Federal Court Cour fédérale

Date: 20250117

Docket: IMM-943-24

Citation: 2025 FC 98

Ottawa, Ontario, January 17, 2025

PRESENT: Mr. Justice Norris

BETWEEN:

SEPEHR SABETI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The applicant is a 25-year-old citizen of Iran. In October 2023, he applied for a work permit as an intra-company transferee who would be responsible for establishing a Canadian subsidiary of his employer, Zarbaft Jam Company (Zarbaft). The company, which is based in Iran, produces and sells machine-made carpets. The applicant joined the company in August 2021 as a sales manager. In February 2023, the board of directors appointed the applicant

as Executive Director of a proposed Canadian subsidiary, which was later incorporated in Ontario in March 2023.

[2] Immigration, Refugees and Citizenship Canada refused the work permit application in a decision dated November 22, 2023. The decision letter states that the application had been refused because the applicant had not established that he met the requirements of paragraph 205(a) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (*IRPR*). In brief, this provision grants an exemption from the usual requirements for a work permit if the work the foreign national intends to perform "would create or maintain significant social, cultural or economic benefits or opportunities for Canadian citizens or permanent residents." The application was rejected because the applicant had not established that his intra-company transfer would have such benefits.

[3] The officer's Global Case Management System (GCMS) notes demonstrate that the decision was based on four specific concerns with the work permit application. First, the officer was not satisfied that Zarbaft, the parent company, is a multi-national company, as required under administrative code C-61 (formerly C-12), the category under which the applicant had applied for a work permit as an intra-company transferee, because the company only had operations in Iran. Second, the applicant had not demonstrated that there were sufficient financial resources for Zarbaft to establish a Canadian subsidiary and compensate its employees while also maintaining the business in Iran. Third, in any event, the business plan for the Canadian subsidiary, which included hiring two additional employees in the first year and employing nine individuals by the fifth year, did not demonstrate that there would be a significant economic

benefit for Canadians and permanent residents considering the proposed levels of compensation. Fourth, based on the officer's own research, the business plan did not appear to be based on realistic estimates of the rental costs the company would have to incur for office and warehouse space in Toronto, where it proposed to locate its operations.

[4] The applicant now applies for judicial review of this decision under subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 *(IRPA*). He contends that the decision is unreasonable in a number of respects.

[5] As I will explain, I am not persuaded that there is any basis to interfere with the decision. Briefly, the officer's conclusion that the applicant had failed to put forward a viable plan for funding the Canadian subsidiary is reasonable in light of the information before the officer. Since that finding alone was a sufficient reason to refuse the work permit application, the absence of any reviewable error in relation to it is sufficient to uphold the decision as reasonable. As a result, it is not necessary to decide whether the decision is flawed in the other ways the applicant alleges. This application will, therefore, be dismissed.

[6] The parties agree, as do I, that the substance of the officer's decision should be reviewed on a reasonableness standard (*Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 10).

[7] A decision is reasonable if it is "based on an internally coherent and rational chain of analysis and [it is] justified in relation to the facts and law that constrains the decision maker"

(*Vavilov*, at para 85). To set aside a decision on the basis that it is unreasonable, the reviewing court must be satisfied that "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency" (*Vavilov*, at para 100).

[8] The applicant submits that the decision is unreasonable because, in considering the financial viability of the proposed Canadian subsidiary, the officer focused solely on the applicant's own assets, which admittedly were insufficient to meet the projected financial requirements of the subsidiary, without also considering that the parent company would be contributing funding as well.

[9] I do not agree.

[10] The business plan submitted by the applicant estimated that, during the first year of operations, total operating expenses for the Canadian subsidiary would be $243,721 (all figures CAD). The applicant stated in the work permit application that both he and the parent company would contribute funds to meet the subsidiary's financial needs. The applicant provided bank statements showing a balance equivalent to $103,754 in his personal account and a balance equivalent to $302,608 in Zarbaft's business account.

[11] The GCMS notes demonstrate that the officer understood that both the applicant and Zarbaft would be contributing funding. As the officer noted, however, the applicant did not provide a breakdown of the amounts each would be contributing. Even if not expressly stated in

the notes, the officer's line of reasoning is clear. Given that there would still be a significant shortfall even if the applicant contributed all of his personal funds, Zarbaft would be required to make a substantial contribution for the subsidiary to meet its financial requirements. This, in turn, would deplete the financial resources available to continue to operate the company in Iran. As a result, the officer was not satisfied that the applicant and Zarbaft had demonstrated that they had the financial means to commence doing business in Canada (including compensating employees) while also maintaining the business in Iran. On the information before the officer, this was a reasonable conclusion.

[12] Even if, as the applicant points out, the program requirements do not call for a detailed breakdown of the sources and exact amounts of funding that would be provided, that information could help to demonstrate the financial viability of the new business. The absence of such information left the business plan – and, as result, the work permit application – weaker than it might otherwise have been.

[13] Having failed to establish the financial viability of the Canadian subsidiary, it followed necessarily that the applicant also failed to demonstrate that the subsidiary would create significant economic benefits or opportunities for Canadian citizens or permanent residents, as was required. As already noted, this alone was a sufficient reason to refuse the work permit application. Since the reasonableness of this determination is a sufficient basis to uphold the decision as reasonable, it is immaterial whether, as the applicant alleges, the decision is flawed in other respects.

[14] For these reasons, the application for judicial review will be dismissed.

[15] The parties did not propose any serious questions of general importance for certification under paragraph 74(d) of the *IRPA*. I agree that no question arises.

JUDGMENT IN IMM-943-24

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed.

2. No question of general importance is stated.

"John Norris"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-943-24
STYLE OF CAUSE:	SEPEHR SABETI v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	JANUARY 15, 2025
JUDGMENT AND REASONS:	NORRIS J.
DATED:	JANUARY 17, 2025

APPEARANCES:

Fakhteh Mirdavoodi	FOR THE APPLICANT
Brendan Stock	FOR THE RESPONDENT

SOLICITORS OF RECORD:

YLG Professional Corporation Toronto, Ontario	FOR THE APPLICANT
Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT