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Jassal v. Canada (Citizenship and Immigration), 2025 FC 701

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Federal Court Cour fédérale

Date: 20250416

Docket: IMM-9733-24

Citation: 2025 FC 701

2025 FC 701 (CanLII)

Ottawa, Ontario, April 16, 2025

PRESENT: The Hon Mr. Justice Henry S. Brown

BETWEEN:

AMANDEEP SINGH JASSAL

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Nature of the matter

[1] This is an application for judicial review of a decision by an Immigration Officer [Officer] of Immigration, Refugees and Citizenship Canada, dated April 11, 2024 [Decision]. The Officer refused the Applicant's work permit application, finding the Applicant had not demonstrated he would be able to adequately perform the work sought pursuant to s 200(3)(a) of *Immigration and Refugee Protection Regulations*, SOR/2022-227 [*IRPR*].

II. Facts

[2] The Applicant is a citizen of India. He applied for a work permit under the Temporary Foreign Worker Program to work as a Restaurant Manager at a Popeyes fast-food franchise in British Columbia.

[3] The restaurant received a positive Labour Market Impact Assessment [LMIA] on January 9, 2024 for the position of restaurant manager because of a shortage of qualified workers. The LMIA states:

JOB INFORMATION

NOC Code and Title:	0631 - Restaurant and Food Service Manager
Job Title:	Restaurant Manager - 2021 NOC 60030
Number of Positions:	1
Education Requirements:	Secondary school
Verbal Language Requirements:	English
Written Language Requirements:	English
Duration of Employment:	3 Year(s)

[4] The National Occupational Classification [NOC] for this position is 60030, referenced above, the core of which provides:

> Restaurant and food service managers plan, organize, direct, control and evaluate the operations of restaurants, bars, cafeterias and other food and beverage services. They are employed in food

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> and beverage service establishments, or they may be self-employed.
>
> …
>
> **Employment requirements**
>
> - Completion of a college or other program related to hospitality or food and beverage service management is usually required.
> - Responsible beverage service certification is usually required for managers of establishments serving alcoholic beverages.
> - Several years of experience in the food service sector, including supervisory experience, are required.
>
> [Emphasis added]

[5] The Applicant received an offer of employment to work in this position on February 5, 2024, effective on approval of his work permit application.

[6] The Applicant's CV, filed with his application, lists 12 years of experience as an Executive in Quality Assurance in wholesale food manufacturing. As discussed below, he had almost no experience related to the restaurant or food services, except that he managed people in food processing and quality assurance work, an unrelated field. He had literally no experience in "food and beverage service establishments" or "restaurants, bars, cafeterias and other food and beverage services," as required per NOC 60030.

[7] His application for a work permit was accordingly turned down.

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III. Decision under review

[8] The Decision states:

> After careful review of your work permit application and supporting documentation under the Temporary Foreign Worker Program, I have determined that your application does not meet the requirements of the Immigration and Refugee Protection Act (IRPA) and Immigration and Refugee Protection Regulations (IRPR). I am refusing your application on the following grounds:
>
> • You were not able to demonstrate that you will be able to adequately perform the work you seek.

[9] The Officer's Global Case Management System [GCMS] notes state:

> The proposed occupation requires a several years of experience in the food service sector, including supervisory experience, are required. The applicant has several years of experience in food production and quality control. Applicant has insufficient experience in the job and duties as per letter of offer and/or LMIA.
>
> For the reasons above and weighing the factors in this application I have refused this application as per R200(3)(a).
>
> [Emphasis added]

IV. Issues

[10] The Applicant raises the following issues:

1. What is appropriate standard of review?

2. Was the decision that the Applicant did not meet the requirements for the job reasonable?

3. Whether the immigration officer committed a reviewable error?

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[11] Respectfully, the issue is whether the Decision is reasonable.

V. Standard of review

[12] The parties agree, and I concur, the standard of review is reasonableness for the merits of the Decision is reasonableness and correctness for the issue of procedural fairness.

A. *Reasonableness*

[13] With regard to reasonableness, in *Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67, issued contemporaneously with the Supreme Court of Canada's decision in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, [2019] 4 SCR 653 [*Vavilov*], the majority per Justice Rowe explains what is required for a reasonable decision, and what is required of a court reviewing on the reasonableness standard. Justice Rowe concludes at paragraph 32 that the reviewing court "must ask 'whether the decision bears the hallmarks of reasonableness – justification, transparency and intelligibility – and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision.'"

[14] In assessing this aspect of this case, the parties and the Court look to the underlying GCMS noted and the record before the Officer.

