

Federal Court



Cour fédérale

Date: 20251030

Docket: IMM-23240-24

Citation: 2025 FC 1746

Toronto, Ontario, October 30, 2025

PRESENT: Mr. Justice Gascon

BETWEEN:

SALKHAN

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The applicant, Mr. Salkhan, seeks judicial review of a decision rendered on December 6, 2024 [Decision] by an officer [Officer] of Immigration, Refugees and Citizenship Canada [IRCC] refusing his application for a spousal open work permit [OWP] under the International Mobility Program [IMP], filed pursuant to subparagraph 205(c)(ii) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR].

[2] The Officer found that Mr. Salkhan provided insufficient information to demonstrate the employment of the principal applicant in Canada, in this case, his wife. Mr. Salkhan contests the reasonableness of the Decision, notably on the basis that the Officer overlooked some evidence. He also claims that the Decision was reached in a procedurally unfair manner.

[3] For the following reasons, Mr. Salkhan's application for judicial review will be dismissed. I find that the Decision is reasonable in light of the evidence presented to the Officer and is adequately justified. Furthermore, the Decision was not made in violation of the procedural fairness requirements binding on the Officer in the context of their decision-making process. There are no grounds warranting the Court's intervention.

II. Background

A. *The factual context*

[4] Mr. Salkhan is an Indian national currently residing in Chandigarh, India. His wife previously held a study permit and currently holds an open work permit valid until October 2026. She works as a baker in Toronto. The couple got married in April 2023 after an arranged marriage process that began in February 2021.

[5] Mr. Salkhan has previously submitted two spousal OWP applications in 2023 and 2024 which were both refused. He submits that his previous immigration consultant was "incompetent" and that he never got to review these applications.

[6] In August 2024, Mr. Salkhan submitted his spousal OWP application with the help of his current counsel. In November 2024, IRCC issued a letter [Letter] to Mr. Salkhan stating the following:

Additional documentation or information is required in order to continue processing your application.

There appears to be a submission error. Please review the application and supporting documents as they belong to two different individuals and provide the correct form/document(s) accordingly.

[7] Mr. Salkhan responded to IRCC that same month and provided documents. Counsel's response letter notes that IRCC's Letter "does not explicitly outline the specific documents that the decision maker requires in order to make a determination" on Mr. Salkhan's application and asks IRCC to contact him "should the decision maker require any additional documents or further information."

B. *The Decision*

[8] On December 6, 2024, the Officer refused Mr. Salkhan's application for a spousal OWP pursuant to subparagraph 205(c)(ii) of the IRPR. The Decision indicates that Mr. Salkhan is "not eligible for an open work permit under the IMP as [he] provided insufficient information to demonstrate [his] inviter's employment in Canada."

[9] As is often the case for work permit applications, the Decision itself is brief and adds up to only a few lines. However, the Global Case Management System [GCMS] notes taken by the officer — which form part of the Decision — provide further light on the analysis conducted by

the Officer and on the grounds for refusing Mr. Salkhan application. These notes state the following:

Docs received and associated app updated. [Principal Applicant] provided a declaration from [Principal Foreign National] that indicates she is working as a Baker and provided a copy of [Principal Foreign National]’s bank statements highlighting deposits (not for same company name). [Principal Applicant] did not provide a letter of employment or paystubs for the [Principal Foreign National]. Based on the information provided, I am not satisfied [Principal Applicant] has sufficiently demonstrated evidence of inviter’s [employment] in [Canada] therefore [Principal Applicant] is not eligible for an OWP under the IMP. Application refused R205(c)(ii).

C. *The standard of review*

[10] The Supreme Court of Canada’s landmark decision in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] established a presumption that reasonableness is the applicable standard in judicial reviews of the merits of administrative decisions (*Pepa v Canada (Citizenship and Immigration)*, 2025 SCC 21 at para 35 [Pepa]; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 7 [Mason]), unless the circumstances lend themselves to the application of one of the recognized exceptions to this presumption (*Canadian Society of Authors, Composers and Music Publishers v Entertainment Software Association*, 2022 SCC 30 at para 28; *Vavilov* at paras 33–64, 69–72).

