Federal Court  Cour fédérale

Date: 20260407

Docket: IMM-9060-24

Citation: 2026 FC 442

Ottawa, Ontario, April 7, 2026

PRESENT: The Honourable Justice Thorne

BETWEEN:

SHIMA ALIPOURSAHRA

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] This is a consolidated application for judicial review of the Applicant's unsuccessful reconsideration request in relation to the return of her permanent residence [PR] application under the Home Child Care Provider Pilot [HCCPP]. The application was returned as incomplete pursuant to Section 10 of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [Regulations]. After submitting a reconsideration request of the refusal for incompleteness, the Applicant, Shima Alipoursahra, received an April 26, 2024, letter confirming the original refusal [Decision].

[2] The Applicant sought to judicially review both the original return of her application and the subsequent reconsideration Decision. The Court consolidated these applications for leave and judicial review.

[3] For the reasons that follow, I grant the application and return the Decision to Immigration, Refugees and Citizenship Canada [IRCC] for redetermination.

II. **Background**

[4] The Applicant is a citizen of Iran and temporary resident of Canada, who later applied for permanent residence under the Home Child Care Provider Pilot program. On January 1, 2024, the day the pilot re-opened to receive applications, the Applicant submitted an application for permanent residence under the *Gaining Experience* category of the HCCPP [Application].

[5] At the time of the Application, the Applicant held a valid open work permit under the fee-exempt Iran policy pursuant to Section 25.2 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [Act] and had been working as a child caregiver for the same employer who supported her HCCPP application.

[6] The Application Checklist IMM 5981 (04-2023) E was included in the Application. However, the Applicant did not include one of the items on the checklist: the “Work permit application for the principal applicant” and associated work permit fee. The Applicant left this checkbox blank because she believed that as a holder of a valid work permit, she did not have to apply for a new work permit. She also did not include her existing work permit or any

explanation as to the missing work permit application, though she submitted all other required documents with the Application.

[7] The Application was returned to her with a refusal letter, dated April 11, 2024 [Return Decision]. The operative part of the refusal letter reads as follows:

> Home Child Care Provider applications received on or after June 18th, 2019, are assessed according to Ministerial Instructions issued on that date pursuant to Subsection 87.3(3) of the *Immigration and Refugee Protection Act* (IRPA). The instructions require that applications must be complete according to the application kit requirements in place at the time the application is received at the Case Processing Centre-Edmonton. In addition, the application must be reviewed for completeness pursuant to Section 10 of *Immigration and Refugee Protection Regulations* (IRPR). Moreover, Section 12 of IRPR states:
>
> *"If the requirements of sections 10 and 11 are not met, the application and all documents submitted in support of the application shall be returned to the applicant."*
>
> We have conducted a review of your application and have determined that your application does not meet the requirements of Section 10 of IRPR.
>
> **The application is being returned to you, because at least one element of the requirements of Section 10 of IRPR is/are missing or incomplete.** Your application fees, for both your permanent resident application and work permit application under this program were not processed and are also being returned to you. If you submitted work permit or study permit applications for your family members in this application, these application fees will also be returned to you.
>
> **Please see the highlighted item(s) on the enclosed checklist (IMM5981) for further information concerning why your application failed to meet Section 10 of IRPR.**
>
> [Emphasis added]

[8] The letter's highlighted attached checklist identified that form IMM 1295, a "Work permit application for the principal applicant", had not been submitted. In addition, the officer's

Global Case Management System [GCMS] notes, which form part of the Reasons, recorded the following brief reason for the rejection: “No Work Permit application and the fees”.

