Federal Court Cour fédérale

Date: 20260223

Docket: IMM-24169-24

Citation: 2026 FC 252

Toronto, Ontario, February 23, 2026

PRESENT: Madam Justice Go

BETWEEN:

FARUKH AMIN

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Farukh Amin [Applicant], a citizen of Pakistan, seeks a judicial review of a Senior Immigration Officer's [Officer] decision to refuse the Applicant's application for permanent residence on humanitarian and compassionate [H&C] grounds [Decision].

[2] The Applicant has been living in Canada since 2016. During this time, he made an unsuccessful refugee claim. His two prior H&C applications were refused. The Applicant's spouse and two minor children live in Pakistan and rely on the Applicant's financial support.

[3] The Applicant filed a third H&C application in 2023 in which he relied on three grounds: his establishment in Canada, the best interests of the children [BIOC], and hardship due to adverse country conditions in Pakistan. The Officer found the Applicant failed to provide sufficient evidence to warrant an exception from requirements pursuant to the *Immigration and Refugee Protection Act*, SC 2001, c 27.

[4] For the reasons set out below, I find the Decision unreasonable and I grant the application.

II. Analysis

[5] The Decision is reviewable on a reasonableness standard, per *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]. The Court should assess whether the decision bears the requisite hallmarks of justification, transparency and intelligibility: *Vavilov* at para 99. The Applicant bears the onus of demonstrating that the decision was unreasonable: *Vavilov* at para 100.

[6] The test for H&C was outlined in *Kanthasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61 [*Kanthasamy*]. The Supreme Court of Canada determined that H&C relief should

be warranted in circumstances that "would excite a reasonable [person] in a civilized community a desire to relieve the misfortunes of another": *Kanthasamy* at para 21.

[7] Officers are required to consider and weigh all relevant facts and factors to determine whether such equitable relief is justified: *Kanthasamy* at para 25. Such factors may include establishment, ties to Canada, the BIOC, health and family considerations, the situation in country of origin, and consequences of separation: *Kanthasamy* at para 27.

[8] The Applicant submits the Decision was unreasonable based on the following three issues: a) the Officer erred in their assessment of establishment; b) the Officer improperly assessed the BIOC; and c) the Officer failed to analyze the Applicant's hardship as a result of losing his job.

[9] The Applicant makes several arguments in support of these issues. I agree with the Applicant on the following two arguments.

A. *The Officer erred in their assessment of establishment*

[10] First, I agree with the Applicant that the Officer focused on documents and evidence that were not included, rather than properly assessing the evidence that was submitted, when assessing the Applicant's establishment in Canada.

[11] In the context of employment, the Applicant provided evidence from his employer confirming that the Applicant joined the company in 2019 as a supervisor and currently

overseeing 15 individuals. The employer confirmed that the Applicant earned $55,000 in his last year and that he is an integral part of the team.

[12] However, rather than focusing on the document the Applicant submitted from his employer, the Officer discounted the Applicant's employment by stating that the Applicant did not provide documents such as T4s, Notices of Assessment, and other tax documents. The Officer found the Applicant did not provide sufficient evidence that he reported his income to the Canada Revenue Agency.

[13] As the Applicant submits, officers must provide clear and reasoned justifications for assigning limited weight to establishment factors and a failure to do so renders a decision unreasonable: *Kapoor v Canada (Citizenship and Immigration)*, 2024 FC 2095 at paras 10-14; *Xue v Canada (Citizenship and Immigration)*, 2023 FC 1374 [*Xue*] at para 32.

[14] As the Court explained in *Xue* at para 32, while an Officer's exercise of weighing the evidence is afforded deference, a finding that the evidence is insufficient to grant certain weight must be reasonably justified. In this case, the Officer failed to explain why the evidence the Applicant submitted, specifically the letter from his employer confirming his six-year employment history, his income level, and his contribution to the success of the employer's business, constituted insufficient evidence of his establishment.

[15] The Respondent submits that the Applicant is seeking to have the court reweigh the evidence. At the hearing, the Respondent further added that it was reasonable for the Officer to

require corroborative evidence for the employment, and that the lack of income tax assessment was part of the overall assessment of the Applicant's financial management.

[16] I find the Respondent's argument unpersuasive. It would be unreasonable, in my view, for the Officer to expect corroborative evidence from the Applicant to establish employment given that a) the Officer accepted the Applicant has been employed, and b) the evidence of employment came in the form of an affidavit from the employer. Further, the Officer assessed the issue of employment and financial management separately. The Officer made their comment about the lack of income tax assessment in the context of assessing the Applicant's employment, not his financial stability.

[17] Ultimately, the Officer simply failed to provide any clear and reasoned justification for rejecting the Applicant's evidence of employment due to insufficiency, rendering their conclusion on establishment unreasonable.

B. *The Officer' s BIOC assessment was unreasonable*

[18] The Applicant has a 15-year-old daughter and a 13-year-old son who are the subjects of the BIOC. He submitted that the best interests for his children are to allow him to stay in Cananda to financially support them and for his children to reunite with him in Canada due to risks of violence in Pakistan.

[19] The Applicant submits that the Officer failed to properly assess: 1) the risk of gender-based violence facing the Applicant's daughter, and 2) the children's ability to access and afford ongoing education.

[20] I agree with the Applicant's second point for two reasons.

[21] First, I find the Officer made a finding without regard to the evidence. Second, the Officer's analysis was not responsive to the evidence and submissions before them.

[22] The Decision reads:

> According to information in the Pakistan 2023 Human Rights Report by the United States Department of State, the constitution in Pakistan stipulated free and compulsory education for all children between ages five and 16, regardless of their nationality. The applicant does not provide sufficient details with evidence on the costs associated with education and schooling for his children and why his children would not be able to receive free education in Pakistan.

[23] The Applicant submitted to the Officer about the significant barriers to accessing education in Pakistan. In his affidavit, the Applicant stated that he sent money to Pakistan to pay for his children's schooling, and that many children in Pakistan were out of school, a significant majority of them being girls, due to the lack of funds to pay for the costs associated with schooling, lack of schools, child marriage and other harmful discriminatory practices. The Applicant submitted that if he was forced to return to Pakistan, the Applicant would not be able to make a living and send his children to school.

[24] The Applicant's spouse also submitted a letter confirming that the Applicant has been supporting her and her children, and that they would not be able to pay rent and tuition fees for their children's schooling if the Applicant was forced to return.

[25] The Applicant also submitted country condition reports documenting the extensive shortfalls in Pakistan's education system. The Applicant submitted to the Officer these reports prove that the children's chance of obtaining a proper education would be seriously worsened if the Applicant were to lose his job in Canada, and by extension, his ability to pay for their schooling and basic necessities.

[26] The Officer did not engage with any of the evidence the Applicant submitted. In particular, the Officer did not engage with the country conditions evidence that suggests, notwithstanding what Pakistan's constitution stipulates, many children in Pakistan, especially girls, are not able to go to school due to the high costs associated with accessing quality education.

[27] The absence of such an analysis indicates that the Officer either made a finding without regard to the evidence or was not responsive to the evidence and submissions before them.

[28] Further, by focusing on whether the children would be able to receive free education, and finding that there is not sufficient information that the children "are facing difficulties at school or have poor academic performance," the Officer failed to properly conduct a BIOC analysis.

[29] The question is not whether the Applicant's children have proven that they face difficulties at school in Pakistan, but rather whether it would be in their best interests for the Applicant to remain in Canada to ensure the children's continuing access to education, with the Applicant's financial support for their tuition.

[30] While I agree with the Respondent that there is no specific formula for assessing BIOC and that BIOC is not necessarily determinative of an H&C application, I note the Officer's failure to engage with the Applicant's evidence and submission on the impact on children's access to education should the H&C be refused. Therefore, I find that the Officer conducted a flawed BIOC analysis and that they were not sufficiently alert, alive and sensitive to the best interests of the Applicant's children.

[31] For these reasons, I find the Decision unreasonable.

III. Conclusion

[32] The application for judicial review is granted.

[33] There is no question for certification.

JUDGMENT in IMM-24169-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted and the matter sent back for redetermination by a different officer.
2. There is no question for certification.

"Avvy Yao-Yao Go"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-24169-24
STYLE OF CAUSE:	FARUKH AMIN v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	FEBRUARY 10, 2026
JUDGMENT AND REASONS:	GO J.
DATED:	FEBRUARY 23, 2026

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