[11] The parties and I agree that the standard of reasonableness applies to decisions about work permits (*Lin v Canada (Citizenship and Immigration)*, 2023 FC 209 at para 13 [Lin]; *Sharma v Canada (Citizenship and Immigration)*, 2020 FC 381 at para 10 [Sharma]; *Rehman v Canada (Citizenship and Immigration)*, 2015 FC 1021 at paras 7, 13).

[12] Where the applicable standard of review is reasonableness, the role of a reviewing court is to examine the reasons given by the administrative decision maker and to determine whether the decision is based on “an internally coherent and rational chain of analysis” and is “justified in relation to the facts and law that constrain the decision maker” (*Pepa* at para 46; *Mason* at para 64; *Vavilov* at para 85). The reviewing court must therefore ask whether the “decision bears the hallmarks of reasonableness—justification, transparency and intelligibility” (*Vavilov* at para 99, citing notably *Dunsmuir v New Brunswick*, 2008 SCC 9 at paras 47, 74).

[13] Such a review must include a rigorous evaluation of administrative decisions. However, as part of its analysis of the reasonableness of a decision, the reviewing court must take a “reasons first” approach and begin its inquiry by examining the reasons provided with “respectful attention,” seeking to understand the reasoning process followed by the decision maker to arrive at its conclusion (*Pepa* at paras 46–47; *Mason* at paras 58, 60; *Vavilov* at para 84). The reviewing court must adopt an attitude of restraint and intervene “only where it is truly necessary to do so in order to safeguard the legality, rationality and fairness of the administrative process” (*Vavilov* at para 13).

[14] The standard of reasonableness is rooted in the principle of judicial restraint and deference, and it requires reviewing courts to show respect for the distinct role that the legislature has chosen to give to administrative decision makers, more particularly on findings of fact and the weighing of evidence (*Mason* at para 57; *Vavilov* at paras 13, 24, 46, 75). Absent exceptional circumstances, a reviewing court will not interfere with an administrative decision maker’s factual findings (*Vavilov* at paras 125–126, citing *Canada (Canadian Human Rights*

Commission) v Canada (Attorney General), 2018 SCC 31 at para 55; *Doyle v Canada (Attorney General)*, 2021 FCA 237 at para 3).

[15] The onus is on the party challenging the decision to prove that it is unreasonable. Flaws must be more than superficial for the reviewing court to overturn an administrative decision. The court must be satisfied that there are “sufficiently serious shortcomings” (*Vavilov* at para 100).

[16] With respect to issues of procedural fairness, the Federal Court of Appeal has repeatedly stated that these do not require the application of the usual standards of judicial review, although the reviewing exercise is akin to correctness review (*Algoma Steel Inc v Canada (Attorney General)*, 2023 FCA 164 at para 22 [*Algoma Steel*]; *Canadian Hardwood Plywood and Veneer Association v Canada (Attorney General)*, 2023 FCA 74 at para 57; *Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*, 2020 FCA 196 at para 35, leave to appeal to the Supreme Court dismissed, no 39522 (August 5, 2021); *Lipskaia v Canada (Attorney General)*, 2019 FCA 267 at para 14; *Canadian Airport Workers Union v International Association of Machinists and Aerospace Workers*, 2019 FCA 263 at paras 24–25; *Perez v Hull*, 2019 FCA 238 at para 18; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at paras 33–56 [*CPR*]). It is for the reviewing court to ask, “with a sharp focus on the nature of the substantive rights involved and the consequences for an individual, whether a fair and just process was followed” (*CPR* at para 54).

[17] Consequently, when an application for judicial review concerns procedural fairness and a breach of the principles of fundamental justice, the question that must be answered is not necessarily whether the decision was “correct.” Rather, the reviewing court must determine

whether, given the particular context and circumstances of the case, the process followed by the administrative decision maker was fair and gave the parties concerned the right to be heard, as well as a full and fair opportunity to be informed of the evidence to be rebutted and to have their case heard (*Algoma Steel* at para 22; *CPR* at para 56; *Huang v Canada (Citizenship and Immigration)*, 2018 FC 940 at paras 51–54). Circumstances that may be considered are namely “factors within the expertise and knowledge of the tribunal, including the nature of the statutory scheme and the expectations and practices of the [decision maker’s] constituencies” (*Ghafari v Canada (Attorney General)*, 2023 FCA 206 at para 15, citing *Council of Canadians with Disabilities v VIA Rail Canada Inc*, 2007 SCC 15 at para 231).