[15] *Vavilov* makes it abundantly clear the role of this Court is not to reweigh and reassess the evidence unless there are "exceptional circumstances." The Supreme Court of Canada instructs:

> [125] It is trite law that the decision maker may assess and evaluate the evidence before it and that, absent exceptional circumstances, a

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> reviewing court will not interfere with its factual findings. The reviewing court must refrain from "reweighing and reassessing the evidence considered by the decision maker": *CHRC*, at para. 55; see also *Khosa*, at para. 64; *Dr. Q*, at paras. 41-42. Indeed, many of the same reasons that support an appellate court's deferring to a lower court's factual findings, including the need for judicial efficiency, the importance of preserving certainty and public confidence, and the relatively advantageous position of the first instance decision maker, apply equally in the context of judicial review: see *Housen*, at paras. 15-18; *Dr. Q*, at para. 38; *Dunsmuir*, at para. 53.
>
> [Emphasis added]

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[16] To the same effect, the Federal Court of Appeal held in *Doyle v Canada (Attorney General)*, 2021 FCA 237 that the role of this Court is not to reweigh and reassess the evidence unless there is a fundamental error:

> [3] In doing that, the Federal Court was quite right. Under this legislative scheme, the administrative decision-maker, here the Director, alone considers the evidence, decides on issues of admissibility and weight, assesses whether inferences should be drawn, and makes a decision. In conducting reasonableness review of the Director's decision, the reviewing court, here the Federal Court, can interfere only where the Director has committed fundamental errors in fact-finding that undermine the acceptability of the decision. Reweighing and second-guessing the evidence is no part of its role. Sticking to its role, the Federal Court did not find any fundamental errors.
>
> [4] On appeal, in essence, the appellant invites us in his written and oral submissions to reweigh and second-guess the evidence. We decline the invitation.

[17] Finally, by way of the legal framework, the shorter term visa administrative setting is important. Every year, Canada receives upwards if not in excess of one million (1,000, 000) applications for various types of permission to spend time in Canada, of which some 400,000 are granted annually. That leaves some 600,000 applicants who receive decisions stating they are not

successful each year. Each decision must be supported by reasons on its face, or in many cases such as this, more usually in association with the underlying record.

[18] Given this huge volume, the law has developed as noted above, such that the need to give reasons is "typically minimal" as Justice McHaffie stated in *Iriekpen v Canada (Citizenship and Immigration)*, 2021 FC 1276, with which I agree:

> [7] The "administrative setting" of the visa officer's decision includes the high volume of visa and permit applications that must be processed in the visa offices of Canada's missions: *Canada (Minister of Citizenship and Immigration) v Khan*, 2001 FCA 345 at para 32; and *Patel v Canada (Citizenship and Immigration)*, 2020 FC 77 at paras 15, 17. Given this context and the nature of a visa application and refusal, the Court has recognized that the requirements of fairness, and the need to give reasons, are typically minimal: *Khan* at paras 31–32; *Yuzer* at paras 16, 20; *Touré v Canada (Citizenship and Immigration)*, 2020 FC 932 at para 11.
>
> [Emphasis added]

[19] An example of these principles at work is *Hashem v Canada (Citizenship and Immigration)*, 2020 FC 41:

> [28] A decision-maker is not obliged to refer explicitly to all the evidence. It is presumed that the decision-maker considered all the evidence in making the decision unless the contrary can be established (Hassan v Canada (Minister of Employment & Immigration), [1992] FCJ No 946 at para 3; Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration), [1998] 157 FCJ No 1425 at para 16).
>
> [29] Mrs. Hashem's failure to show that the visa section officers ignored evidence amounts to a mere disagreement with the factors they found to be determinative (*Boughus v Canada (Minister of Citizenship and Immigration)*, 2010 FC 210 at paras 56 and 57). There is no reason to intervene and set the decision aside.

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[20] Similarly, *Jilani v Canada (Citizenship and Immigration)*, 2024 FC 1586 per my colleague Justice Roy, states:

> [30] The applicant would have preferred more extensive reasons be given to deny the visa applications. When denied, one often thinks that reasons were short and the disappointment is understandable. But such is not the law.
>
> [31] There are hundreds of thousands of visa applications to come to Canada every year. Lengthy reasons with more details are not required with respect to visa applications and the reviewing courts do not insist on their presence if the reasonableness of the decision is discernible. As the Court of Appeal reminded us in *Zeifmans LLP v Canada*, 2022 FCA 160, such requirement would defeat the purpose of administrative processes that are to be timely and effective. The Court goes on to state at paragraph 10:
>
> > *Vavilov* says more. It tells us that an administrative decision should be left in place if reviewing courts can discern from the record why the decision was made and the decision is otherwise reasonable: *Vavilov* at paras. 120-122; *Canada (Citizenship and Immigration) v. Mason*, 2021 FCA 156 at paras. 38-42. In other words, the reasons on key points do not always need to be explicit. They can be implicit or implied. Looking at the entire record, the reviewing court must be sure, from explicit words in reasons or from implicit or implied things in the record or both, that the administrator was alive to the key issues, including issues of legislative interpretation, and reached a decision on them.
>
> In my view, this is very precisely the situation in the case at hand. It is easy to understand the reasons for the decision made. Would that be the decision made by the reviewing court on the merits? Not necessarily. But that is neither here nor there. The only issue is whether the decision made was reasonable. The applicant has not discharged his burden that it was not.
>
> [32] It follows that the judicial review application must be dismissed.

