

Federal Court



Cour fédérale

**Date: 20140925**

**Docket: T-558-14**

**Citation: 2014 FC 916**

**Vancouver, British Columbia, September 25, 2014**

**PRESENT: The Honourable Madam Justice Mactavish**

**BETWEEN:**

**SIMRIN SINGH GILL**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION CANADA**

**Respondent**

**JUDGMENT AND REASONS**

[1] Simren Singh Gill appeals the decision of a Citizenship Judge refusing his application for Canadian citizenship. The Judge found that Mr. Gill did not meet the language requirements of the *Citizenship Act*, and that he had not provided evidence of special circumstances that would justify a recommendation that the language requirements of the Act be waived.

[2] Mr. Gill asserts that the Citizenship Judge's finding that he did not have an adequate knowledge of English was unreasonable, and that the reasons provided by the Judge were

inadequate. He further asserts that he was denied procedural fairness in this matter, as he was not put on notice that he should bring documentation to his citizenship hearing that could establish his linguistic ability. He was also never advised to provide evidence of special circumstances that could justify the waiver of the language requirement.

[3] I have concluded that although the reasons provided by the Citizenship Judge were far from perfect, when they are viewed in the context of the record as a whole, the basis for the decision is evident. I am further satisfied that the Citizenship Judge's finding that Mr. Gill did not possess an adequate knowledge of the English language was one that was reasonably open to him. Mr. Gill has also failed to persuade me that he was treated unfairly by the Citizenship Judge. Consequently, the appeal will be dismissed.

## **I. Background**

[4] Mr. Gill is a 44-year-old truck driver residing in Surrey, British Columbia. He was sponsored by his Canadian wife, and arrived in Canada from India on June 24, 2006, shortly before the birth of his daughter. Mr. Gill is the family's sole breadwinner, and had to begin working immediately upon his arrival in Canada. He initially worked installing kitchen cabinets. However, in 2011, he became a truck driver after taking the courses necessary to obtain a Class 1 driver's license.

[5] By letter dated January 2, 2014, Mr. Gill was summoned to a hearing before a Citizenship Judge. He was advised that the purpose of the hearing was to determine whether he met the requirements for citizenship, including whether he had an adequate knowledge of either English

or French, and whether he had an adequate knowledge of Canada. Mr. Gill was instructed to bring various documents relating to his identity and his immigration status to the hearing.

[6] Mr. Gill attended before Citizenship Judge Dane Minor on January 22, 2014. A Punjabi interpreter was also present at the hearing. With the assistance of the interpreter, Mr. Gill answered 18 of the 20 questions asked of him regarding his knowledge of Canada, and the Citizenship Judge was satisfied that Mr. Gill met the knowledge requirements of the Act.

[7] Insofar as Mr. Gill's linguistic abilities were concerned, the Citizenship Judge gave Mr. Gill a score of 3 out of 6. The Judge's interview notes state "Applicant understood many of my questions and does speak English. However he does not use full sentences of past tense or connectors. He passed knowledge test but relied on the interpreter heavily for complex questions. When informed he failed he responded 'much experience English, not good but talk English'."

[8] The Citizenship Judge subsequently issued a decision letter that stated that Mr. Gill "could not comprehend basic spoken statements and questions and (or) [he] could not convey basic information or answers to questions". The letter further stated that Mr. Gill was unable to:

- show that [he] knew enough words for basic everyday communication AND/OR
- tell a simple story about everyday activities AND/OR
- speak about something [he] did in the past AND/OR
- give simple everyday instructions and directions.

[9] The letter further states that the Citizenship Judge had considered whether to exercise his discretion to recommend waiving the language requirement, either on compassionate grounds or

to reward services of an exceptional value to Canada. He decided not to exercise his discretion, however, as Mr. Gill had not presented evidence justifying such a recommendation.

## **II. Was the Citizenship Judge's Decision Reasonable?**

[10] Section 5(1)(d) of the *Citizenship Act*, R.S.C. 1985, c. C-29, requires individuals to have adequate knowledge of at least one of Canada's official languages. Section 14 of the *Citizenship Regulations*, S.O.R./93-246, explains that an "adequate" knowledge of an official language means that an applicant can comprehend basic spoken statements and questions and can convey orally or in writing basic information or answers to questions.

[11] In accordance with section 14 of the *Regulations*, the determination of the adequacy of an applicant's language skills is to be made by a Citizenship Judge, "based on questions prepared by the Minister".

[12] Citizenship Judges are in the best position to assess the adequacy of an applicant's language abilities. The Citizenship Judge's notes and Mr. Gill's affidavit both confirm that Mr. Gill was asked a series of questions designed to test his language ability, and that he was indeed able to answer a number of them.

[13] However, Mr. Gill admits in his affidavit that he was unable to adequately explain what he had done the previous day (a question that would involve the use of the past tense), and that he was also unable to describe the contents of the room in which the hearing took place. In light of this, I am satisfied that the Citizenship Judge's determination that Mr. Gill did not have an adequate knowledge of the English language was one that was reasonably open to him.

[14] Mr. Gill also asserts that the Citizenship Judge erred by failing to provide adequate reasons for his decision. I agree with Mr. Gill that the decision under review is far from perfect. I am especially troubled by the fact that the Citizenship Judge utilized what appears to be a template decision and did not bother to tailor the decision to the specifics of Mr. Gill's case, as is evidenced by the repeated use of "and/or".

[15] That said, perfection is not the standard by which reasons are judged, and an inadequacy in the reasons is not a stand-alone basis for judicial review. In determining whether a decision is reasonable, a reviewing Court must pay attention to the reasons offered by the decision-maker and to the record as a whole: *Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, at paras. 14-15, [2011] 3 S.C.R. 708.

[16] When regard is had to the Citizenship Judge's interview notes, the basis for his determination that Mr. Gill lacked an adequate knowledge of the English language is readily apparent. The reasons thus meet the standard established by the Supreme Court of Canada in *Newfoundland Nurses*.

### **III. Was Mr. Gill Treated Unfairly?**

[17] Mr. Gill also argues that he was denied procedural fairness in this matter, as he was not advised to bring documentation to his citizenship hearing that could establish either his linguistic abilities, or grounds on which the Citizenship Judge could recommend waiving the language requirement. I do not agree that there was any unfairness in the process followed in this case.

[18] Mr. Gill says that it was apparent from his citizenship application that he had obtained his Class 1 driver's license in British Columbia. According to Mr. Gill, the Citizenship Judge should

have taken notice of the fact that he would have had to take courses and passed tests in English in order to obtain such a license. This, he submits, would have provided compelling evidence of his English language abilities.

[19] The difficulty with this submission is that the version of section 14 of the *Citizenship Regulations* in effect at the time of Mr. Gill's application for citizenship makes it clear that a Citizenship Judge must assess the adequacy of an applicant's language skills "based on questions prepared by the Minister". As a consequence, it would have been an error for the Judge to consider information regarding Class 1 licensing requirements as evidence of Mr. Gill's facility with the English language.

[20] Mr. Gill also contends that had he been aware of the possibility of a waiver being granted, he could have provided evidence to the Citizenship Judge with respect to his personal circumstances, specifically his need to provide for his family and the impact that this had on his ability to learn English.

[21] The flaw in this argument is that the possibility of a waiver of the language requirements of the Act is spelled out in subsections 5(3) and 5(4) of the *Citizenship Act*. Mr. Gill is deemed to have knowledge of the law, and no specific notice of these provisions was required. Mr. Gill knew that his English language skills would be assessed at his citizenship hearing. If he had concerns in this regard, it was incumbent on him to provide evidence of special circumstances that could justify a waiver of the language requirements. The Citizenship Judge cannot be faulted for failing to consider information that was not put before him: *Huynh v. Canada (Minister of Citizenship and Immigration)*, 2003 FC 1431 at para. 5, [2003] F.C.J. No. 1838.

[22] The Citizenship Judge clearly turned his mind to the issue of a waiver, and determined that a positive exercise of discretion was not warranted in Mr. Gill's case as he had not presented evidence of special circumstances that would justify such a recommendation. No error on the part of the Citizenship Judge has been established in this regard.

#### **IV. Conclusion**

[23] For these reasons, Mr. Gill has not persuaded me that there are grounds to interfere with the Citizenship Judge's decision. It remains open to Mr. Gill to improve his English language skills and reapply for Canadian citizenship, or to seek a waiver of the language requirements on compassionate grounds, based upon a proper evidentiary record.

**JUDGMENT**

**THIS COURT ORDERS AND ADJUDGES that** the appeal is dismissed.

“Anne L. Mactavish”

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Judge



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

**DOCKET:** T-558-14

**STYLE OF CAUSE:** SIMRIN SINGH GILL v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION CANADA

**PLACE OF HEARING:** VANCOUVER, BRITISH COLUMBIA

**DATE OF HEARING:** SEPTEMBER 18, 2014

**JUDGMENT AND REASONS:** MACTAVISH J.

**DATED:** SEPTEMBER 25, 2014

**APPEARANCES:**

Mr. Jasdeep S. Mattoo FOR THE APPLICANT

Mr. François Paradis FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Kang & Company FOR THE APPLICANT  
Barristers and Solicitors  
Surrey, British Columbia

William F. Pentney FOR THE RESPONDENT  
Deputy Attorney General of Canada  
Vancouver, British Columbia