[18] Reviewing courts are not required to show deference to administrative decision makers on matters of procedural fairness (*Maritime Employers Association v Syndicat des débardeurs (Canadian Union of Public Employees, Local 375)*, 2023 FCA 93 at para 81, application for leave to the Supreme Court dismissed, no 40828 (March 21, 2024)).

III. Analysis

A. *The Decision is reasonable*

(1) The legislative framework

[19] An immigration officer granting a temporary resident visa must generally be satisfied that an applicant meets the requirements of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] and the IRPR (subsection 11(1) of the IRPA; section 179 of the IRPR). There are

numerous classes under which applicants can come to Canada as temporary residents, including economic immigration based on Canadian interests (section 205 of the IRPR). Notably, a work permit may be issued to a foreign national who intends to perform work designated by the Respondent, the Minister of Citizenship and Immigration [Minister], on the basis that “limited access to the Canadian labour market is necessary for reasons of public policy relating to the competitiveness of Canada’s academic institutions or economy” (paragraph 205(c)(ii) of the IRPR). Applicants intending to perform such work are not required to obtain a Labour Market Impact Assessment [LMIA] prior to their work permit application and rather apply through the IMP. Because one of IRPA’s objectives is the reunification of families (paragraph 3(1)(d) of the IRPA), one stream of such OWP allows family members of foreign nationals authorized to work in high-skilled occupations — meaning an occupation falling under training, education, experience, and responsibilities [TEER] categories 0, 1, 2 or 3 — to accompany or join them in Canada. This is commonly referred to as a “C-41” accompanying OWP in reference to the Minister’s administrative codes for LMIA exemptions.

[20] The Minister has published publicly available guidelines for officers assessing C-41 OWP applications. I agree with the Minister that these administrative guidelines are not legally binding on officers, but they may assist decision makers in exercising their discretion. As such, they may be “useful in indicating what constitutes a reasonable interpretation” of the applicable laws by the decision maker and thus assist revision courts in assessing the reasonableness of a visa officer’s decision (*Kanthasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61 at para 32). Here, the guidelines indicate that an applicant must provide evidence that the principal foreign national — in this case, Mr. Salkhan’s spouse — is or will be employed in Canada in an occupation falling under TEER categories 0, 1, 2 or 3. Examples of acceptable evidence include

a job contract, a letter from an employer indicating the TEER category and job duties, or a business plan. The Minister admits that these are not required *per se* nor exhaustive.

(2) There is no proof the Officer ignored the evidence

[21] Mr. Salkhan submits that the Officer made an erroneous finding regarding the evidence he submitted and that the Officer's assertion that he failed to provide a letter of employment and paystubs for his spouse is "unequivocally incorrect." He argues that he provided his spouse's employment reference letter with extensive job duties and responsibilities along with extensive supporting documents such as bank portfolio, bank account statements, income statements (T4), and recent notices of assessment to demonstrate that his spouse is employed in an eligible high-skilled occupation.

[22] The Minister responds that, while Mr. Salkhan claims that he provided his spouse's letter of employment and paystubs, the Certified Tribunal Record [CTR] rather reveals that these were not included in his application. The Minister further states that the Decision is reasonable in light of the evidence that was actually filed by Mr. Salkhan and that he had the onus to ensure that all required documents were provided to demonstrate that his spouse's employment in Canada made him eligible for a spousal OWP.

[23] It is clear that the absence of the spouse's employment letter and paystubs were determinative in the Officer's Decision to refuse Mr. Salkhan's application for a spousal OWP.

[24] To meet the burden of proof by a balance of probabilities, Mr. Salkhan has to demonstrate that he had provided all of the relevant information and documentation to convince the Officer and that the Officer ignored them (*El Dor v Canada (Citizenship and Immigration)*, 2015 FC 1406 at para 32 [*El Dor*]; *Singh Khatra v Canada (Citizenship and Immigration)*, 2010 FC 1027 at para 5 [*Singh Khatra*]). It cannot be said that documents were ignored if they did not form part of the material submitted to the Officer (*Toor v Canada (Citizenship and Immigration)*, 2019 FC 1143 at para 10 [*Toor*]).

[25] The content of an order granting an application for leave in an immigration matter is provided for by Rule 15 of the *Federal Courts Citizenship, Immigration and Refugee Protection Rules*, SOR/93-22 [Rules] and includes the time limit within which the administrative tribunal is to send copies of its record as required under Rule 17. The latter imposes a mandatory obligation on visa officers to produce a copy of the record containing notably all documents relevant to the matter that are in the possession or control of the tribunal (*Toor* at para 11; *Li v Canada (Citizenship and Immigration)*, 2018 FC 639 at para 22 [*Li*]). Because the copy of the CTR is duly certified to be correct by an officer (Rule 17), there is a presumption that a CTR is complete (*Khan v Canada (Citizenship and Immigration)*, 2025 FC 1282 at para 17 [*Khan*]; *Toor* at para 11; *Togtokh v Canada (Citizenship and Immigration)*, 2018 FC 581 at para 16.1; *Ogbuchi v Canada (Citizenship and Immigration)*, 2016 FC 764 at para 16 [*Ogbuchi*])

[26] The case law is clear that when a party takes the position that documents not included in the CTR were before a decision maker but not considered, that party has the onus of demonstrating that the documents were in fact before the decision maker (*Khanhosseinoor v Canada (Citizenship and Immigration)*, 2025 FC 1497 at para 11; *Toor* at para 12; *Li* at para 23;

Ogbuchi at para 15; *El Dor* at para 32). A bare assertion by an applicant that a document was sent will not suffice to meet this burden (*Khan* at para 17; *Toor* at para 12; *Li* at para 24; *El Dor* at para 22; *Singh Khatra* at para 6; *Adewale v Canada (Citizenship and Immigration)*, 2007 FC 1190 at para 11 [*Adewale*]).

[27] Here, there is no indication or evidence before me that the letter of employment and paystubs for Mr. Salkhan's spouse were put before the Officer. They do not appear in the CTR and this is consistent with the GCMS notes of the Officer made at the time of their assessment, who writes that these documents are missing from the application. This is also consistent with the table of contents of Mr. Salkhan's reply through his counsel to IRCC dated November 21, 2024, which does not list an item related to an employment letter or paystubs. The affidavit of Mr. Salkhan's spouse also refers to an attached employment letter, but it appears that none was effectively attached to her affidavit.

[28] Of course, I understand that Mr. Salkhan strongly believes that these documents were before the Officer. However, he has failed to adduce any compelling evidence to support this proposition, other than to annex to his affidavit before this Court what he pretends were the documents and forms filed in support of his application. Mr. Salkhan relies exclusively on his affidavit to prove that these documents were before the Officer. Regrettably for him, without any other evidence, this is not enough to overcome the presumption regarding the accuracy and completeness of the contents of the CTR.

[29] The fact that these documents are now included in the Mr. Salkhan's application record before this Court cannot make up for the fact that the documents were not before the Officer and therefore cannot serve to undermine the reasonableness of the Officer's Decision on judicial review (*Khan* at para 17; *Ogbuchi* at para 16; *Adewale* at para 10).

(3) There are no shortcomings in the Decision

[30] That said, I must determine whether the Decision was reasonable considering the evidence that was properly filed and placed before the Officer. The evidence that remains in support of the eligibility of the spouse's employment in Canada to issue an OWP to Mr. Salkhan is: (1) the affidavit of Mr. Salkhan stating that his spouse is currently employed as a permanent full-time baker in Toronto; (2) the affidavit of his spouse confirming the same; (3) Scotiabank account statements showing highlighted deposits from an unidentified source; and (4) a bank balance certificate from Scotiabank confirming the balances in her accounts. His counsel's submissions do not constitute evidence (*Khan* at para 19).

