

Federal Court



Cour fédérale

**Date: 20250127**

**Docket: IMM-14554-23**

**Citation: 2025 FC 163**

**Vancouver, British Columbia, January 27, 2025**

**PRESENT: The Honourable Madam Justice Kane**

**BETWEEN:**

**BIKRAMJIT SINGH**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The Applicant, Bikramjit Singh [Mr. Singh], seeks judicial review of the decision of an officer at the Case Processing Centre [the Officer] at Immigration, Refugees and Citizenship Canada [IRCC] refusing Mr. Singh’s application for an open work permit. The Officer found that Mr. Singh did not meet the eligibility criteria under the 2023 “Temporary Public Policy to Facilitate the Issuance of an Open Work Permit during the Coronavirus (COVID-19) Pandemic”, because his Post-Graduate Work Permit [PGWP] had expired in June 2021, and the eligibility

criteria required that an applicant's PGWP expire between September 20, 2021, and December 31, 2023.

[2] For the reasons that follow, the Application for Judicial Review is dismissed.

I. Background

[3] Mr. Singh is an Indian citizen who arrived in Canada on a study permit in August 2016. His study permit expired on August 31, 2018.

[4] In May 2018, Mr. Singh completed the Horticultural Technician Co-op Program at Niagara College. He then applied for, and was granted, a PGWP for a three-year period. His PGWP expired on June 4, 2021.

[5] Mr. Singh subsequently applied for, and was issued an open work permit on April 23, 2021, pursuant to IRCC's 2021 "Policy to Facilitate the Issuance of an Open Work Permit to Certain Former or Current PGWP Holders" [2021 Public Policy]. The open work permit, with conditions, expired on October 22, 2022.

[6] On September 19, 2022, Mr. Singh again applied for an open work permit, this time pursuant to the 2022 "Policy to Facilitate the Issuance of an Open Work Permit to Certain Former or Current PGWP Holders" [2022 Public Policy]. On May 23, 2023, IRCC refused Mr. Singh's 2022 application for an open work permit, noting that "[a]s your PGWP expired June 04, 2021, you do not meet the eligibility criteria for an open work permit under the

temporary public policy.” It does not appear that Mr. Singh applied for leave for judicial review of this decision.

[7] On May 29, 2023, Mr. Singh again applied for an open work permit and the restoration of his immigration status pursuant to the 2023 “Policy to Facilitate the Issuance of an Open Work Permit to Certain Former or Current PGWP Holders” [2023 Public Policy].

[8] On October 30, 2023, the Officer refused Mr. Singh’s application for restoration and an open work permit. He seeks judicial review of this refusal.

## II. The Decision

[9] The Officer’s letter dated October 30, 2023, along with the Officer’s notes in the Global Case Management System [GCMS] constitute the reasons for the decision.

[10] The Officer’s letter explains that Mr. Singh does not meet the eligibility criteria for the open work permit pursuant to the applicable public policy, noting that all the criteria must be met. The letter states:

A foreign national must

- **hold or have held a PGWP that expired or is expiring between September 20, 2021 and December 31, 2023**
- have maintained temporary resident status or be eligible for the restoration of their status (in Canada only)
- have requested consideration under this public policy and have indicated the duration of the work permit they are seeking in their application (maximum of 18 months)

- have submitted an application online on or before December 31, 2022

**As your PGWP expired June 4, 2021, you do not meet the eligibility criteria for an open work permit under the temporary public policy.**

**[X] You are a person in Canada without temporary resident status who is not eligible for restoration under Section 182 of the *Immigration and Refugee Protection Regulations*.**

**[X] You are a person in Canada without legal status and as such are required to leave Canada immediately. If you do not leave Canada voluntarily, enforcement action may be taken against you.**

[Emphasis in the original.]

[11] The Officer relied on the eligibility criteria and concluded that because Mr. Singh's PGWP expired on June 4, 2021, he is not eligible. The Officer further noted that Mr. Singh is in Canada without temporary resident status and is not eligible for restoration pursuant to section 182 of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [the Regulations]. Given the lack of status, he is required to leave Canada.

