Aston wished to transfer him to Canada, all of which related to the expansion and growth of the company into areas that it currently could not assume. More specifically, the Applicant set out in his application that, unlike his sister and brother-in-law in Canada, he has technical expertise in servicing the equipment that both Aston and Amiran sell. His transfer to Canada would therefore enable Aston to open up new lines of

business in post-sale equipment servicing. That, the Applicant submits, would allow Aston to ensure its profitability and to pay Mr. Teimoori's salary without difficulty.

[12] The Applicant also argues that Aston's current lack of profitability should not have been a bar to his transfer, as profitability is not a requirement of intra-company transfers. To this end, the Applicant refers to the applicable Operational Instructions, which state only that the Canadian employer in an intra-company transfer must be a branch, subsidiary, affiliate or parent of the company which is located outside Canada. The Instructions further provide that the holder must "be transferring to a Senior Executive or Managerial level position at a permanent and continuing establishment of that company in Canada for a temporary period."

[13] To the extent that the Officer's concerns with Aston's profitability related to the company's ability to employ the Applicant, he further argues that the Officer overlooked the possibility that Aston could raise a loan "to alleviate the situation." The Applicant states that "Amiran, in particular, since it was both profitable and Aston's affiliate which had ordered the transfer of the applicant, would be in a position to make a loan to Aston to cover initial expenses caused by the transfer."

[14] With respect, I do not agree that the evidence reveals a fatal flaw in the Officer's appreciation of the work permit application, or the applicable legal principles. I have come to this conclusion for a number of reasons.

[15] First, as the Respondent notes, the Program Delivery Instructions for intra-company transferees exempts certain work permit applicants from having to apply for a Labour Market

Impact Assessment *if* they demonstrate that their work will generate significant benefits. When transferring executives or managers, it must also be demonstrated that the company "will be large enough to support executive or management function." It is this requirement that the Officer concluded - reasonably, in my view - the Applicant did not meet.

[16] Second, the Applicant bore the onus to establish that he met the criteria to obtain a Labour Market Impact Assessment exemption. Yet, despite this fact, the Applicant provided no business plan setting out, with any precision, how the company was expected to grow in relation to his contributions. Nor did he provide any market analysis demonstrating the growth potential of the planned expansion into post-sale equipment servicing.

[17] The Applicant submits on judicial review that his contribution to the company is necessary, as the services he would offer are "precisely what Aston lacked" – because neither Mr. Teimoori's sister nor brother-in-law have any technical expertise. With respect, these contributions and their intended benefits are precisely what could have been included in the above-referenced (absent) business plan. The Applicant's proposed transfer was not for the purpose of performing the hands-on technical servicing in the new division. As such, the onus was on the Applicant to show that he possessed a capacity to *manage* this division, which the other managers lacked. Absent such information, I believe it was open to the Officer to conclude that the Applicant had simply not established that his transfer to Canada would meet the "significant benefit" requirements of s.205(a) of the IRPR.

[18] Third, despite the Applicant's statements raised on judicial review about the ability of Amiran to finance the Applicant's transfer to Aston, I see no mention of this plan in his work permit application. All that was provided was a relatively sparse letter from the company's accountant, which asserted that the Applicant's arrival would "boost the company's sales levels and will also enhance the company's ability to attract new clients…." In my view, the Officer was not obliged to accept this entirely speculative evidence. Nor was it the Officer's responsibility to divine the company's plans to finance either its Canadian expansion, or its ability to pay the Applicant his proposed salary.

[19] Put differently, in my review of the record that was before the Officer, I see no error in the conclusion that, due to the company's low revenue numbers and the presence of two executives already running Aston's operations in Canada, the Applicant had failed to establish that the company was large enough to support his intended executive or managerial function.

V. CONCLUSION

[20] For the brief reasons set out above, I will dismiss this application for judicial review. The parties did not propose a question for certification and I agree that none arises.

JUDGMENT in IMM-4214-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. No question is certified for appeal.

"Angus G. Grant"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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