

Federal Court



Cour fédérale

**Date: 20250714**

**Docket: IMM-10899-24**

**Citation: 2025 FC 1249**

**Ottawa, Ontario, July 14, 2025**

**PRESENT: The Honourable Madam Justice Ngo**

**BETWEEN:**

**DARSHAN SINGH DHALIWAL**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The Applicant, Darshan Singh Dhaliwal [Applicant], seeks judicial review of a decision by an officer of the Minister of Immigration, Refugees and Citizenship Canada [Officer] dated June 3, 2024, refusing an application for permanent residence from within Canada on humanitarian and compassionate grounds [H&C] rendered pursuant to section 25 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [Decision].

[2] The Officer found that the Applicant failed to demonstrate sufficient establishment, hardship, or impact on the best interests of the child that would warrant extraordinary relief.

[3] The issue before the Court is whether the Officer's Decision was unreasonable, with the merits of the Decision to be reviewed on a reasonableness standard of review (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 10, 25 [*Vavilov*]).

[4] On judicial review, the Court must consider whether a decision bears the hallmarks of reasonableness – justification, transparency and intelligibility (*Vavilov* at para 99). A reasonable decision will always depend on the constraints imposed by the legal and factual context of the particular decision under review (*Vavilov* at para 90). A decision may be unreasonable if the decision-maker misapprehended the evidence before it (*Vavilov* at paras 125-126). The party challenging the decision bears the onus of demonstrating that the decision is unreasonable (*Vavilov* at para 100).

[5] The Applicant is an Indian citizen who arrived in Canada in May 2019 on a work permit. His wife and two sons arrived in Canada on temporary resident visas in July 2019. The Applicant and his family reside with his elderly parents (ages 72 and 77 at the time of the submission). The Applicant's parents and one of his sisters are permanent residents, and his other sister is a Canadian citizen. There is also a third sister in India, but the family is not in contact with her.

[6] The Applicant's parents have medical issues and suffered catastrophic losses following the death of the Applicant's brother by suicide. The Applicant's brother-in-law (his sister's

husband) also tragically died shortly after. These difficult events prompted the family to solicit the Applicant's assistance. The Applicant came to Canada with his own nuclear family to visit and help them. After they arrived in Canada, the Applicant's family moved in with his parents, and essentially took over the responsibilities that his brother had undertaken before his death.

[7] The H&C application set out, among other things, that the Applicant's parents have a high degree of interdependency and reliance on the four members of the Applicant's family. The Applicant sought an H&C exemption based on a number of factors including that the separation from the Applicant and his family would have a significant detrimental effect on the Applicant's parents.

[8] What warrants relief in an H&C application will vary depending on the facts and context of each case, but officers making H&C determinations must substantively consider and weigh all relevant facts and factors before them (*Toor v Canada (Citizenship and Immigration)*, 2022 FC 773 at para 16, other citations omitted).

[9] I agree with the Applicant's submissions that the reasons do not justify the conclusions in the Decision at issue, especially in light of the evidence that contradicts these conclusions (citing *Garcia v Canada (Citizenship and Immigration)*, 2020 FC 16 at paras 14-17; *Vavilov* at paras 125-126).

[10] The Applicant states that, upon reading the Decision, the Officer does not appear to have grasped the central point of the H&C application, and the differences between being responsible

for the elderly parents, living together and intertwined as a family unit sharing daily life, and an occasional visit.

[11] In this case, the Applicant works on a full-time basis and pays for the mortgage of the home where they all live. His parents own the home, and they confirmed that the Applicant would inherit the home on their passing. The Applicant's wife stays home and cares for his parents, including tending to their day-to-day needs. The children accompany their grandparents to physician appointments and to the local temple. In a statement before the Officer, the Applicant's parents relayed the emotional support they received from the Applicant and his nuclear family, and how it has benefited their wellbeing generally.

[12] The record also included statements from the Applicant's two sisters who live in Canada. These statements outlined how the sisters are unable to assume the level of care that the Applicant and his family have undertaken since 2019 given their own family responsibilities and challenges, among other things. Despite this, the Officer concluded that the sisters could provide the Applicant's parents with the support they need.

[13] The Officer further stated that the Applicant's parents could get either a private home worker or social services. This was based on an internet search of a government of British Columbia website [Website] that the officer independently undertook.

[14] Yet, the Applicant rightfully identified that the Website states that this type of care is not guaranteed since his parents would still have to meet the eligibility criteria. The eligibility

criteria were not listed on the Website in the certified tribunal record. As such, there is no evidence on whether they are eligible to receive these home services.

[15] The Website also states that they may also need to pay a fee. The record before the Officer included a statement from the Applicant's parents attesting that they rely on the Applicant as their only source of financial support and that they do not have the financial means to go to an old age home as an alternative for the Applicant's at home support. The two sisters also provided statements explaining their own financial limitations and their inability to cover the possible costs related to an old age home.

[16] It is therefore difficult to reconcile the conclusions that the Applicant's parents could receive private or subsidized home care given the contradictory evidence of the family's financial limitations and the Applicant's parent's financial dependence on his paycheck (which will be lost if he leaves Canada). The conclusions on the "alternatives" to the day-to-day care provided by the Applicant and his family are not borne out of the evidence in the record.

[17] The Decision uses the term "interdependency." However, having read the Decision holistically, I am not convinced the Officer sufficiently grappled with the level of interdependency and reliance that was submitted. Furthermore, given the comments above, the Decision is not justified based on the factual matrix that bears upon the decision-maker as it did not account for contradictory evidence. I therefore cannot find that the Decision is based on a rational chain of analysis (*Vavilov* at para 103).

[18] The application for judicial review is granted. The parties do not propose any question for certification, and I agree that in these circumstances, none arise.

**JUDGMENT in IMM-10899-24**

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

1. The application for judicial review is granted. The H&C decision is set aside and remitted to a different officer for redetermination.
2. There is no question for certification.

"Phuong T.V. Ngo"

Judge

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

**DOCKET:** IMM-10899-24

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

**PLACE OF HEARING:** VANCOUVER (BRITISH COLUMBIA)

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**JUDGMENT AND REASONS:** NGO J.

**DATED:** JULY 14, 2025

**APPEARANCES:**

Renu Goel	FOR THE APPLICANT
Sarah Sohn	FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Liberty Law Corporation Barristers and Solicitors Abbotsford (British Columbia)	FOR THE APPLICANT
Attorney General of Canada Vancouver (British Columbia)	FOR THE RESPONDENT