[12] The GCMS notes indicate that Mr. Singh was authorized to remain in Canada as a temporary resident on a work permit valid until May 23, 2023, and that he remained since that date without authorization and as a result, lost his temporary resident status. The notes also indicate that Mr. Singh's 2021 open work permit was issued "possibly in error". The notes further cite the criteria pursuant to the 2023 Public Policy and note that because the PGWP expired on June 4, 2021, Mr. Singh does not meet the eligibility criteria. The GCMS notes also state "Application refused per R203 (1)".

### III. The Applicant's Submissions

[13] Mr. Singh argues that the Officer erred in the interpretation and application of the applicable public policies for 2021, 2022 and 2023 and the statutory provisions. Mr. Singh further argues that the Officer breached the duty of procedural fairness owed by ignoring evidence and providing inadequate reasons.

[14] Mr. Singh notes that the 2021 Public Policy addressed the impact of COVID-19 on foreign students with PGWPs in Canada who may not have been able to work in their field of study and gain the experience the PGWP was intended to provide. He notes that a PGWP may be a pathway to permanent residence; however, applications for permanent residence were stalled during the COVID-19 period. He submits that the 2021 Public Policy was also intended to address the labour shortages by permitting PGWP holders to work in Canada by extending their work permit. Mr. Singh submits that the subsequent 2022 and 2023 Public Policies had similar objectives.

[15] Mr. Singh submits that the Officer ignored the 2022 and 2023 Public Policies and their underlying rationale. He argues that the Officer erred in finding that his PGWP expired in June 2021. He argues that his PGWP was extended to October 22, 2022, pursuant to the 2021 Public Policy (which falls within the eligibility criteria for the 2023 Public Policy) and that he had a valid work permit until May 23, 2022 (because he did not obtain a refusal of his application until that date).

[16] Mr. Singh submits that the 2021 Public Policy permitted an applicant to obtain an open work permit if they had a PGWP that expired on or before January 30, 2020, or that expired in 4 months or less from the date they applied. Mr. Singh submits that he sought an extension of his PGWP within that four-month period.

[17] Mr. Singh disputes the Respondent's position that a PGWP cannot be extended. He alternatively argues that a PGWP is a type of open work permit, which he applied for and was extended in accordance with the applicable 2021 Public Policy, and that he had such a permit until October 2022 (and continued until May 2023 when his 2022 application for a work permit was refused), which falls within the period for eligibility pursuant to the 2023 Public Policy.

[18] Mr. Singh submits that the 2022 and 2023 Public Policies provide no indication that a PGWP cannot be extended. He argues that as a type of open work permit, the 2022 and 2023 Public Policy permit extensions.

[19] Mr. Singh points to the 2022 Public Policy, which states:

Foreign nationals whose post-graduation work permit expired or will expire from September 20, 2021, to December 31, 2022, will have the opportunity to work in Canada for an additional 18 months by either extending their work permit or applying for a new one. Those currently in Canada will also have the ability to work in the interim period while their permit is being extended or a new one is being issued.

[20] Mr. Singh argues that this suggests that he could extend his permit, which he sought to do in 2022.

[21] Mr Singh also points to the 2023 Public Policy that is addressed to “eligible PGWP holders and former PGWP holders” and submits that he is either an eligible PGWP or a former PGWP holder and should fall within the Policy.

[22] Mr. Singh further argues that the reasons for the Officer’s decision are not adequate and do not permit him to understand why the Officer refused his open work permit and do not permit this Court to determine the reasonableness of the decision.

#### IV. The Respondent’s Submissions

[23] The Respondent submits that the decision is reasonable as it is based on the facts and the clear eligibility criteria.

[24] The Respondent submits that although Mr. Singh was issued an open work permit in April 2021 pursuant to the 2021 Public Policy, which provided him an open work permit for 18 months, until October 22, 2022, he was not eligible for restoration of his status at the time of his current application for a work permit in May 2023.

[25] The Respondent notes that Mr. Singh has mischaracterized the work permit issued to him pursuant to the 2021 Public Policy as an extension of his PGWP, which it was not. The Respondent notes that an applicant can only receive one PGWP in their lifetime. Mr. Singh was issued a PGWP in 2018 which expired in June 2021. Mr. Singh then benefitted from the 2021 Public Policy to get a maximum 18-month open work permit after holding a PGWP due to the

impact of the COVID-19 pandemic. However, Mr. Singh did not qualify for another PGWP, and he did not qualify for a further open work permit under the 2023 Public Policy.

[26] The Respondent submits that the policy guidelines for PGWP set out the eligibility criteria and decision-makers do not err by strictly applying the criteria as these criteria must be satisfied (*Nookala v Canada (Citizenship and Immigration)*, 2016 FC 1019 at paras 11-12).

[27] The Respondent explains that because Mr. Singh did not meet the requirements for the PGWP, the Officer reasonably found that he was also not eligible for restoration of his status pursuant to subsection 182(1) and paragraph 179(d) of the Regulations.

#### V. The Relevant Statutory Provisions

[28] The *Immigration and Refugee Protection Act*, SC 2001, c 27 [the Act] states at section 47:

**47** A foreign national loses temporary resident status

**(a)** at the end of the period for which they are authorized to remain in Canada;

**(b)** on a determination by an officer or the Immigration Division that they have failed to comply with any other requirement of this Act; or

**(c)** on cancellation of their temporary resident permit.

**47** Emportent perte du statut de résident temporaire les faits suivants :

**a)** l'expiration de la période de séjour autorisé;

**b)** la décision de l'agent ou de la Section de l'immigration constatant le manquement aux autres exigences prévues par la présente loi;

**c)** la révocation du permis de séjour temporaire.



[29] The relevant provisions of the Regulations are set out below:

**179** An officer shall issue a temporary resident visa to a foreign national if, following an examination, it is established that the foreign national

[...]

**(d)** meets the requirements applicable to that class;

[...]

**182 (1)** On application made by a visitor, worker or student within 90 days after losing temporary resident status as a result of failing to comply with a condition imposed under paragraph 185(a), any of subparagraphs 185(b)(i) to (iii) or paragraph 185(c), an officer shall restore that status if, following an examination, it is established that the visitor, worker or student meets the initial requirements for their stay, has not failed to comply with any other conditions imposed and is not the subject of a declaration made under subsection 22.1(1) of the Act.

**179** L'agent délivre un visa de résident temporaire à l'étranger si, à l'issue d'un contrôle, les éléments suivants sont établis :

[...]

**d)** il se conforme aux exigences applicables à cette catégorie;

[...]

**182 (1)** Sur demande faite par le visiteur, le travailleur ou l'étudiant dans les quatre-vingt-dix jours suivant la perte de son statut de résident temporaire parce qu'il ne s'est pas conformé à l'une des conditions prévues à l'alinéa 185a), aux sous-alinéas 185b)(i) à (iii) ou à l'alinéa 185c), l'agent rétablit ce statut si, à l'issue d'un contrôle, il est établi que l'intéressé satisfait aux exigences initiales de sa période de séjour, qu'il s'est conformé à toute autre condition imposée à cette occasion et qu'il ne fait pas l'objet d'une déclaration visée au paragraphe 22.1(1) de la Loi.

[Emphasis added.]

## VI. Standard of Review

[30] The standard of review for a decision regarding an application for a work permit is reasonableness (*Kaur v Canada (Citizenship and Immigration)*, 2022 FC 270 at para 21; *Bains v Canada (Citizenship and Immigration)*, 2020 FC 57 at para 49; *Lin v Canada (Citizenship and Immigration)*, 2019 FC 1284 at para 23; *Ocran v Canada (Citizenship and Immigration)*, 2022 FC 175 at para 16).

[31] 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 (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 85, 102, 105–07 [*Vavilov*]). A decision should not be set aside unless it contains “sufficiently serious shortcomings ... such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency” (*Vavilov* at para 100).

