

Federal Court



Cour fédérale

**Date: 20260323**

**Docket: IMM-4798-25**

**Citation: 2026 FC 389**

**Ottawa, Ontario, March 23, 2026**

**PRESENT: Madam Justice Azmudeh**

**BETWEEN:**

**MAHINDER KAUR**

**Applicant**

**and**

**MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] The Applicant, Ms. Mahinder Kaur, is seeking a judicial review of the rejection of her permanent resident application on humanitarian and compassionate grounds (H&C). I dismiss her application for the following reasons.

[2] The Applicant is a 73-year-old widowed citizen of India. She sought an exemption from the ordinary requirements of the *Immigration and Refugee Protection Act*, SC 2001 c 27 [IRPA] on H&C grounds. She based her application on family ties in Canada, namely her son and his

family; lack of ties in India, even though her daughter and family are there, and the undue hardship of leaving Canada to apply for a permanent resident visa from India.

[3] The applicant arrived in Canada as a visitor on January 13, 2022 to visit her son, daughter-in-law and her two adult grandsons who are permanent residents.

[4] Pursuant to the *Amended Consolidated Practice Guidelines for Citizenship, Immigration and Refugee Protection Proceedings*, June 20, 2025, at sections 65–70, the parties have asked the Court to decide this case based on the written record, without a hearing.

## II. Issues and Standard of Review

[5] The only issue before me is whether the Officer's decision was reasonable.

[6] Reasonableness review is a deferential and disciplined evaluation of whether an administrative decision is transparent, intelligible and justified: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, at paras 12-13 and 15 [*Vavilov*]; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21, at paras 8, 63 [*Mason*].

[7] I have started by reading the reasons of the decision-maker in conjunction with the record that was before them holistically and contextually. As the reviewing judge, I have focused on the decision-maker's reasoning process (*Vavilov* at paras 83–84, 87). I have not considered whether the decision-maker's decision was correct, or what I would do if I were deciding the matter itself: *Vavilov*, at para 83; *Canada (Justice) v D.V.*, 2022 FCA 181 at paras 15, 23. It is not this Court's role to reweigh the evidence: (*Vavilov* at para 125).

[8] A reasonable decision is based on an internally coherent and rational chain of analysis and is justified in relation to the facts and law that constrained the decision-maker (See *Vavilov* at paras 85, 91–97, 103, 105–106, 194; *Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67 at paras 2, 28–33, 61; *Mason* at paras 8, 59–61, 66). For a decision to be unreasonable, the applicant must establish that the decision contains flaws that are sufficiently central or significant (*Vavilov* at para 100). Not all errors or concerns about a decision will warrant intervention.

### III. Legislative Overview

[9] Section 25(1) of IRPA governs foreign nationals' requests for H&C applications:

#### **Humanitarian and compassionate considerations — request of foreign national**

25 (1) Subject to subsection (1.2), the Minister must, on request of a foreign national in Canada who applies for permanent resident status and who is inadmissible — other than under section 34, 35, 35.1 or 37 — or who does not meet the requirements of this Act, and may, on request of a foreign national outside Canada — other than a foreign national who is inadmissible under section 34, 35, 35.1 or 37 — who applies for a permanent resident visa, examine the circumstances concerning the foreign national and may grant the foreign national permanent resident status or an exemption from any applicable criteria or obligations of this Act if the Minister is of the opinion that it is justified by humanitarian and compassionate considerations relating to the foreign national, taking into account the best interests of a child directly affected.

#### **Séjour pour motif d'ordre humanitaire à la demande de l'étranger**

25 (1) Sous réserve du paragraphe (1.2), le ministre doit, sur demande d'un étranger se trouvant au Canada qui demande le statut de résident permanent et qui soit est interdit de territoire — sauf si c'est en raison d'un cas visé aux articles 34, 35, 35.1 ou 37 —, soit ne se conforme pas à la présente loi, et peut, sur demande d'un étranger se trouvant hors du Canada — sauf s'il est interdit de territoire au titre des articles 34, 35, 35.1 ou 37 — qui demande un visa de résident permanent, étudier le cas de cet étranger; il peut lui octroyer le statut de résident permanent ou lever tout ou partie des critères et obligations applicables, s'il estime que des considérations d'ordre humanitaire relatives à l'étranger le justifient, compte tenu de l'intérêt supérieur de l'enfant directement touché.