[31] Mr. Salkhan acknowledges that there is no company name listed on her spouse's salary deposits but contends that "this omission is entirely due to the format used by the bank for mobile deposits in Canada." While I do not dispute that this might be the case, it is well recognized that the onus is on permit and visa applicants to put together applications that are convincing, to anticipate adverse inferences contained in their evidence and address them, and to demonstrate that they have a right to enter Canada. This was not done here.

[32] Mr. Salkhan argues that the Officer provided a generic and template, boilerplate statements without making any reference to the evidence he had provided. It is true that the Decision itself is brief and generic — as is often the case in this type of application — but it is clear from the case law that the Decision must be viewed in parallel with the GCMS notes (see *Sharma* at para 7).

[33] Written reasons given by an administrative body must not be assessed against a standard of perfection (*Vavilov* at para 91). Taking into account the context in which a decision on a temporary resident visa application such as a work permit is rendered (*Vavilov* at para 94), I agree that in those cases, the obligation to give reasons for a decision is minimal due to reasons of practical efficiency (*Lin* at para 21). However, the reasons provided must still “allow the reviewing court to understand why the tribunal made its decision and permit it to determine whether the conclusion is within the range of acceptable outcomes” (*Newfoundland and Labrador Nurses’ Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at para 16). In other words, reasons need not be comprehensive or perfect, but they need to be comprehensible so that the Court is “able to understand why the decision was made” (*Solopova v Canada (Citizenship and Immigration)*, 2016 FC 690 at para 32; see also *Lin* at para 22).

[34] In the present case, I find that the GCMS notes are brief but adequate, as they provide a clear and intelligible justification for the refusal of Mr. Salkhan’s OWP application. The Officer engaged with the evidence provided in support of the application. Moreover, the reasons intelligibly set out the Officer’s concerns regarding the spouse’s employment and the sufficiency of the evidence to establish that she is or will be employed in an occupation of TEER category 0, 1, 2 or 3, as outlined in the applicable guidelines. In the circumstances, considering the

insufficiency of the evidence provided in support of his spouse's employment in Canada, it was reasonably open for the Officer to conclude that Mr. Salkhan was not eligible for a C-41 accompanying OWP. I detect no shortcoming in that conclusion that would warrant the Court's intervention.

[35] In short, I am satisfied that the Officer did not ignore evidence nor otherwise erred in determining that Mr. Salkhan did not prove on the balance of probabilities that his spouse was working in Canada in an eligible occupation. The Decision bears the hallmarks of reasonableness, namely, justification, transparency, and intelligibility, in relation to the relevant factual and legal constraints that bear upon the decision maker (*Vavilov* at para 99).

B. *There was no breach of procedural fairness*

[36] Mr. Salkhan finally submits that the Officer breached procedural fairness by failing to provide him with any opportunity to be heard or with a procedural fairness letter to address the credibility and genuineness concerns the Officer had on his spouse's employment — notably, with regard to her bank statements. Mr. Salkhan maintains that he should have been notified of such issues and given a reasonable chance to respond, given that he claims that they were credibility findings. He relies on his and his spouse's affidavits filed in support of his OWP application, as well as his counsel's submissions in reply to the Letter, which all stated their willingness to provide additional documents or information if required.

[37] With respect, I do not agree with Mr. Salkhan.

[38] It is well accepted that, on applications for work permits, the duty of fairness lays at the lower end of the spectrum and “the Court must guard against imposing a level of procedural formality that, given the volume of applications that visa officers are required to process, would unduly encumber efficient administration” (*Khan* at paras 30–32; see also *Sharma* at para 32 and *Patel v Canada (Citizenship and Immigration)*, 2020 FC 517 [*Patel*]). Generally, a visa officer is under no obligation to seek out additional information from an applicant to assuage concerns that arise from the material they submitted (*Sharma* at para 32; *Patel* at para 12), unless credibility, accuracy, or genuine nature of information submitted is at issue (*Hassani v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1283 at para 24).