[32] Reasons are not held to a standard of perfection (*Vavilov* at para 91). In the context of decisions for work permits and similar applications, it is understood that the reasons are brief (*Patel v Canada (Citizenship and Immigration)*, 2020 FC 77 at para 17); nonetheless, the reasons must permit the Court to understand why the application was refused and to determine that the conclusion falls within the range of reasonable outcomes.

[33] Contrary to Mr. Singh’s submission, the adequacy of reasons is not an issue of procedural fairness (see for example, *Zhu v Canada (Citizenship and Immigration)*, 2020 FC 980 at para 12;

*Laifatt v Canada (Citizenship and Immigration)*, 2020 FC 365 at para 16 [*Laifatt*]); rather the reasons are read with the record to determine the reasonableness of the decision (*Vavilov* at para 103).

[34] Where issues of procedural fairness arise, the Court must determine whether the procedure followed by the decision-maker is fair having regard to all of the circumstances; this is akin to a standard of correctness (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54). The scope of the duty of procedural fairness owed in the circumstances is variable and informed by several factors (*Baker v Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 SCR 817 at para 21). Where a breach of procedural fairness is found, no deference is owed.

[35] The duty of procedural fairness owed to an applicant for a temporary work permit is at the low end of the spectrum (*Singh Grewal v Canada (Citizenship and Immigration)*, 2013 FC 627 at para 19; *Sulce v Canada (Citizenship and Immigration)*, 2015 FC 1132 at para 10; *Kaur v Canada (Citizenship and Immigration)*, 2017 FC 782 at para 19; *Li v Canada (Citizenship and Immigration)*, 2012 FC 484 at para 31).

## VII. The Decision is Reasonable

[36] The issue is whether the Officer reasonably interpreted the 2023 Public Policy and reasonably found that Mr. Singh's PGWP expired on June 4, 2021, and as a result, that he did not qualify for an open work permit under the 2023 Public Policy. Mr. Singh views his 2021 work permit, which was for an 18-month period expiring in October 2022, as an extension of the

PGWP issued in 2018 rather than as a separate permit. However, Mr. Singh has misinterpreted the Regulations and the applicable policies. The Officer's conclusion is based on a reasonable interpretation of the 2023 Public Policy.

[37] The PGWP is not expressly provided for in the Act or the Regulations, but exists pursuant to the authority provided to the Minister under section 205 of the Regulations (*Osahor v Canada (Citizenship and Immigration)*, 2017 FC 666 at para 13 [*Osahor*]). As Justice Gleeson noted in *Osahor* at para 14:

[14] In effect, section 205 of the *IRPR* extends to the Minister the authority to provide foreign nationals with limited access to the Canadian labour market where that access satisfies public policy objectives relating to the competitiveness of Canada's economy or academic institutions. The *IRPR* do not prescribe criteria but rather authorize the Minister to both designate the work to be performed and define how, or on what basis, limited access is to be provided. In doing so the Minister must be in a position to establish program criteria.

[Emphasis added.]

[38] A PGWP is a one-time opportunity (*Osahor* at para 12). Contrary to Mr. Singh's submission, the 2022 Public Policy and other publicly available guides for PGWP applicants clearly indicate that a PGWP is a one-time permit that can be granted for up to three years, but not extended.

[39] The 2021, 2022 and 2023 Public Policies, which addressed the impact of COVID-19 on both foreign students working in Canada and on the Canadian labour market, provided for new open work permits for eligible applicants, not for an extended PGWP. The title of the public policies leaves no room for other interpretations: "Temporary Public Policy to Facilitate the

Issuance of an Open Work Permit during the Coronavirus (COVID-19) Pandemic” [Emphasis added].

[40] The 2022 Public Policy, which Mr. Singh cites (but under which he was found not eligible in May 2023), states:

Foreign nationals whose post-graduation work permit expired or will expire from September 20, 2021, to December 31, 2022, will have the opportunity to work in Canada for an additional 18 months by either extending their work permit or applying for a new one. Those currently in Canada will also have the ability to work in the interim period while their permit is being extended or a new one is being issued.

[Emphasis added.]

[41] Although Mr. Singh seeks to characterize his PGWP as a type of open work permit, and submits that his PGWP was extended to October 2022 and his work permit did not expire until May 2023, when his 2022 application was refused, the Public Policies in 2021, 2022 and 2023 make a distinction between a PGWP and an open work permit. The policies do not suggest that the PGWP is extended, but that a new and different open work permit can be sought.

[42] The 2023 Public Policy states at pages 2 and 3:

This public policy will permit eligible PGWP holders and former PGWP holders:

- in Canada to work without authorization in the short term (however this authorization does not in itself provide status in Canada or authorization to return to Canada);
- to apply from inside Canada for a new open work permit and facilitate restoration of their status, if applicable; and

- who left Canada to apply for a new open work permit from outside Canada.

[Emphasis added].

[43] Mr. Singh's submits that he is a former PGWP holder, which is true. However, eligibility for the 2023 Public Policy is clearly limited to PGWP holders to those who—at the time of their application pursuant to the 2023 Public Policy—had a PGWP that has expired or would expire between September 2021 and December 2023. As noted, the PGWP is a one-time permit. Some former PGWP holders would have fallen within the eligibility period and others, like Mr. Singh, who had a PGWP that expired outside the stated period, would not. Mr. Singh was also not a current PGWP holder at the relevant time.

[44] The 2023 Public Policy also notes the “inability to renew” PGWPs and states that “PGWP holders who have expired work permits or for those whose permits will expire in 2023...will have to stop working and leave Canada unless they have applied for or been issued another permit to maintain their status as a temporary resident, or if they are granted permanent resident status” [Emphasis added; 2023 Public Policy at p. 1].

[45] Mr. Singh finds himself in an unfortunate situation as it appears that he made several attempts to maintain his work permit and status. However, he was granted a three-year PGWP followed by an 18-month open work permit. As noted above, he does not appear to have challenged the May 2023 refusal of a work permit, which was also based on his failure to meet the eligibility criteria. His reliance on the 2023 Public Policy does not assist him as he clearly

does not meet the criteria. Mr. Singh's PGWP expired on June 4, 2021, and he was ineligible for another open work permit under the 2023 Public Policy.

[46] The Officer's notation in the GCMS regarding expiry dates of October 2022 and May 2023 (the date of the refusal of the 2022 application) is not an error.

[47] The Court cannot find any serious shortcoming in the Officer's decision. Although the GCMS notes are brief, combined with the refusal letter, they permit the Court to understand the rationale for the Officer's decision, which is based on the facts and the law that constrain the Officer.

#### VIII. There is No Breach of Procedural Fairness

[48] Mr. Singh's allegations of procedural unfairness focus on the inadequacy of the Officer's reasons and the Officer's failure to alert him to the possible error in issuing his 2021 work permit.

[49] As noted above, the inadequacy of reasons is not a stand-alone basis for judicial review and is not an issue of procedural fairness (*Laifatt* at para 16).

[50] Also, as noted above, the Officer's decision—the reasons and the outcome—are justified, transparent and intelligible. The reasons in work permit decisions are typically brief. Regardless, and as noted, the Court clearly understands why the Officer reached the decision to refuse the work permit.

[51] The Officer did not breach the duty of procedural fairness by not alerting Mr. Singh to the possible error in issuing the 2021 work permit. The Officer did not rely on this and stated only that it was possibility. This comment had no bearing on the Officer's decision. There was no requirement for the Officer to alert Mr. Singh to this concern or provide an opportunity for a response.



**JUDGMENT in file IMM-14554-23**

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

1. The Application for Judicial Review is dismissed.
2. There is no question for certification.

"Catherine M. Kane"

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Judge

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

**DOCKET:** IMM-14554-23

**STYLE OF CAUSE:** BIKRAMJIT SINGH v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** VANCOUVER, BRITISH COLUMBIA

**DATE OF HEARING:** JANUARY 20, 2025

**JUDGMENT AND REASONS:** KANE J.

**DATED:** JANUARY 27, 2025

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