#### IV. Analysis

##### A. *The Officer's decision is reasonable*

[10] H&C applications are exceptional in the sense that an applicant requests the Minister to exercise Ministerial discretion to relieve them from requirements in the IRPA. The Supreme Court of Canada confirmed that the purpose of this humanitarian and compassionate discretion is “to offer equitable relief in circumstances that ‘would excite in a reasonable [person] in a civilized community a desire to relieve the misfortunes of another’” (*Kanhasamy v Canada (Minister of Citizenship and Immigration)*, 2015 SCC 61 at paras 13, 21, citing *Chirwa v Canada (Minister of Citizenship and Immigration)*, (1970) 4 IAC 338, p 350).

[11] I agree with my colleague, Madam Justice Sadrehashemi in *Tuyebekova v Canada (Citizenship and Immigration)*, 2022 FC 1677 at para 11 that the purpose of humanitarian and compassionate discretion is to “mitigate the rigidity of the law in an appropriate case,” and that no limited set of factors warrants relief (*Kanhasamy* at para 19):

The factors warranting relief will vary depending on the circumstances, but ‘officers making humanitarian and compassionate determinations must substantively consider and weigh *all* the relevant facts and factors before them’ (*Kanhasamy* at para 25 citing *Baker v Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 SCR 817 at paras 74-75 [*Baker*]).

[12] In this case, like with other H&C cases that turn on the facts, context matters. As part of the context, here are the undisputed facts before the Officer:

- (i) The Applicant is a woman from India who is 73 years of age. She was widowed when her husband died in 2010. Her son moved to Canada in 2019, and his family joined him between 2020 to 2022. The Applicant alleged that she was depressed after her husband passed away.
- (ii) The Applicant came to Canada on a super-visa and has been living with her son and his family. She maintains close relationships with them. Her primary focus in Canada is to be near her family. She spends time with her adult grandsons, she cooks and does daily chores for her family. Her family supports her financially. According to Indian tradition, her son is expected to care for her.
- (iii) The Applicant has a daughter residing in a different part of India. However, in Indian tradition, she cannot move in with a daughter, and she therefore has no one to take care of her in her old age in India;
- (iv) While in Canada, she has volunteered with the Sikh Temple and created relationships with others;
- (v) She argued that as widowed woman of advance age, she would face hardship in India, and her return to India will be detrimental to her mental health.

[13] It is well established that it is not for this Court to reweigh evidence (*Vavilov* at para 125). In this case, I find that the Officer reasonably engaged with the relevant evidence and provided a clear chain of reasoning on how they weighed it. For example, the Officer noted that the Applicant had been widowed since 2010, and she had experienced separation from her son and his family since they left starting in 2019. The Officer also noted that the Applicant had not

filed objective evidence on the conditions of women or widows in India that would reasonably allow them to conclude that she has established hardship.

[14] While the Officer acknowledged the Applicant's preference to live with her son and family, given the totality of the evidence before them, including the Applicant's history with separation, the Officer concluded that while they accepted that she would miss them, that the evidence was insufficient to warrant an exception to the rule, as it would not establish with sufficient details a level of interdependence. The Officer noted that the family had chosen to move to Canada despite an intimate knowledge of the Applicant's circumstances and concluded that they were not reliant on her. I find that this analysis is consistent with the evidence before the Officer.

[15] In addition to her ties with her family in Canada, the Officer also engaged with the evidence of the Applicant's age and her involvement with the Sikh temple. The Officer concluded that this evidence was insufficient to warrant an exception to the rule, and that she could continue to maintain her relationships in India. The Applicant had never argued that she could not practice her Sikh religion freely in India.

[16] The Applicant objects to the Officer's finding that her degree of establishment in Canada was "minimal". The Officer expressly acknowledged the evidence of her close familial relationships and the other humanitarian factors advanced. While the decision described the Applicant's establishment as "minimal", the determinative issue was not the semantics of that characterization but the substance of the analysis. The Officer explained why, even accepting the

existence of those relationships and circumstances, the evidence did not demonstrate hardship or establishment of sufficient weight to justify an exemption from the statutory scheme. The conclusion reflects an assessment of the cumulative probative value of the factors, not a failure to consider them.

[17] The Applicant does not agree with how the Officer assessed the evidence on her inability to move in with her daughter. However, she had led evidence that she lived independently for at least some time prior to visiting her family in Canada. Therefore, the Officer reasonably found that the evidence did not sufficiently establish her inability to reside in India by herself, even if she could not live with her daughter. The Applicant had not led objective country evidence on the inability of similarly situated women to live independently in India. It was reasonable for the Officer to not base their conclusion on speculation.

[18] The Officer also acknowledged Dr. Pilowsky's report (Report). The Report suggested the Applicant became depressed after her husband passed away a decade earlier, and that she might "deteriorate psychologically if she were denied permission to stay in the country".

[19] I do not dispute that an Officer must consider the impact of removal on mental health, and that not doing so may make a decision unreasonable (*Wei v Canada (Citizenship and Immigration)*, 2023 FC 1125 at para 39; *Nyabuzana v Canada (Citizenship and Immigration)*, 2021 FC 1484 at paras 45–46, citing *Kanthasamy* at para 48). Without a formal diagnosis or established clinical conditions, it was open to the Officer to assign limited weight to what amounted to a speculative prognosis. The factual foundation for the report, namely the

Applicant's close relationship with her son and his family, was undisputed. The Officer accepted the evidence and addressed it directly, explaining how it was assessed in the context of the totality of the record.

[20] The Officer also considered that treatment would not necessarily be limited in India. Failing to do so could have rendered the decision unreasonable (*Saidoun v Canada (Citizenship and Immigration)*, 2019 FC 1110 at paras 19–21, citing *Cardona v Canada (Citizenship and Immigration)*, 2016 FC 1345 at paras 26–28).

[21] The issue was therefore not one of rejecting the underlying facts, but of determining the probative value of the opinion drawn from those facts. The evaluative exercise falls squarely within the Officer's role as a decision-maker to exercise their discretion. Giving little weight to a psychologist's report does not alone make a decision unreasonable: *Evans v Canada (Citizenship and Immigration)*, 2021 FC 733 at para 56; *Egugonwu v Canada (Citizenship and Immigration)*, 2020 FC 231 at para 75.

[22] I find that the Officer thoroughly assessed the Applicant's evidence and arguments. They gave positive weight to the Applicant's relationship and emotional support and called on her where they thought the evidence was insufficient, dated or lacking. Assessing and weighing the relevant evidence is the very essence of the Officer's reasonable exercise of their discretion.

[23] Ultimately, the Officer acknowledged that the hardship issues the Applicant has raised are consistent with the inevitable consequences of immigration, and do not amount to conditions necessary to evoke an exception to the rule. They offered a clear chain of reasoning and justified

why the Applicant's affiliation was insufficient to overcome the legal burden established by section 25 of IRPA.

V. Conclusion

[24] The Officer's decision engages with the relevant evidence and the Applicant's arguments and exhibits the requisite degree of justification, intelligibility, and transparency. The application for judicial review is therefore dismissed.

[25] Neither party proposed a question for certification. I agree that none arises.

**JUDGMENT IN IMM-4798-25**

**THIS COURT'S JUDGMENT is that**

1. The Judicial Review is dismissed.
  
2. There is no question to be certified.

"Negar Azmudeh"

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Judge

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

**DOCKET:** IMM-4798-25

**STYLE OF CAUSE:** MAHINDER KAUR V. MINISTER OF CITIZENSHIP  
AND IMMIGRATION

**APPLICATION DEALT WITH IN WRITING IN OTTAWA, ONTARIO**

**REASONS FOR JUDGMENT  
AND JUDGMENT:** AZMUDEH J.

**DATED:** MARCH 23, 2026

**WRITTEN SUBMISSIONS BY:**

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