[9] On April 25, 2024, the Applicant sent a webform request for reconsideration, attaching their work permits and an explanation letter dated April 12, 2024 [Reconsideration Request]. In the Reconsideration Request, the Applicant explained that she already had a valid work permit and therefore did not need to send another work permit application:

> I am writing to bring to your attention an oversight made by the officer at the Case Processing Centre in Edmonton while reviewing my permanent residence application under the Home Child Care Provider program. According to the letter I received on April 11, 2024, my application was deemed incomplete because it did not include a work permit application for the principal applicant outside Canada. However, I, Shima Alipoursahra, the principal applicant, am already in Canada and working with a valid work permit (# [Removed]). I submitted my work permit Application no. [Removed]) on August 05, 2023, and received the approval on September 07, 2023. I have enclosed a copy of my open work permit application IMM5710e, the issued work permit, and other supporting documents for your review and to resolve this oversight. I kindly request that the officer at the Case Processing Centre in Edmonton review my application and the enclosed documents again. Please verify my current status in Canada, as I am in the country with a valid open work permit. Therefore, I did not need to submit another work permit application since I already have one.

[10] The Reconsideration Request was refused by the same officer [Officer], in a letter dated April 26, 2024. The letter, which is virtually identical to the April 11, 2024, refusal letter, states that the Reconsideration Request was refused because the “required Work Permit fees were not submitted prior to the return of your application, therefore our decision to return the application to you as incomplete stands.”

[11] The GCMS notes relating to this Decision read, in their entirety:

> Enquiry received on 2024/04/25 for reconsideration of reject. After review of the application and incoming correspondence, it appears required Work permit fees were not submitted. Reject decision stands.

[12] The Applicant seeks judicial review of both the refusal and reconsideration decisions, in this consolidated application for judicial review.

III. **Issue and Standard of Review**

[13] Though the Applicant raised concerns regarding both procedural fairness and reasonableness, the issue in this matter is whether the decisions under review were reasonable.

[14] The presumptive standard of review of the merits of an administrative decision is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at paras 10, 25). When reviewing a decision on this standard, "a court must consider the outcome of the administrative decision in light of its underlying rationale in order to ensure that the decision as a whole is transparent, intelligible and justified" (*Vavilov* at para 15). A reviewing court may intervene where a decision "[…] is not "justified in light of the facts" or when "the decision maker has fundamentally misapprehended or failed to account for the evidence before it"" (*Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 73 quoting *Vavilov* at paras 125, 126). Accordingly, a "[…] decision maker's failure to meaningfully grapple with key issues or central arguments raised by the parties may call into question whether the decision maker was actually alert and sensitive to the matter before it" (*Vavilov* at paras 127, 128 and 133; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at paras 76 and 81)

[15] Ultimately, a reasonable decision is one which is "based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law" (*Vavilov* at para 85).

IV. **Analysis**

A. ***The initial Return Decision is reasonable***

[16] I do not find the Officer's initial decision to return the Applicant's Application to be unreasonable.

[17] The Applicant submits that the Officer's decision was unreasonable, arguing that though they had not included a work permit application in their overall Application, they should be considered to have submitted a complete Application because they already had a valid current work permit when they applied, and so another work permit application was unnecessary. They note that the application checklist provided no guidance for those applicants with a current valid work permit, and state that applying for another work permit while holding a current valid work permit would result in an absurd outcome. In relation to this argument, the Applicant cites the holding related to Parliamentary intent, absurd consequences and arbitrary results in the Supreme Court of Canada decision of *Pepa v Canada (Citizenship and Immigration)*, 2025 SCC 21 at paras 99 and 102.

[18] They further submit that even if they failed to provide the required work permit, this was a "minor document" and the Officer should have alerted them to the necessity of submitting it, allowed the addition of the work permit and her explanation regarding the work permit fees, and then decided that the Application was complete and ready for processing.

[19] For its part, the Respondent submits that the Application was incomplete because the instructions clearly set out the requirement for the inclusion of a specific type of occupation-restricted work permit (the HCCPP work permit application), along with the associated fee, and neither were provided. Therefore, it was reasonable for the Officer to find that the Application was incomplete and for it to be returned. The Respondent also argues that the visa officer did not breach procedural fairness as there was no legitimate expectation that the Applicant would be contacted and permitted an opportunity to correct their incomplete application.

[20] I do not find the arguments of the Applicant persuasive.

[21] The Applicant submits that "There is no specific guidance or instruction in IRCC's guidelines or Practice Delivery Instructions ("PDIs") that address what applicants who already have a valid open work permit are required to do, since they do not need a new work permit to be issued to them under the HCCPP program in order to complete the required work in Canada while their PR application is in process". They also stress "There was nothing in IRCC's HCCPP guide, PDIs or Ministerial Instructions, to indicate that she needs to apply for a new work permit if she already holds a valid, long term open work permit, and is in fact working as a child care giver with the open work permit in Canada at the time of submitting her HCCPP application."

[22] This does not appear to be accurate. Neither party in this matter submitted or referenced the applicable guidelines for this program. These are Guide 0104 – *Home Child Care Provider and Home Support Worker* and Guide 0104 A2 – *Home Child Care Provider and Home Support Worker pilots: Gaining experience category – Application for permanent residence and an occupation-restricted open work permit from inside Canada*. A review of these guidelines

reveals that in Guide 0104, applicants are introduced to a series of questions which answer queries about the program. One of these asks “Are you currently working as a home childcare provider or home support worker on an employer specific work permit?” The next prompt then asks “Do you meet any of the following criteria?”, with one of the noted criteria being whether the applicant is a holder of a valid work permit. In relation to this, the following information is then provided:

> **If you meet any of the above criteria [ie: have a valid work permit], you are eligible to submit an in-Canada application form for your occupation-restricted work permit.** If you do not meet any of the above criteria, you are not eligible to use the in-Canada application form and will need to submit the form for an application made outside of Canada.
>
> You can apply under the Gaining experience category. You **will include a work permit application for in-Canada applicants.** The instructions are found in the following guide.
>
> [Emphasis added]

[23] In short, parsing the language of this Guide for in-Canada holders of valid work permits appears to establish that those with valid work permits are eligible to use the in-Canada occupation-restricted work permit form, and must still include a work permit application.

[24] Furthermore, the Eligibility requirement for “Qualifying Canadian work experience” in Guide 0104 A2 states the following: “If you meet the permanent residence eligibility criteria (in other words, education, official language, offer of employment and ability to perform the work) to qualify for either the Home Child Care Provider Pilot or the Home Support Worker Pilot and you’re admissible to Canada, you’ll be issued an occupation-restricted open work permit (OROWP) so that you can start or continue to gain your eligible Canadian work experience.” (Guide 0104 A2 – *Home Child Care Provider and Home Support Worker pilots: Gaining*

experience category – Application for permanent residence and an occupation-restricted open work permit from inside Canada. This is a clearer indication that even those holding a valid work permit would be required to apply for the additional "occupation-restricted work permit." I note that though the IRCC Guidelines are not law, and therefore not binding, these guidelines can "offer guidance on the background, purpose, meaning and reasonable interpretation of legislation." (*Williams v Canada (Citizenship and Immigration)*, 2020 FC 8 at para 36 citing *Mousa v Canada (Immigration, Refugees and Citizenship)*, 2016 FC 1358 at para 11). However, as this evidence with respect to the guidelines was not introduced by the parties, while I note the apparent impact of the guidelines, my decision with respect to the Officer's initial Return Decision does not turn on them.

[25] Rather, beyond this, I note that the Applicant's contention that the "checklist is silent" with regard to the requirements for applicants who possess a valid open work permit is incorrect for another reason. There is a note at the beginning of the checklist, which is included in the record, alerting applicants to the mandatory documents that must be submitted and which specifically imposes a requirement that an explanation must be provided for any missing documents. That passage in the checklist reads:

> Note: if your application is missing **any** of the documents listed in this checklist, it will be returned to you. **If you can't provide any of the requested documents, you must include a written explanation** with
>
> • Full details as to why that document is not available and
>
> • Any documents to support your explanation
>
> If you don't provide supporting documents, your application may be refused.
>
> [Emphasis added]

[26] From this, it would appear that even if it was not clear whether a work permit application needed to be provided by an applicant who already possessed such a permit, it was still imperative that a written explanation had to be provided in the event that any of the requested documents, including the work permit application, were not submitted. The Applicant did not do this.

[27] Given this, it cannot be said that the Officer's initial Return Decision to reject the Application for not meeting the requirement to submit a complete application and the proper fees under paragraphs 10(1)(c) and (d) of the Regulations was not reasonable.

B. ***The reconsideration decision is unreasonable***

[28] The same cannot be said of the reconsideration Decision, however. I find this Decision to be unreasonable.

[29] Upon receipt of the reconsideration request, the Officer exercised their discretion to re-open the application and provide a Decision. I find that this Decision lacked justification and intelligibility (*Vavilov* at para 99). By way of background, reconsideration is a two-step process, with the first prong being whether the Officer will exercise their discretion to re-open the application "based on the interests of justice or the unusual circumstances of the matter" (*AB v Canada (Citizenship and Immigration)*, 2021 FC 1206 at para 30; *Canada (Citizenship and Immigration) v Kurukkal*, 2010 FCA 230). The second prong is the actual reconsideration analysis itself (*Hussein v Canada (Citizenship and Immigration)*, 2018 FC 44 at para 55 cited recently by Justice McDonald in *Okeleke v Canada (Citizenship and Immigration)*, 2024 CanLII 131960 (FC) at para 12).

[30] In the GCMS notes for the reconsideration request, the sum total of the Officer's reasons for finding that the Decision would stand upon reconsideration were:

> Enquiry received on 2024/04/25 for reconsideration of reject. After review of the application and incoming correspondence, it appears required Work permit fees were not submitted. Reject decision stands."

[31] The reasons do not provide any further explanation, whatsoever. In fact, as noted above, the April 26, 2024, Decision letter essentially repeats the April 11, 2024, letter's reasons for the return of the Application, and in the GCMS notes states that the work permit fees were not included. The Application was then returned a second time.

[32] In their redetermination request documents, unlike the original Application, the Applicant met the requirement as set out in the HCCPP Checklist by providing an explanation for the missing document and attaching further documentation, including their work permit. Though I appreciate the highly discretionary circumstances of a reconsideration request, I disagree with the Respondent's contention that the Officer's reasons were responsive to the Applicant's request. In my view, the Officer failed to take account of the evidence before it, as the Decision did not, in any way, mention or grapple with the explanation or additional documents of the Applicant. While a reviewing Court should not be hypercritical of the decision maker's reasons, or unduly put such reasons under a microscope, the decision maker in question cannot act "without regard to the evidence" (*Vavilov* at para 126; *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 8667 (FC) at paras 16-17; *Singh v Canada (Citizenship and Immigration)*, 2025 FC 2019 at para 18). When a decision maker's reasons do not so much as mention the evidence that contradicts its conclusions, the Court may infer that they did not review the contradictory evidence in reaching their determination, and may

intervene (*Siddiqui v Canada (Citizenship and Immigration)*, 2025 FC 305 at para 7 citing *Kheradpazhooh v Canada (Citizenship and Immigration)*, 2018 FC 1097 at para 18). That appears to be the case here, in addition to the Officer's evident lack of responsiveness to the central submissions of the Applicant put forward in their reconsideration request.

[33] This is not to say that the Officer was bound to accept the Applicant's explanation as to why the work permit application and fee had not been previously submitted. Upon consideration, they could well have rejected this explanation as unconvincing. However, failing to countenance it at all calls into question whether that explanation or the additional evidence was reviewed or accounted for. I find, with regard to the redetermination Decision, that the Officer's reasons did not demonstrate regard to the evidence, nor were they responsive to the central submissions of the Applicant, and accordingly the reasons lack the requisite hallmarks of justification, transparency, and intelligibility (*Vavilov* at para 99). As such, they are unreasonable.

[34] I also find that the circumstances of this matter do not justify an award of costs, special or otherwise.

V. **Conclusion**

[35] For these reasons, the redetermination Decision is set aside, and the matter is returned for redetermination by a different IRCC Officer.

[36] The parties proposed no question for certification, and I agree that none arises.

[37] No costs are awarded.

JUDGMENT IN IMM-9060-24

THIS COURT'S JUDGMENT is that:

1. The judicial review application is granted.
2. The decision of the Officer dated April 26, 2024 is set aside and the matter is returned for redetermination by a different IRCC Officer.
3. No question of general importance is certified.
4. No costs are awarded.

"Darren R. Thorne"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-9060-24
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