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[21] I also refer to *Sharafeddin v Canada (Citizenship and Immigration)*, 2022 FC 1269 and *Siddiqua v Canada (Citizenship and Immigration)*, 2022 FC 1263, as additional practical applications of this principle.

B. *Procedural fairness*

[22] All applicants have the onus to establish his or her case to the satisfaction of the issuing officer. It is also the case that because visa applications do not raise substantive rights — foreign nationals have no unqualified right to enter Canada — the level of procedural fairness is low, and generally does not require that applicants be granted an opportunity to address the officer's concerns (see e.g. *Sulce v Canada (Citizenship and Immigration)*, 2015 FC 1132 at para 10; *Bautista v Canada (Citizenship and Immigration)*, 2018 FC 669 at para 17; *Kolawole v Canada (Citizenship and Immigration)*, 2024 FC 2032 at para 6).

VI. Relevant legislation

[23] Section 200(3)(a) of the *IRPR* states:

Exceptions	**Exceptions**
(3) An officer shall not issue a work permit to a foreign national if	**(3)** Le permis de travail ne peut être délivré à l'étranger dans les cas suivants :
(a) there are reasonable grounds to believe that the foreign national is unable to perform the work sought;	**a)** l'agent a des motifs raisonnables de croire que l'étranger est incapable d'exercer l'emploi pour lequel le permis de travail est demandé;
[Emphasis added]	[Je souligne]

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VII. Submissions of the parties

[24] The Applicant submits the Decision is unreasonable and procedurally unfair.

[25] The Respondent submits the Applicant did not meet his onus to demonstrate he had the necessary work experience.

A. *Was the Decision reasonable?*

[26] The Applicant submits there is no legal or factual basis for the Decision and it is therefore unreasonable. The Applicant submits the Officer disregarded his evidence confirming "he has experience of several years handling these exact duties." Disregarding relevant evidence renders the Decision unreasonable (*Sbayti v Canada (Citizenship and Immigration)*, 2019 FC 1296; *Sibal v Canada (Citizenship and Immigration)*, 2019 FC 159). The Applicant asserts he has the requisite education and skills to perform the work sought, but the Officer "failed to explain how his experience was insufficient given that it is similar to what is being sought in the LMIA certificate and the description of the role set out in the relevant National Occupation Classification."

[27] The Respondent submits the Officer's Decision is "brief but nevertheless responsive to the evidence." Food manufacturing is an entirely different sector of the economy. The Applicant failed to demonstrate any food service experience. The Respondent submits the Officer's succinct reasons are not unintelligible or lacking in transparency. Visa officers' "reasons do not need to be lengthy or detailed… [they only] need to set out the key elements of the Officer's line

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of analysis and be responsive to the core of the claimant's submissions on the most relevant points" (*Nesarzadeh v Canada (Citizenship and Immigration)*, 2023 FC 568 at para 26).

[28] In my view, and in a brief compass, the Applicant cannot succeed because he asks the Court to reweigh and reassess the evidence in this case, which, as noted in *Vavilov* and *Doyle* cited above, this Court in not permitted to do on judicial review. That is the job of the visa officer.

[29] That said, I have reviewed and considered the nature of the job offered, the requirements of NOC 60030 food service, and the CV and employment documents submitted by the Applicant. I see no fundamental error, fatal flaw or exceptional circumstance in the Officer's determination that the "proposed occupation requires a several years of experience in the food service sector, including supervisory experience, are required. The applicant has several years of experience in food production and quality control. Applicant has insufficient experience in the job and duties as per letter of offer and/or LMIA" (emphasis added).

[30] It seems to me there is almost nothing in the Applicant's background that relates to NOC 60030, which is work in "food and beverage service establishments." He has never worked and has no experience with "restaurants, bars, cafeterias and other food and beverage services." While the Applicant supervised employees in a different sector, the rest of his work has all been, as reasonably described by the Officer, in food production and quality control, in respect of which NOC 60030 is simply not applicable.

