

Federal Court



Cour fédérale

**Date: 20100312**

**Docket: IMM-3426-09**

**Citation: 2010 FC 296**

**Ottawa, Ontario, March 12, 2010**

**PRESENT: The Honourable Mr. Justice Mandamin**

**BETWEEN:**

**RAJAN CHUGH**

**Applicant**

**and**

**MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR ORDER AND ORDER**

[1] This is an application for judicial review of a decision dated May 11, 2009 by L. Holiday, a Visa Officer, in which the Officer refused Rajan Chugh's application for permanent residence status under the skilled worker category.

[2] The Officer refused the application because she was not satisfied the Applicant had the requisite experience; at least one year of continuous full-time work experience.

## **BACKGROUND**

[3] The Applicant is a citizen of India. He was born on February 28, 1982 in Dasuya, Punjab, India. After High School the Applicant completed a one year diploma in software management in 2000 and a certificate in C++ Programming. In February 2002 he completed a diploma in web design and management.

[4] The Applicant was employed in India as a computer instructor at CAL-C Computer Institute from July 15, 2000 to December 30, 2000. Of significance is his employment as a computer instructor at the SoftInfo System from March 1, 2002 to November 30, 2004.

[5] The Applicant came to Canada on December 13, 2004 on a student visa. He studied and worked at different colleges in computer related areas from 2004 to 2009.

[6] In September 2007 the Applicant made an application for permanent residence in Canada under the skilled worker class as a computer instructor. The Applicant provided his documentation including his education and his work experience in India. He also provided documentation of part-time work while in Canada. Finally, the Applicant provided letters from a business called Midnight Sun regarding a job offer which was confirmed by HRSDC.

[7] The Applicant had an interview with the Visa Officer on May 11, 2009. The Officer did not accept Nordic College, where he studied, was accredited. She questioned the work he did there and doubted the offer of employment by Midnight Sun was genuine.

[8] The Visa Officer refused the application for a permanent resident visa on the basis that the Applicant did not have one year of continuous full-time work experience in his chosen skill category.

## **THE ISSUES**

- [9] The Applicant submits the Visa Officer erred in:
- a. finding the Applicant did not have one year of continuous work experience;
  - b. holding the Nordic College of Business and Technology was not an accredited college;
  - c. questioning the arranged employment when it had been confirmed by HRSDC.

## **STANDARD OF REVIEW**

[10] Questions of fact or mixed fact and law are reviewed on the standard reasonableness.

*Dunsmuir v. New Brunswick*, 2008 SCC 9.

## **ANALYSIS**

[11] The Applicant abandoned the allegation of error with respect to the employment offer by Midnight Sun. The Respondent acknowledged the Visa Officer erred in not having regard to the Applicant's full time employment in India and in failing to recognize the Nordic College's accreditation. The evidence on record before the Court confirms the validity of the Respondent's admissions.

[12] The Applicant submits these admissions lead to the conclusion he would have had enough points under the skilled worker points system to satisfy the requirement for a permanent resident visa.

[13] The Respondent submits the admissions change nothing and the Applicant still does not have enough points to qualify as a skilled worker.

[14] The awarding and calculation of points to merit a permanent residence visa under the skilled worker category is a matter for a visa officer to assess; not the Court.

[15] The acknowledged errors by the Visa Officer are sufficient for me to conclude the refusal decision is flawed and the matter should be remitted.

## **CONCLUSION**

[16] The Visa Officer's decision refusing Rajan Chugh's application for a permanent resident visa under the skilled worker category made on May 11, 2009 is quashed and the matter is remitted to be determined by another visa officer.

**ORDER**

**THIS COURT ORDERS that:**

1. The Visa Officer's decision refusing the application for a permanent resident visa under the skilled worker category made on May 11, 2009 is quashed;
2. The matter is remitted back for re-determination by another visa officer.

"Leonard S. Mandamin"

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Judge

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

**DOCKET:** IMM-3426-09

**STYLE OF CAUSE:** RAJAN CHUGH and MINISTER OF CITIZENSHIP  
AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** MARCH 9, 2010

**REASONS FOR ORDER  
AND ORDER:** MANDAMIN, J.

**DATED:** MARCH 12, 2010

**APPEARANCES:**

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Ms. Leanne Briscoe FOR THE RESPONDENT

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