Federal Court Cour fédérale

**Date: 20250829**

**Docket: IMM-16189-24**

**Citation: 2025 FC 1442**

**Ottawa, Ontario, August 29, 2025**

**PRESENT: The Honourable Mr. Justice Régimbald**

**BETWEEN:**

**AVTAR SINGH**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

## JUDGMENT AND REASONS

[1] Mr. Avtar Singh [Applicant] is a citizen of India who applied for a work permit as a long-haul truck driver, after having been hired by a company that had obtained a labour market impact assessment. On August 19, 2024, an Immigration Officer [Officer] denied the work permit for the following reasons:

> I have reviewed the application. I have considered the following factors in my decision. The applicant has significant family ties in Canada. The applicant does not have significant family ties outside Canada. The applicant's current employment situation

> does not show that they are financially established in their country of residence. Based on the applicant's immigration status outside their country of nationality or habitual residence, I am not satisfied that they will leave Canada at the end of their stay as a temporary resident. 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. For the reasons above, I have refused this application.

[2] The Applicant seeks judicial review of that decision on the basis that it is not responsive to the evidence that was before the Officer. I agree.

[3] The sole issue is whether the decision under review is reasonable (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 10, 25 [*Vavilov*]; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at paras 7, 39–44 [*Mason*]). To avoid judicial intervention, the decision must bear the hallmarks of reasonableness—justification, transparency, and intelligibility (*Vavilov* at para 99; *Mason* at para 59). A decision may be unreasonable if the decision maker misapprehended the evidence before it (*Vavilov* at paras 125–126; *Mason* at para 73). Reasonableness review is not a "rubber-stamping" exercise, it is a robust form of review (*Vavilov* at para 13; *Mason* at para 63). The party challenging the decision bears the onus of demonstrating that the decision is unreasonable (*Vavilov* at para 100).

[4] I note that the Officer is presumed to have considered all the evidence, and that they may assess and evaluate the evidence before them (*Simpson v Canada (Attorney General)*, 2012 FCA 82 at para 10). An applicant cannot expect to rebut this presumption by simply criticizing the weight that the administrative decision maker gave to one or many of the pieces of evidence: "the Court will consider putting aside this presumption only when the probative value of the evidence

that is not expressly discussed is such that it should have been addressed" (*Lee Villeneuve v Canada (Attorney General)*, 2013 FC 498 at para 51, citing *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 8667 (FC) at paras 14–17 [*Cepeda-Gutierrez*]). The fact remains that an administrative decision maker is not required to make an explicit finding on each constituent element leading to their final conclusion (*Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at para 16).

[5] Nonetheless, contradictory evidence should not be ignored. This is particularly true when the evidence relates to one of the main points on which the decision maker relies to reach their conclusions. Although reviewing courts should refrain from putting the decision maker's reasons under a microscope, the decision maker cannot act "without regard to the evidence" (*Vavilov* at para 126; *Cepeda-Gutierrez* at paras 16–17). When a decision maker's reasons do not mention the evidence that contradicts its conclusions, the Court may intervene and infer that they did not review the contradictory evidence when reaching their finding of fact.

[6] This matter warrants the Court's intervention. Although it was open to the Officer to weigh the evidence and draw conclusions from it, the Officer could not reject, nor omit to engage with "the constellation of evidence" that undermines their conclusion without providing transparent or intelligible reasons for doing so (see *Banovic v Canada (Citizenship and Immigration)*, 2024 FC 1990 at para 66; *Sangha v Canada (Citizenship and Immigration)*, 2021 FC 760 at para 35).

[7] Nothing in the Officer's reasons shows any consideration of the evidence provided to the effect that the Applicant's father, brother and grandfather remain in India. In fact, the Officer's

statement that "[t]he applicant does not have significant family ties outside Canada" is clearly contradicted. While officers have latitude to consider the nature, as opposed to the quantity, of an applicant's family relationships (*Ocran v Canada (MCI)*, 2022 FC 175 at para 25), they must provide sufficient reasons to demonstrate having properly considered the evidence before them. It was not open to the Officer, in this case, to state that the Applicant did "not" have "significant" ties to India (father and brother), compared to his ties in Canada that are of equal degree, being of a parent and sibling (mother and sister) and assess those ties as being "significant". Instead, the Officer had to weigh the evidence and the family ties and explain why the connections in Canada are more significant and outweigh those in India. In other terms, simply asserting that the Applicant does not have significant ties in India is not sufficient; while the outcome of the decision may be justifiable, the decision itself is not justified (*Vavilov* at para 86). Thus, the absence of intelligible reasons supporting a finding that there are "more ties to Canada than home" allows the Court to rule that the finding is unreasonable (*Khansari v Canada (Citizenship and Immigration)*, 2023 FC 17 at para 18).

[8] Likewise, the Officer opined that "[t]he applicant's current employment situation does not show that they are financially established in their country of residence [and based] on the Applicant's immigration status outside their country of nationality or habitual residence, I'm not satisfied that they will leave Canada at the end of their stay as a temporary resident". In those reasons, the Officer was referring to the fact that the Applicant at the time worked in Kuwait and had temporary status there ending in 2023. It is reasonable for an Officer to consider an applicant's temporary status and economic establishment in a country of residence because strong economic ties and valid resident status to one's country of residence constitute "pull factors" supporting the

conclusion that an applicant would depart Canada at the end of their authorized stay (*Bahmani v Canada (Citizenship and Immigration)*, 2025 FC 1254 at para 17; *Kumar v Canada (Citizenship and Immigration)*, 2024 FC 81 at para 34). However, there was evidence of that the Applicant worked legally under a valid work visa between 2019 and 2023, had employment income, and provided banking statements in Kuwait for a period of more than six months. No reasons were provided as to why that evidence was insufficient to support establishment in Kuwait and why, on that basis, the Officer was not satisfied that the Applicant would depart Canada at the end of his authorized stay. Thus, there are no intelligible reasons supporting the conclusion reached by the Officer.

[9] As a result, the Officer did not justify their reasoning in relation to key pieces of evidence, which causes the Court to lose confidence in the outcome they reached (*Vavilov* at paras 122, 194). Accordingly, the decision is unreasonable and must be sent back for redetermination.

[10] This application for judicial review is granted and there is no question of general importance for certification.

**JUDGMENT in IMM-16189-24**

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

1. The application is granted.
2. The decision is set aside and the matter is remitted for redetermination before a different Officer.
3. There is no question of general importance for certification.

"Guy Régimbald"
Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

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| **DOCKET:** | IMM-16189-24 |
| **STYLE OF CAUSE:** | AVTAR SINGH v THE MINISTER OF CITIZENSHIP AND IMMIGRATION |
| **PLACE OF HEARING:** | VANCOUVER (BRITISH COLUMBIA) |
| **DATE OF HEARING:** | AUGUST 27, 2025 |
| **JUDGMENT AND REASONS:** | RÉGIMBALD J. |
| **DATED:** | AUGUST 29, 2025 |

**APPEARANCES:**

| | |
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| Lucas Kam | FOR THE RESPONDENT |

**SOLICITORS OF RECORD:**

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