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[31] While the job he seeks, and the LMIA his prospective employer obtained, are well within NOC 60030, his experience is not. Relevant information was not disregarded; as noted, the Applicant had no relevant information to provide. The Decision is reasonable in that it is transparent, intelligible and in my respectful opinion, well justified given the Applicant's record and the requirements of NOC 60030.

B. *Was the Decision procedurally fair?*

[32] The Applicant submits he "fulfilled the sufficiency criteria by providing all the relevant documents in support of his work permit application," and the Officer doubting that evidence amounts to a veiled credibility finding. The Applicant cites *Bajwa v Canada (Immigration, Refugees and Citizenship)*, 2017 FC 202 at paragraph 68, which in turn cites *Perez Enriquez v Canada (Citizenship and Immigration)*, 2012 FC 1091 at paragraphs 26-27:

> [26] The first duty raised by the Applicant is the duty to seek clarification. When an Applicant puts his or her best foot forward by submitting complete evidence and a visa officer doubts that evidence, the officer has a duty to seek clarification (*Sandhu*, above at paras 32-33). Although this duty is not triggered in situations where an applicant simply presents insufficient evidence, it will arise if the officer entertains concerns regarding the veracity of evidence; for example, if the officer questions the credibility, accuracy or genuine nature of the information provided (*Olorunshola*, above at paras 32-35). On the facts of this case, a duty to clarify may have arisen but was discharged by the Officer's questions to the Applicant during the interview. There was no breach of fairness.
>
> [27] The second duty raised by the Applicant is a duty to provide an opportunity to respond. When an applicant submits information that, if accepted, supports the application, he or she should be given an opportunity to respond to the officer's concerns if the officer wishes to make a decision based on those concerns (*Kumar*, above at paras 30-31). Procedural fairness may require an interview; for example, if a visa officer believes an applicant's documents may be fraudulent (*Patel*, above at paras 24-27).

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[Emphasis added]

[33] Notably, the Applicant's Memorandum also says he relies on "*Muraslim*," which is not cited and does not appear to be a real case even after a check for a number of alternative spellings. There is no AI Declaration.

[34] I find no hint of procedural unfairness. Visa officers do not need to make an application before them fit into a different NOC than the one in respect of which the LMIA and visa application were made. It is well-established there is no need for visa officers to provide applicants with an opportunity to respond if their concerns arise directly from requirements under statute or regulation. See *Solopova v Canada (Citizenship and Immigration)*, 2016 FC 690 per Gascon J at paragraph 38, with which and with respect I entirely agree:

> [38] It is well established that a visa officer has no legal obligation to seek to clarify a deficient application, to reach out and make the applicant's case, to apprise an applicant of concerns relating to whether the requirements set out in the legislation have been met, or to provide the applicant with a running score at every step of the application process (*Sharma v Canada (Citizenship and Immigration)*, 2009 FC 786 at para 8; *Fernandez v Canada (Minister of Citizenship and Immigration)*, [1999] FCJ No 994 (QL) at para 13; *Lam v Canada (Minister of Citizenship and Immigration)* (1998), 152 FTR 316 (FCTD) at para 4). To impose such an obligation on a visa officer would be akin to giving advance notice of a negative decision, an obligation that has been expressly rejected by this Court on many occasions (*Ahmed v Canada (Minister of Citizenship and Immigration)*, [1997] FCJ No 940 (QL) at para 8; *Dhillon v Canada (Minister of Citizenship and Immigration)*, [1998] FCJ No 574 (QL) at paras 3-4). There is no requirement for a visa officer to seek clarification, or to reach out and make the applicant's case (*Mazumder v Canada (Citizenship and Immigration)*, 2005 FC 444 at para 14; *Kumari v Canada (Minister of Citizenship and Immigration)*, 2003 FC 1424 at para 7).

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[35] There is no merit in the suggestion the Decision made a veiled credibility finding: the visa application in this case amounted to an unsuccessful effort to fit the Applicant's experience into NOC 60030 that was bound to fail.

VIII. Conclusion

[36] This application must be dismissed.

IX. Certified question

[37] Neither party proposes a question for certification, and I agree none arises.

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JUDGMENT in IMM-9733-24

THIS COURT'S JUDGMENT is that:

1. This application is dismissed.

2. No question of general importance is certified.

3. There is no order as to costs.

"Henry S. Brown"
Judge

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FEDERAL COURT

SOLICITORS OF RECORD

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APPEARANCES:

Yuvraj Katodia	FOR THE APPLICANT
Leanne Briscoe	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Yuvraj Katodia Barrister and Solicitor Brampton, Ontario	FOR THE APPLICANT
Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT