

CANADA / JUDGMENT

Antala v. Canada (Citizenship and Immigration)

2025 FC 420

COURT

Federal Court

DECIDED

6 March 2025

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Antala v. Canada (Citizenship and Immigration) Court (s) Database Federal Court Decisions Date 2025-03-06 Neutral citation 2025 FC 420 File numbers IMM-4354-23 Decision Content Date: 20250306 Docket: IMM-4354-23 Citation: 2025 FC 420 Toronto, Ontario, March 6, 2025 PRESENT: The Honourable Madam Justice Ayles BETWEEN: DAYABEN DILIPBHAI ANTALA Applicant and THE MINISTER OF CITIZENSHIP & IMMIGRATION Respondent JUDGMENT AND REASONS

- [1] The Applicant, a citizen of India, seeks judicial review of the decision made by an Immigration, Refugees and Citizenship Canada [IRCC] officer [Officer] on December 28, 2022 refusing the Applicant's application for permanent residence under the Saskatchewan Provincial Nomination Program [SPNP] and finding that she was inadmissible to Canada in accordance with paragraph 40(1)(a) of the Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA] for misrepresenting or withholding material facts relating to a relevant matter that induced or could induce an error in the administration of the IRPA.
- [2] In August 2019, the Applicant applied for provincial nomination under the SPNP as an international skilled worker with an employment offer. The Applicant had secured an offer of employment from Joshi Enterprises Ltd. to work as a retail sales supervisor. In order to meet the requirements for nomination in this category, the Applicant needed at least one year of work experience in the prior ten years as a retail sales supervisor. In support of her application, the Applicant relied on her employment with Gujarat Steel from January 2005 until March 2021. Saskatchewan approved the Applicant's application and issued a nomination certificate on September 10, 2019. Later that month, the Applicant submitted her permanent residence application under the SPNP.
- [3] On May 4, 2022, IRCC requested that the Applicant provide employment records and proof of employment in the form of an original letter of employment with salary slips and any other supporting documents in support of her declared employment with Gujarat Steel. A letter of employment, salary certificate and numerous pay stubs were provided by the Applicant.

- [4] On September 12, 2019, IRCC called both the Applicant and Gujarat Steel to verify her employment experience. The Global Case Management System [GCMS] notes state the following regarding these calls: Outgoing call made to the applicant. She informed that she is at home today as she is sick. She went to work on Friday and was on leave on Saturday. Sunday is weekly off. She was not able to explain her job duties. It appears she was pretending as she was not able to hear when she was asked to explain her job duties. Outgoing call made [to] the employer. He informed that applicant was on shop on Saturday. She informed for leave last night as she had some work. Therefore she did not come today.
- [5] On September 13, 2022, IRCC sent the Applicant a procedural fairness letter [PFL], which stated, in part, as follows: You have indicated your occupation as Retail sales supervisor, (NOC: 62110). In support of your application you presented an employment reference letter from Gujarat Steel. As part of your application this employment was verified. You and your employer provided contradictory information regarding your employment. You informed that you were on sick leave on Saturday and employer informed that you attended work on Saturday. Further, you could not explain the duties of your work. Basis [sic] the verification, I am not satisfied that you have stated experience and it appears that you have provided fraudulent documents to gain status in Canada. [...] Before a decision is made in your case, I am providing you with the opportunity to comment on the above concern or provide any observation or explanation in writing...
- [6] On October 5, 2022, the Applicant, with the assistance of an immigration consultant, provided a response to the PFL. In the response, the Applicant explained that she stopped working at Gujarat Steel in March 2021, but still helped out the employer (who is a distant relative) from time to time when asked. However, the Applicant stressed that the fact that she stopped working at Gujarat Steel was immaterial to her permanent residence application as she had sixteen years of work experience, which more than satisfied the one-year experience requirement of the SPNP. Any discrepancy between the Applicant's answer and the answer provided by Gujarat Steel regarding her employment on the Saturday at issue is therefore not relevant to her permanent residence application. In her response to the PFL, the Applicant did not address IRCC's second concern – namely, that the Applicant was unable to explain her job duties.
- [7] By letter dated December 28, 2022, IRCC denied the Applicant's permanent residence application and found the Applicant inadmissible for misrepresentation. IRCC was not satisfied that the Applicant actually possessed the stated work experience, which amounted to a material misrepresentation. Moreover, in the absence of a genuine employment experience, IRCC was not satisfied that there was sufficient information submitted by the Applicant to demonstrate that she has the ability to be economically established in Canada as required for the SPNP.
- [8] The sole issue that arises in this application is whether the Officer's decision was reasonable. The parties agree and I concur that the applicable standard of review is reasonableness. When reviewing for reasonableness, the Court must take a "reasons first" approach and

determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible and justified [see *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 8]. A reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision-maker [see *Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 15, 85]. The Court will intervene only if it is satisfied there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency [see *Adeniji-Adele v Canada (Minister of Citizenship and Immigration)*, 2020 FC 418 at para 11].

- [9] Section 40 of the IRPA deals with inadmissibility due to misrepresentation. Paragraph 40(1) (a) provides: 40 (1) A permanent resident or a foreign national is inadmissible for misrepresentation 40 (1) Empovent interdiction de territoire pour fausses déclarations les faits suivants :
- (a) for directly or indirectly misrepresenting or withholding material facts relating to a relevant matter that induces or could induce an error in the administration of this Act;
- a) directement ou indirectement, faire une présentation erronée sur un fait important quant à un objet pertinent, ou une réticence sur ce fait, ce qui entraîne ou risque d'entraîner une erreur dans l'application de la présente loi;
- [10] Subsection 16(1) of the IRPA imposes an obligation on applicants to be truthful: 16 (1) A person who makes an application must answer truthfully all questions put to them for the purpose of the examination and must produce a visa and all relevant evidence and documents that the officer reasonably requires 16 (1) L'auteur d'une demande au titre de la présente loi doit répondre véridiquement aux questions qui lui sont posées lors du contrôle, donner les renseignements et tous éléments de preuve pertinents et présenter les visa et documents requis.
- [11] This Court has held that section 40 of the IRPA is to be interpreted broadly and that applicants have a duty of candour, which is required to maintain the integrity of the immigration system [see *Bodine v Canada (Minister of Citizenship and Immigration)*, 2008 FC 848 at paras 41-42; *Kobrosli v Canada (Minister of Citizenship and Immigration)*, 2012 FC 757 at para 46].
- [12] To trigger inadmissibility under paragraph 40(1)(a), two criteria must be met: (a) there must be a misrepresentation; and (b) the misrepresentation must be material, in that it induces or could induce an error in the administration of the IRPA [see *Singh Dhatt v Canada (Citizenship and Immigration)*, 2013 FC 556 at para 24]. A misrepresentation need not be decisive or determinative to be material. It will be material if it is important enough to affect the process [see *Oloumi v Canada (Citizenship and Immigration)*, 2012 FC 428 at para 25].

- [13] The Applicant asserts that the Officer's decision was unreasonable as the Officer improperly questioned the Applicant and her employer about her current work experience, when the Applicant was not relying on her current work experience but rather her 16 years of prior work experience with the same employer. Relying on this Court's decision in *Bao v Canada (Minister of Immigration, Refugees and Citizenship)*, 2019 FC 268, the Applicant asserts that the Officer erred as her current work experience, and any asserted misrepresentation thereto, was not material to her application.
- [14] I reject the Applicant's assertion. Unlike in *Bao*, the Applicant's current occasional employment and her sixteen years of relied-upon employment are with the same employer. The Officer's calls to Gujarat Steel and the Applicant were intended to verify her employment experience as claimed in her application. Those calls resulted in the Officer raising two concerns with the Applicant – the first related to whether she had been at work over the weekend and the second related to her job duties. I agree with the Applicant that the Officer's first concern was not material to her application. However, the second concern was directly material to her application. An inability to describe the duties of a position that the Applicant asserts she held for sixteen years reasonably calls into question whether the Applicant has the experience required for nomination under the SPNP and to become economically established in Canada. Given the Applicant's failure to address the second concern in her response to the PFL, I find that the Officer's determinations that she had misrepresented her work experience and that this misrepresentation was material were reasonable.
- [15] At the hearing, the Applicant attempted to raise a procedural fairness argument, whereas her Notice of Application and written representations only challenged the reasonableness of the Officer's decision. It is improper for an applicant to raise a new issue for the first time at the hearing of an application and as such, I will not entertain the Applicant's argument.
- [16] As the Applicant has failed to demonstrate that the decision is unreasonable, the application for judicial review shall be dismissed.
- [17] The parties propose no question for certification and I agree that none arises. JUDGMENT in IMM-4354-23 THIS COURT'S JUDGMENT is that: The application for judicial review is dismissed. The parties proposed no question for certification and none arises. "Mandy Aylen" Judge FEDERAL COURT SOLICITORS OF RECORD Docket: IMM-4354-23 STYLE OF CAUSE: DAYABEN DILIPBHAI ANTALA V THE MINISTER OF CITIZENSHIP & IMMIGRATION PLACE OF HEARING: TORONTO, ONTARIO DATE OF HEARING: march 6, 2025 JUDGMENT AND REASONS: aylen J. DATED: March 6, 2025 APPEARANCES: Kapilkumar P. Rathod For The Applicant Catherine Vasilaros For The Respondent SOLICITORS OF RECORD: Rathod Law Caledon East, Ontario For The Applicant Attorney General of Canada Toronto, Ontario For The Respondent

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