

CANADA / JUDGMENT

Ju v. Canada (Citizenship and Immigration)

2026 FC 236

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Ju v. Canada (Citizenship and Immigration) Court (s) Database Federal Court Decisions Date 2026-02-18 Neutral citation 2026 FC 236 File numbers IMM-13507-24 Decision Content Date: 20260218 Docket: IMM-13507-24 Citation: 2026 FC 236 Toronto, Ontario, February 18, 2026 PRESENT: Madam Justice Go BETWEEN: HUA JU Applicant and THE MINISTER OF CITIZENSHIP AND IMMIGRATION Respondent JUDGMENT AND REASONS I. Overview [1] Ms. Hua Ju [Applicant], a citizen of the People's Republic of China, applied for permanent residence [PR] status and a work permit [WP] through the Saskatchewan Immigrant Nominee Program based on a job offer to work as an Office Assistant for CANESL Inc. [Employer].

- [2] By a letter dated April 30, 2024, a visa officer [Visa Officer] of Immigration, Refugees and Citizenship Canada [IRCC] required the Applicant to attend an interview at the IRCC office in Shanghai on May 7, 2024 and to bring certain documents along to the interview [Interview Letter]. After the interview, IRCC emailed the Employer to request several documents from the Employer. The Employer provided the documents as per the IRCC's request on or around May 22, 2024.
- [3] By a decision dated July 5, 2024 [WP Decision], a delegated officer of the IRCC [Delegated Officer] denied the Applicant's work permit application and notified the Applicant that she has been found inadmissible to Canada due to misrepresentation under paragraph 40(1)(a) of the Immigration and Refugee Protection Act, SC 2001, c. 27 [IRPA].
- [4] By a decision dated August 8, 2024, the IRCC denied the Applicant's PR application as she has previously been refused an application due to misrepresentation [PR Decision].
- [5] The Applicant continues to be inadmissible for misrepresentation for a period of five years following the determination of inadmissibility pursuant to paragraph 40(2)(a) of the IRPA.
- [6] The Applicant brings applications for judicial review of both the WP Decision and the PR Decision [together "Decisions"]. Associate Judge Milczynski granted an order, on consent, to consolidate the two applications. For the reasons set out below, I grant the Applicant's applications. II. Issues and Standard of Review [7] The Applicant raises the following issues: Whether the Applicant suffered a breach of procedural fairness; Whether the WP Decision was unreasonable; and Whether the PR Decision was unreasonable.

- [8] The presumptive standard of review with respect to the merits of the Decision is reasonable, per *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov]. 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”: Vavilov at para 85. The onus is on the Applicant to demonstrate that the decision is unreasonable: Vavilov at para 100.
- [9] With respect to the issue of procedural fairness, the standard of review is akin to correctness. The focus of this Court is on whether or not the procedure allowed the Applicant to know the case to meet and have a full and fair opportunity to respond: *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at paras 54-56.
- III. Analysis [10] I find the Applicant was denied procedural fairness. Both the Visa Officer and the Delegated Officer [together “Officers”] decided to refuse the Applicant’s WP application based on their concerns after their review of the Employer’s documents. Such concerns were never communicated to the Applicant. The Applicant, who did not appear to have access to the Employer’s documents, was thus deprived of an opportunity to meaningfully address the Officers’ concerns.
- [11] As noted above, the Visa Officer issued an Interview Letter to the Applicant to invite her to an interview and to bring along certain documents. These documents pertain to the Applicant’s personal information including her passport, social insurance participation certificate, income tax record, and correspondence between her and the Employer.
- [12] Nowhere in the Interview Letter did the Visa Officer ask the Applicant to provide documents belonging to the Employer. Nor did the Interview Letter indicate any concerns on the part of the Visa Officer regarding either the genuineness of the job offer or any potential misrepresentation on the part of the Applicant. The first time when the Applicant was notified about these concerns was at the interview.
- [13] The interview notes taken by the Visa Officer can be found in the Global Case Management System [GCMS] notes.
- (1) The GCMS notes confirm that the Visa Officer advised the Applicant at the beginning of the interview about her responsibility to be truthful, and the potential consequences of misrepresentation. The Visa Officer then proceeded to ask the Applicant questions regarding her financial situation, immigration history, job search for the job in question and for other positions, her duties with the Employer, and her qualifications. The GCMS notes entry of the interview ended with the following remark: THANKED [THE APPLICANT] FOR THEIR TIME. TOLD THEM I WILL REVIEW THE DOCS, AND ASK THE COMPANY FOR MORE DOCS AND THEY SHOULD GET AN ANSWER IN THE NEXT FEW WEEKS. TOLD [THE APPLICANT] I HAVE SUFFICIENT CONCERNS TO RECOMMEND MISREP AT THIS POINT, BUT WILL WAIT FOR ALL DOCS IN BEFORE DECISION.

- [14] Thus, by the end of the interview, the Visa Officer advised the Applicant that they have sufficient concerns to recommend a misrepresentation finding, but the Visa Officer would not make any recommendation until they have reviewed the documents from the Employer.
- [15] The Visa Officer then reached out to the Employer after the interview to request documentation. Specifically, the Visa Officer asked the Employer to provide a description of their business, their most recent unaudited financial statement, notices of assessment, an organizational chart, T4 summary of remuneration and statement of remuneration, payslips, copy of the contract of the persons currently or most recently occupying the position of Office Assistant, the position offered to the Applicant. The Employer provided the documents requested by email on May 22, 2024.
- [16] After the Visa Officer received the documents provided by the Employer, they entered the following in the GCMS notes: **OFFICER REVIEW** Docs received and reviewed. The employer states that the company has 10 employees: 2 full time employees (Administrator, and Office Assistant), and 8 part time employees (General Manager, various teachers and examiners, and support staff). I note that the T4 Summary of remuneration paid for the company in 2023 shows that eleven (11) T4 were produced for that year, for a total amount of CAD \$112,899 in wages paid that year, for all 10 employees, including the salary of the GM. Schedule 100 shows that the company ended July 2023 with a net income/profit of CAD\$63,879, and in 2022 with a deficit of CAD\$28,041. Schedule 100 for 2022 shows an amount of CAD\$42,226 in Salary or Wages paid in the company's operating expenses. I further note that the [Applicant] was offered an hourly rate of \$24.73\$. If the [Applicant] was to work 52 weeks a year for a minimum of 30 hours a week, as per the contract that is currently offered, their salary would be around \$38,579, which would be an important proportion of all wages being paid by that company. The employer also submits the paystubs of the current office assistant (not the contract as requested). The paystub does not indicate the position occupied. However I note that the hourly wage is 234. It is unclear why the employer would offer a higher rate to a temporary foreign worker than the current position incumbent, particularly when they have 8 part time employees on their payroll. Based on submissions, including payroll and wages information, it does not appear that potential employer has the financial capacity to pay for the hourly rate offered to [the Applicant] as required by R200(5)(c). I am therefore not satisfied on balance that this is a genuine job offer. [Emphasis added.]
- [17] The paragraph immediately following this entry was entitled "MISREPRESENTATION" and it provided a summary of the interview the Visa Officer conducted with the Applicant including both the Visa Officer's questions and the Applicant's response to those questions during the interview. The GCMS notes further set out the reasons for the Visa Officer's recommendation for a misrepresentation finding against the Applicant. These reasons include, among other things, that a) the Applicant's invitation to the interview was apparently shared on a Chinese social media website named Xiaohongshu (which was subsequently removed from the website); b) the Applicant provided contradictory

information about how she found the job; c) the Applicant was unable to provide evidence of other job search; d) the Applicant was unclear on the tasks she would be required to perform in Canada; and e) the Applicant indicated that she did not know her Employer was also an immigration consultant.

- [18] After the Visa Officer made the recommendation for a misrepresentation finding, the Delegated Officer provided their reasons for a finding of misrepresentation: I have reviewed the application and share the concerns with respect to the offer of employment. The details of the offer of employment are not reasonable in the context of the proposed employer's commercial and human resource situation. [The Applicant] was given ample opportunity to respond to the officer's concerns with respect to the employment offer, however her responses do not disabuse me of the concerns. Following the interview, I am satisfied that [the Applicant] has provided an offer of employment that is not genuine. This misrepresentation could have induced an error in the administration of the act in the assessment of [the Applicant's] eligibility. Refused A40 MPM [Emphasis added.]
- [19] These reasons reveal that the Delegated Officer made their final determination of inadmissibility based on the information provided by the Employer, as they found the details of the job offer not reasonable "in the context of the proposed employer's commercial and human resource situation."
- [20] While the Delegated Officer noted that the Applicant was given "ample opportunity" to respond to the officer's concerns, their notes made no mention of the fact that the Visa Officer's concerns about the Employer's "commercial and human resource situation" only came about after their interview with the Applicant.
- [21] Moreover, I note the GCMS notes which confirm that the Visa Officer's concerns about the genuineness of the job offer was also based on the information disclosed by the Employer such as the T4 summary, pay slips, financial statement and contracts with current staff.
- [22] Thus, both the Delegated Officer's decision about the misrepresentation as well as the Visa Officer's decision about the genuineness of the job offer were grounded on the documents provided by the Employer.
- [23] The record before me does not indicate that the Employer had copied the Applicant on their email to the IRCC, nor is there any evidence suggesting that the Applicant had access to any of the Employer's financial and payroll documents.
- [24] Despite having concerns arising from the documents provided by the Employer, both the Delegated Officer and the Visa Officer never communicated such concerns with the Applicant. Moreover, the Delegated Officer's reasons for finding misrepresentation were not the same as those that were shared with the Applicant during her interview by the Visa Officer. I pause here to note that, unlike the Delegated Officer, the Visa Officer made their recommendation of misrepresentation based on their concerns arising from the information the Applicant provided at the interview.

- [25] I also note that neither the Visa Officer nor the Delegated Officer in this case ever issued any Procedural Fairness Letters before recommending and/or finalizing the misrepresentation findings against the Applicant.
- [26] The consequences of the inadmissibility finding are significant to the Applicant. The jurisprudence supports that “findings of misrepresentation under s 40(1)(a) of the IRPA attract a higher level of procedural fairness because a finding of misrepresentation precludes an applicant from re-applying for a five-year period... and may also reflect on an applicant’s character”: *Tsang v Canada (Citizenship and Immigration)*, 2024 FC 1941 [Tsang] at para 30, citing *Likhi v Canada (Citizenship and Immigration)*, 2020 FC 171 at paras 26-27; *Damangir v Canada (Citizenship and Immigration)*, 2024 FC 599 at para 23; *Samra v Canada (Citizenship and Immigration)*, 2024 FC 1649 at para 18.
- [27] The Respondent submits that procedural fairness is satisfied by convoking an interview and allowing an applicant to disabuse an officer of any concerns: *Kwong v Canada (Citizenship and Immigration)*, 2024 FC 1727 [Kwong] at paras 32-35 and *Tsang*.
- [28] The Respondent further submits that the Visa Officer made clear their concerns to recommend misrepresentation at the interview. The Visa Officer asked the Applicant questions about the genuineness of the job offer. The Visa Officer reached out to the Employer for documents which the Applicant was unable to provide and which the Employer was in a better position to provide. As such, the Applicant was afforded the procedural fairness that was required to consider not only the genuineness of the job offer, but also the heightened requirement of procedural fairness with respect to the misrepresentation finding.
- [29] I disagree.
- [30] Unlike *Kwong* and *Tsang*, the concerns the Visa Officer raised at the interview were not the same concerns cited by the Delegated Officer in making their misrepresentation findings, nor were they the same concerns cited by the Visa Officer in finding the job offer not genuine. In both *Kwong* and *Tsang*, the concerns raised at the interview and the findings of misrepresentation both relate to the legitimacy of the applicant’s educational credentials. Here, the Visa Officer’s questions during the interview focused on the information that the Applicant was able to provide, but ultimately both the Visa Officer and the Delegated Officer made their findings based on the documents that only the Employer could provide and that the Applicant was not privy to.
- [31] As the Court found in *Ahmed v Canada (Citizenship and Immigration)*, 2025 FC 222 at para 17, when a new or evolving concern arises after an interview, procedural fairness requires it to be communicated and an opportunity to respond be provided. Further, a visa officer should specify their concerns so as to provide an applicant a meaningful opportunity to fully respond to their concerns: *Singh v Canada (Citizenship and Immigration)*, 2023 FC 904 at paras 24-25 and 27-28.

- [32] In this case, the Applicant was never notified of the specific concerns of both the Delegated Officer and the Visa Officer regarding the Employer's "commercial and human resource situations." The Officers' failure to communicate these concerns to the Applicant constitutes a procedural fairness breach. For this reason, the finding of misrepresentation in the WP Decision against the Applicant cannot be allowed to stand. Similarly, the finding that the job offer was not genuine must also be set aside.
- [33] As the PR Decision was made based on the finding of misrepresentation against the Applicant in relation to her work permit application, I find the procedural fairness breach associated with the WP Decision also taints the fairness of the PR Decision.
- [34] For these reasons, both Decisions must be set aside. I need not address the Applicant's arguments with respect to the reasonableness of the Decisions. However, my silence in this regard should not be perceived as my endorsement of the reasonableness of the Decisions.
- IV. Conclusion [35] The application for judicial review is granted.
- [36] There is no question for certification. JUDGMENT in IMM-13507-24 THIS COURT'S JUDGMENT is that: The application for judicial review is granted and the matter sent back for redetermination by a different officer. There is no question for certification. "Avvy Yao-Yao Go" Judge FEDERAL COURT SOLICITORS OF RECORD Docket: IMM-13507-24 STYLE OF CAUSE: HUA JU v THE MINISTER OF CITIZENSHIP AND IMMIGRATION PLACE OF HEARING: held via videoconference DATE OF HEARING: february 4, 2026 JUDGMENT AND REASONS: GO J. DATED: February 18, 2026 APPEARANCES: James Feliks Morrison For The Applicant Aida Kalaj For The Respondent SOLICITORS OF RECORD: Zarei Law Professional Corporation Toronto, Ontario For The Applicant Attorney General of Canada Toronto, Ontario For The Respondent

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