Federal Court  Cour fédérale

Date: 20250924

Docket: IMM-16576-24

Citation: 2025 FC 1566

Toronto, Ontario September 24, 2025

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

PRADEEP KUMAR

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS AND JUDGMENT

[1] Mr. Pradeep Kumar (the "Applicant") seeks judicial review of the decision of an officer (the "Officer") refusing his application for an open work permit to work in Ontario as an electrician. He applied for the open work permit pursuant to Section 200 of the *Immigration and Refugee Protection Regulations* SOR/2002-227 (the "Regulations"). The prospective employer in Ontario, Canada has already received a positive Labour Market Impact Assessment ("LMIA").

[2] The Applicant is a citizen of India. At the time he applied for the open work permit, he was a temporary resident of Australia where his wife is a university student. His young son is also residing in Australia with his parents.

[3] The Officer refused the Applicant's application for two reasons, that is on the basis of his temporary status in Australia and concerns about his ability to perform the work of an electrician in Ontario, according to the qualifications set out in the National Occupational Classification ("NOC") 72200.

[4] Although Counsel for the Applicant addressed the first issue in oral argument, this issue was not addressed in the written submissions.

[5] Counsel for the Respondent objected and argued that allowing "new" arguments at the hearing of the judicial application was prejudicial to his client and contrary to the jurisprudence.

[6] I agree that the jurisprudence teaches that new arguments cannot be raised at the hearing of an application for judicial review. The Order granting leave in any immigration proceeding allows the parties to file a "further" memorandum of fact and law. That is the opportunity for a party to raise a "new" issue or argument.

[7] In this case, the Applicant did not file a "further" memorandum of fact and law. The "new" arguments relative to the first basis of the Officer's refusal will not be considered.

[8] The Applicant argues that the Officer unreasonably assessed the evidence he provided, including the response from his representative to a letter from Immigration, Refugees and Citizenship Canada ("IRCC"). In that letter, dated August 8, 2024, IRCC requested "information and/or documentation" about certain matters, including the length of time the Applicant would require training in order to obtain the necessary certification, who would pay for the training and whether he would be paid during the training period.

[9] The Respondent submits that the Officer reasonably concluded that the Applicant did not meet the requirements for issuance of an open work permit.

[10] Following the decision of the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 SCR 653 the merits of the decision are reviewable on the standard of reasonableness.

[11] In considering reasonableness, the Court is to ask if the decision under review "bears the hallmarks of reasonableness – justification, transparency and intelligibility – and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision"; see *Vavilov, supra* at paragraph 99.

[12] In my opinion, having regard to the contents of the Certified Tribunal Record (the "CTR"), the decision is unreasonable.

[13] By a letter dated August 18, 2024, the representative of the Applicant answered all the questions. Although that letter refers to “attached documents”, no documents are attached to the letter found in the CTR.

[14] However, the letter of August 8, 2024, put the request in terms of “information and/or documentation”, and the letter of August 18, 2024, certainly provided “information”.

[15] It appears that the Officer did not consider this letter.

[16] In the result, the application for judicial review will be allowed, the decision will be set aside, and the matter will be remitted to another officer for redetermination. There is no question for certification.

JUDGMENT IN IMM-16576-24

THIS COURT'S JUDGMENT is that the application for judicial review is allowed, the decision is set aside and the matter is remitted to another officer for redetermination. There is no question for certification.

"E. Heneghan"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-16576-24
STYLE OF CAUSE:	PRADEEP KUMAR v. THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	SEPTEMBER 16, 2025
REASONS AND JUDGMENT:	HENEGHAN J.
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APPEARANCES:

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