[39] In the context of visa applications, the Court has often distinguished between findings based on the sufficiency of evidence, which do not trigger a duty to inform an applicant, and adverse credibility findings, which require that a visa officer provides the applicant with an opportunity to respond (*Perez Pena v Canada (Citizenship and Immigration)*, 2021 FC 491 at para 35). Perceived inconsistency in information provided by an applicant will engage a procedural fairness obligation only if it results in the visa officer losing confidence in the applicant’s reliability (*Thechanamoorthy v Canada (Citizenship and Immigration)*, 2018 FC 690 at para 27). I acknowledge that the line between an insufficiency of evidence and a veiled credibility finding is sometimes difficult to draw and that “[t]he reference to a *bona fide* concern in the [d]ecision must not be conflated with a credibility concern” (*Abbas v Canada (Citizenship and Immigration)*, 2022 FC 378 at para 22, citing *D’Almeida v Canada (Citizenship and Immigration)*, 2019 FC 308 at para 65 and *Patel* at para 14).

[40] Here, I do not find that the Officer made any adverse credibility findings — veiled or not — about the evidence provided by Mr. Salkhan and found in the CTR. As such, this argument has no merit and there was no need for the Officer to give an opportunity to Mr. Salkhan to respond to their concerns. Even though the Officer refers to concerns about the fact that the highlighted deposits on the spouse's bank statements do not appear to be from the same company as that indicated in the application, it is clear that the overall assessment of the Officer underlines the insufficiency of the evidence provided. Indeed, the Officer's determinations, reasonable for the reasons outlined above, were based on Mr. Salkhan's failure to meet his positive obligation to provide sufficiently convincing evidence in support of his application. Accordingly, since the Officer made no credibility finding, the Officer did not have a procedural fairness duty to alert Mr. Salkhan of their concerns. Procedural fairness does not arise whenever an officer has concerns that an applicant could not reasonably have anticipated (*Singh v Canada (Citizenship and Immigration)*, 2012 FC 526 at para 52).

[41] Mr. Salkhan further submits he was never notified on the “mix-up” that happened in his application. However, I must point out that Mr. Salkhan was provided the Letter precisely because of that “mix-up” and that he was able to resubmit his forms and documents for consideration, which he did. In response, Mr. Salkhan claims that this Letter was “vague and unclear” and “failed to provide any meaningful details regarding the nature of the submission error.”

[42] Again, I am not persuaded by Mr. Salkhan's argument. It is true that the Letter is brief. However, it mentions the following: “There appears to be a submission error. Please review the application and supporting documents as they belong to two different individuals and provide the

correct form/document(s) accordingly.” As such, I do not find that the Letter can be qualified as unclear or that it should have provided more detail about the nature of the submission error, nor that additional details would have been relevant. Mr. Salkhan was clearly asked to resubmit his application forms and supporting documents. However, for unknown reasons, it appears that Mr. Salkhan, or his counsel, decided to cherry-pick and only file some of his initial forms and supporting documents in response to the Letter and then invite the Officer to contact him should they require any additional documents or further information. But it is well established that a visa officer has no legal obligation to seek to clarify a deficient application, to reach out and make the applicant’s case, or to apprise the applicant of concerns relating to whether the requirements set out in the legislation have been met (*Penez v Canada (Citizenship and Immigration)*, 2017 FC 1001 at paras 35–37).

[43] In sum, I cannot find any breach of procedural fairness in the process followed by the Officer.

IV. Conclusion

[44] For all of these reasons, Mr. Salkhan’s application for judicial review is dismissed. I am of the view that the Decision is reasonable based on the evidence provided and was rendered in accordance with the procedural fairness requirements incumbent upon the Officer in the course of their decision-making process.

[45] There are no questions of general importance to be certified.

JUDGMENT in IMM-23240-24

THIS COURT’S JUDGMENT is that:

1. This application for judicial review is dismissed, without costs.
2. There is no question of general importance to be certified.

“Denis Gascon”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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STYLE OF CAUSE: SALKHAN v THE MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

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APPEARANCES:

Arshdeep Singh Kahlon	FOR THE APPLICANT
Rishma Bhimji	FOR THE RESPONDENT

SOLICITORS OF RECORD:

KAHLON LAW OFFICE Brampton, Ontario	FOR THE APPLICANT
Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT