

Federal Court



Cour fédérale

Date: 20260521

Docket: IMM-4478-25

Citation: 2026 FC 649

Toronto, Ontario, May 21, 2026

PRESENT: The Honourable Madam Justice Furlanetto

BETWEEN:

MADHU NANDA

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS AND JUDGMENT

[1] This is an application for judicial review of a decision of an officer [Officer] of Immigration, Refugees and Citizenship Canada [IRCC], refusing the Applicant's application for permanent residence [PR] as a member of the Canadian Experience Class [CEC]. The Officer was not satisfied the Applicant's foreign work experience aligned with the duties for the position under the National Occupation Code [NOC] that was declared in the Applicant's Express Entry Profile and excluded this experience from the evaluation. This exclusion rendered the Applicant

without appropriate qualifications for PR status. The Applicant tried to change the NOC designation through a request for reconsideration. However, the Officer refused to exercise their discretion to reopen the application on the basis that there was no error of law made on the administration of the refusal.

[2] The Applicant has not established that the Officer made a reviewable error, nor has she established a breach of procedural fairness. As such, the application is dismissed.

I. **Background**

[3] The Applicant, Madhu Nanda, is a citizen of India who entered Canada on February 6, 2020 along with her spouse and two children on a temporary resident visa.

[4] The Applicant attended school in Canada and subsequently obtained a work permit and worked as an office administrator. While working, the Applicant's employer applied for a positive Labour Market Impact Assessment (LMIA) under the Applicant's name which was issued on August 23, 2023.

[5] On July 17, 2024, the Applicant submitted an Express Entry Profile and received an Invitation to Apply [ITA] for PR under the CEC, which had a cut-off of 515 points in the Comprehensive Ranking System [CRS]. The ITA was based on the Applicant being awarded 50 points for the transferability of her skills from her foreign work experience before arriving in Canada.

[6] In her PR application the Applicant included an experience letter from her previous employer in India, Future Shapers Consultants Pvt Ltd [Future Shapers], confirming her employment as an “Office Administrator” from July 1, 2015 to November 30, 2019 and the nature of her work duties.

[7] On February 7, 2025, the application was refused on the basis that the Applicant’s foreign work experience while working at Future Shapers did not include duties that were consistent with those under NOC 13100, which was the code declared in the Applicant’s Express Entry Profile. As such, the Officer found this foreign work experience could not be included in the Applicant’s CRS score, placing her rank below the lowest ranking person invited to apply in her round of invitations.

[8] On February 21, 2025, the Applicant filed the underlying application for leave and judicial review [ALJR] challenging the February 7, 2025 decision [Decision]. In the relief sought, the Applicant requested the Decision be quashed and her application redetermined.

[9] On March 6, 2025, the Applicant’s representative requested reconsideration of the Decision. In the reconsideration request, the Applicant’s representative asserted that the Officer should have issued a procedural fairness letter before refusing the PR application. The Applicant’s representative acknowledged that the Applicant’s job duties at Future Shapers did not fall under the duties for NOC 13100, which was the code for “Administrative Officers”. However, the Applicant’s representative asserted they had erred when completing the Express

Entry Profile and that the Applicant's duties and work experience should be considered in conjunction with NOC 13110, which was the code for "Administrative Assistants".

[10] On March 7, 2025, the Officer declined the Applicant's reconsideration request [Reconsideration Decision] stating that they were "satisfied that there was no error in law made in the administration of the refusal" and as such that they would not be reopening the application as the refusal remained the same.

II. **Analysis**

A. *Preliminary Matter*

[11] As a preliminary matter, there is a dispute between the parties as to whether the Reconsideration Decision may be considered as part of this judicial review.

[12] The Applicant argues that it would be in the interests of justice to include the Reconsideration Decision as it is the final decision in this immigration file, both the Decision and the Reconsideration Decision were included by the IRCC in response to the request under Rule 9 of the *Federal Courts Citizenship, Immigration and Refugee Protection Rules*, SOR/93-22, the documentation relating to the reconsideration is included in the Certified Tribunal Record [CTR], and the parties each made arguments relating to the Reconsideration Decision in their application materials. The Respondent contends that consideration of the Reconsideration Decision runs contrary to Rule 302 of the *Federal Courts Rules* SOR/98-106 [*Federal Courts Rules*] and subsection 18.1(2) of the *Federal Courts Act* RSC, 1985, c F-7 [*Federal Courts Act*].

They argue that the judicial review should be limited to the Decision as this was the only decision identified in the underlying ALJR and the only decision for which relief was sought.

[13] Subsection 18.1(2) of the *Federal Courts Act* sets out the timelines for judicial review and provides that an application for judicial review in respect of “a decision” be filed within 30 days of communication of the decision.

[14] Rule 302 of the *Federal Courts Rules* limits an application for judicial review to a single decision in respect of which relief is sought, unless the Court orders otherwise. As established in the jurisprudence, an applicant may challenge multiple decisions in a single application where the decisions constitute continuing acts and are so closely linked that they should be considered together: *China Mobile Communications Group Co Ltd v Canada (Attorney General)*, 2023 FCA 202 at para 47; *Goyal v Canada (Citizenship and Immigration)*, 2025 FC 905 at paras 16-17.

[15] A reconsideration decision of an Immigration Officer has been recognized as a separate reviewable decision: *Kosolapova v Canada (Citizenship and Immigration)*, 2014 FC 458 at para 8; *Harms-Barbour v Canada (Public Safety and Emergency Preparedness)*, 2021 FC 59 at para 64; *Krivykh v Canada (Citizenship and Immigration)*, 2022 FC 124 at para 4. However, there are circumstances where the Court has entertained a reconsideration decision along with its previous decision in one judicial review where, in the context of the specific facts before the Court, it was in the interests of justice to do so.

[16] The Applicant cites to certain cases in its argument. However, I find these decisions to be of limited assistance. In each of *Marr v Canada (Citizenship and Immigration)*, 2011 FC 367, *Naderika v Canada (Citizenship and Immigration)*, 2015 FC 788, *Ghanbari v Canada (Citizenship and Immigration)*, 2024 FC 1880 [*Ghabnari*], and *Kaur v Canada (Citizenship and Immigration)*, 2026 FC 79 [*Kaur*], the reconsideration determination was made before the ALJR was filed which is not the case here. Further, in *Ghabnari* and *Kaur*, the challenge in the ALJR was to the reconsideration decision, which was implicitly held to include the prior decision. Here, there is no mention of the Reconsideration Decision in the ALJR, nor could there be as the request for reconsideration was not made when the ALJR was filed.

[17] The Applicant argues that she did not file a separate ALJR after the Reconsideration Decision because she believed she did not have to do so as the Reconsideration Decision was made by the same officer as part of the same file and was already introduced into the proceeding through the IRCC's Rule 9 reasons. The Applicant's original memorandum of argument expressly stated that the Applicant was challenging the refusal of her application "based on the entirety of her file including the reconsideration request". While the Respondent refuted the relevance of the Reconsideration Decision in its memorandum of argument, it nonetheless made arguments relating to the Reconsideration Decision in its memorandum of argument. Further specific arguments were made by the Applicant in respect of the Reconsideration Decision in the Applicant's reply. It was on this full record that leave was granted.

[18] I agree that the ALJR is incomplete. However, upon consideration of the particular circumstances here, I will go on to consider both the Decision and Reconsideration Decision in

my analysis. As set out further below, the Applicant has not established a reviewable error or breach of procedural fairness even when both decisions are considered.

B. *Were the decisions of the Officer reasonable?*

[19] The parties do not dispute that the standard of review for the merits of the Officer's decisions is reasonableness: *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. A decision will be reasonable if when read as a whole and taking into account the administrative setting, it bears the hallmarks of justification, transparency, and intelligibility: *Vavilov* at para 99.

[20] The Applicant asserts that the Officer erred by failing to properly consider information that materially affected the result of the PR application. I cannot agree.

[21] As noted by the Officer, section 11.2 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] required that the information the Applicant provided in her Express Entry Profile concerning her eligibility to be invited to apply under the CEC and the qualifications on which she was ranked, be valid both at the time the invitation was issued and at the time her PR application was received. As set out in section 11.2, an officer may not issue a PR visa to a foreign national where the foreign national does "not that have the qualifications on the basis of which they were ranked".

[22] Subsection 25(2) of the Ministerial Instructions relating to the Express Entry system for August 9, 2024 to March 24, 2025 [Ministerial Instructions] state that, “[i]n order to be assigned points ... for ... foreign work experience, a foreign national”:

(a) must specify in their expression of interest the five-digit code in the *National Occupational Classification* that corresponds to each of the occupations they have engaged in while accumulating their foreign work experience; and

(b) must have performed the actions described in the lead statement for the occupation as set out in the occupational descriptions of the *National Occupational Classification*, as well as a substantial number of the main duties, including all essential duties, as set out in the *National Occupational Classification*.

[23] The Applicant had the burden of demonstrating that she was a member of the CEC by virtue of her employment experience: *Bharadwaj v Canada (Citizenship and Immigration)*, 2022 FC 1362 at para 13. The Applicant chose to declare NOC 13100 in her Express Entry Profile for her foreign work experience at Future Shapers. As reasonably found by the Officer, the work duties for NOC 13100 for “Administrative Officers” did not align with those provided by Future Shapers in their confirmation of employment letter. Indeed, the Applicant’s representative acknowledged in the reconsideration request that the NOC work duties mentioned in the job letter did “not actually resemble with the NOC 13100 as office administrator”.

[24] Given that the Applicant’s foreign work experience was not consistent with her declared NOC and the constraints arising from section 11.2 of the IRPA and subsection 25(2) of the Ministerial Instructions, the Officer did not include the Applicant’s foreign work experience in her score under the CRS. I see no error in this analysis.

[25] I agree with the Respondent it was not up to the Officer to look for a different NOC under which the Applicant's foreign work experience might fall. The burden was on the Applicant to identify this correctly.

[26] Once the alleged error was put forward through the Applicant's reconsideration request, the Applicant argues the Officer was obliged to consider the alternate NOC (13110) and fettered their discretion in not doing so. The Applicant asserts that the Officer treated the Decision as final and did not recognize they had the power to reconsider the Decision. I do not read the Reconsideration Decision in this manner.

[27] The process for reconsideration of an administrative decision involves two steps: (1) the decision-maker determines whether to exercise discretion to proceed to reconsider the previous decision; and (2) if the decision-maker decides to reconsider the previous decision, it then performs that reconsideration: *Hussein v Canada (Citizenship and Immigration)*, 2018 FC 44 [Hussein] at para 55. There is no general obligation to grant reconsideration under the first step. Rather, an applicant must show that reconsideration is warranted given the interests of justice or the unusual circumstances at play. The substantive consideration of new evidence arises only if the decision-maker decides to reconsider the matter under the first step: *Hussein* at paras 55, 57.

[28] The Officer was not obliged to substantively consider the new NOC at the first stage of the analysis. This stage only required preliminary vetting of the reason for the request: *Charles v. Canada (Citizenship and Immigration)*, 2014 FC 772 at para 51, citing *Kurukkal v Canada (Minister of Citizenship and Immigration)*, 2010 FCA 230 [Kurukkal] at para 5. The only issue

before the Officer at the first stage of the analysis was to consider, on the relevant circumstances, whether to exercise their discretion to reopen the file: *Canada (Citizenship and Immigration) v Kurukkal* at para 5. In concluding that they would not reopen the file, it is clear the Officer knew they had the discretion to reconsider the Decision but determined that they would not.

[29] The Applicant asserts that the reasons given by the Officer were insufficient. However, the Officer was not required to give extensive reasons when refusing the application at this stage of the analysis: *Wophill v Canada (Citizenship and Immigration)*, 2023 FC 1618 at para 15; *Kan v Canada (Citizenship and Immigration)*, 2025 FC 1869 [*Kan*] at paras 4, 15.

[30] In *Kan*, an officer considered a reconsideration request dealing with a misrepresentation where the applicant argued there was an innocent mistake on reconsideration. Like the present case, there was an admission by the applicant that the underlying decision was valid. In *Kan*, the GCMS notes stated: “Reconsideration request reviewed and considered. I note there was no error in law or fact made, therefore no change to the original decision”. In finding the decision reasonable, the Court found the reasons sufficient for the first stage of the analysis to justify the refusal.

[31] In the Reconsideration Decision here, the Officer similarly states that they reviewed the Applicant’s request, but they are not reopening the application because there was no error of law with the refusal. From this, it is understood that the Officer considered the reconsideration request but chose not to exercise their discretion to reopen and reconsider the file as against the new NOC despite the alleged error. There was no obligation on the Officer to do more: *Xu v*

Canada (Citizenship and Immigration), 2024 FC 839 at para 20. It is not the role of the Court to re-evaluate this decision by conducting a second stage analysis of the duties under the new NOC as against the Applicant's foreign experience letter.

[32] The Applicant argues that the Officer was obliged to consider the new NOC because the difficulties arose through the representative's error, not because of the Applicant. However, the passage cited by the Applicant from *Bowen v City of Montreal*, 1978 CanLII 14 (SCC) at 519 has been taken out of context. Further, as admitted, it cannot be said that the Express Entry Profile was made without the Applicant's knowledge. In any event, Applicants are responsible for the actions of their retained representatives: *Sandhu v Canada (Citizenship and Immigration)*, 2026 FC 212 at para 20; *Bhairon v Canada (Citizenship and Immigration)*, 2022 FC 739 at para 31.

[33] The Applicant has not established a reviewable error.

C. *Was there a breach of procedural fairness?*

[34] The Applicant asserts that the Officer also breached procedural fairness as the Applicant should have been alerted to the Officer's concerns regarding the application prior to the Decision. However, the onus was on the Applicant to provide the Officer with the correct NOC against which she wanted her foreign work experience to be considered.

[35] There is no duty on a visa officer to provide an applicant with the opportunity to respond to concerns arising directly from an applicant's compliance with the IRPA or the *Immigration and Refugee Protection Regulations*, SOR/2022-227: *Hassani v Canada (Minister of Citizenship*

and Immigration), 2006 FC 1283 at para 24; *Ugboh v Canada (Citizenship and Immigration)*, 2021 FC 876 at paras 21-24.

[36] The Applicant has not established a breach of procedural fairness.

[37] For all these reasons, the application is dismissed.

[38] There was no question for certification proposed by the parties and I agree none arises in this case.

JUDGMENT IN IMM-4478-25

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. No question of general importance is certified.

"Angela Furlanetto"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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