

Date: 20080305

Docket: IMM-1037-07

Citation: 2008 FC 282

Ottawa, Ontario, March 5, 2008

PRESENT: The Honourable Mr. Justice O'Reilly

BETWEEN:

HONG BAO

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] Ms. Hong Bao, a citizen of the People's Republic of China, applied for a student visa in order to obtain a diploma in Human Resource Management at Confederation College in Thunder Bay, Ontario. A visa officer refused her application on the grounds that Ms. Bao had failed to show that she had sufficient funds to carry out her study plan, or that she would return to China when her studies were completed.

[2] Ms. Bao argues that the officer unfairly discounted the information she supplied in support of her application. She submits that that information was more than sufficient to justify granting her a student visa. She asks me to order a reconsideration of her application by a different officer. I

agree that the officer's conclusion did not accord with the evidence and, therefore, I must grant this application for judicial review.

I. Issue

[3] Did the visa officer base her decision on the evidence?

II. Analysis

[4] I can overturn the officer's decision only if I find that it was out of keeping with the evidence.

[5] Ms. Bao was working as a Human Resources Assistant in China. She wished to advance in her field by upgrading her qualifications, which the Confederation College program would permit her to do. Her employer in China supported her ambitions and agreed to reimburse her tuition fees, to hold her position until she returned, and to grant her a substantial pay raise on her return. Her parents were willing to support Ms. Bao financially and provided detailed information showing they had the means to do so.

[6] After an interview, the visa officer concluded that Ms. Bao was currently occupying a clerical position and, therefore, that it was unlikely that her employer would be so supportive of her study plans. The officer felt that the arrangement was "unusual". Accordingly, the officer was

doubtful that there was sufficient incentive for Ms. Bao to return to China when her studies were complete.

[7] In my view, it is unclear why the officer rejected the evidence in favour of Ms. Bao's application. I accept the officer's characterization of her arrangement with her employer as "unusual", but I do not see why the officer considered it to be so extraordinary as to be beyond the realm of possibility. To reject Ms. Bao's application one would have to conclude that the employer's and the parents' undertakings either were entirely false or so implausible as to be incapable of belief. I do not see in the record any basis for either of those conclusions and must, therefore, allow this application for judicial review. Neither party proposed a question of general importance for me to certify, and none is stated.

JUDGMENT

THIS COURT'S JUDGMENT is that

1. The application for judicial review is granted.
2. No question of general importance is stated.

"James W. O'Reilly"
Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1037-07

STYLE OF CAUSE: BAO v. MCI

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: February 28, 2008

**REASONS FOR JUDGMENT
AND JUDGMENT:** O'REILLY J.

DATED: March 5, 2008

APPEARANCES:

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