Federal Court Cour fédérale

**Date: 20260325**

**Docket: T-1835-25**

**Citation: 2026 FC 404**

**Ottawa, Ontario, March 25, 2026**

**PRESENT: The Honourable Madam Justice Heneghan**

**BETWEEN:**

**HAMZA NASIR**

**Applicant**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

# REASONS AND JUDGMENT

## I. INTRODUCTION

[1] Mr. Hamza Nasir (the "Applicant") seeks judicial review of the decision of the Canada Revenue Agency (the "CRA"), entitled "Requisition 61852600-RC-136, Individual Feedback – Request and Response 2025" (the "Decision"). The Decision was made on May 2, 2025, under the "Policy on the Staffing Program" (the "Policy").

[2] There are two related staffing documents, the first is entitled “Procedures for Recourse on Staffing” (the Staffing Program) (the “Staffing Recourse Program”) and the second is entitled “Procedures for Staffing” (Staffing Program) (the “Staffing Program”).

[3] The Applicant named the CRA as the respondent. This is not correct, in light of Rule 303(2) of the *Federal Courts Rules*, SOR/98-106 (the “Rules”). The style of cause is amended with immediate effect to show the Attorney General of Canada as the respondent (the “Respondent”).

## II. BACKGROUND

[4] The following facts and details are drawn from the affidavit of the Applicant filed in support of his application and from the Certified Tribunal Record (the “CTR”).

[5] The Applicant holds a CPA certification. He began employment with the CRA in March 2023 as an AU-03 Tax Avoidance Auditor in Global High Wealth.

[6] On March 17, 2025, the CRA issued a “Notice of Job Opportunity” (the “NOJO”) for AU-04 positions in the High Complexity Audit Tax Services Office (HCATSO). The positions were advertised for Western Canada.

[7] The job posting required a minimum of “twenty-four (24) cumulative months of experience within the last four years administering the Income Tax Act while working in an AU-

03 or higher level of position with the CRA in one of four program areas, that is Domestic Tax, Offshore, International Tax and Tax Planning/Tax Avoidance."

[8] The Applicant applied on March 19, 2025, for a position.

[9] At the time of his application, the Applicant had been employed by the CRA at the AU-03 level in one of the four identified program areas for 25 months. However, he was on parental leave for 8 of those 25 months.

[10] On April 15, 2025, Mr. Anthony De Guzman, a Human Resource Specialist Advisor with the CRA, emailed Ms. Brenda Jang about the Applicant's job application. The email provided as follows:

> I know since it is protected leave, it shouldn't be used against the candidate to screen them out. The board is wondering what options are there (sic). One of their questions is if they can "backdate" the candidates experience for 8 months.

[11] By an email dated April 23, 2025, Mr. Nils Erzinger replied to Mr. De Guzman, as follows:

> Further to our discussion yesterday, I reviewed the experience for candidate #54612503 in greater detail.
>
> The candidate joined CRA in March 2023 as an AU03 Tax Avoidance Auditor in Global High Wealth. This falls into the Tax Planning/Tax Avoidance program area per the NOJO, which matches the program area selected by the candidate as meeting the required experience (24 months at AU03).
>
> The candidate took protected leave of 8 months during the 25 months they were an AU-03 at CRA.

> We looked at reasonable ways to accommodate the protected leave in determining if candidate meets experience requirement in the NOJO.
>
> As per HR's advice, we considered the candidate's external experience in the 8 months preceding March 2023 and compared with the experience requirement listed on the NOJO for those qualifying under the Veteran Hiring Act (VHA).
>
> The VHA experience requirements includes: a) working in a senior level position; and b) working with large/complex corporation in public practice, industry, or other non-CRA government bodies performing the following function:
>
> Preparation of Canadian corporate tax returns, which includes providing tax advice and interpretations related to complex issues under the Canadian Income Tax Act
>
> The candidate's prior experience from May 2021 to March 2023 was a senior internal controls auditor with Statistics Canada. Based on the information in the candidate's resume regarding this experience, it would not meet the VHA experience requirement as the candidate did not prepare Canadian corporate tax returns including providing tax advice and interpretations related to complex issues under the Income Tax Act.
>
> Based on the above, we have considered reasonable means in accommodating for the candidate's protected leave. In doing so, it is determined that the candidate does not meet the required experience outlined in the NOJO. The candidate should be screened out.

[12] On April 23, 2025, the CRA advised the Applicant that he was being screened out of the job competition because he did not meet the 24-month experience requirement.

[13] The Applicant sent an email on April 23, 2025, in the following terms:

> I have a question regarding my application for requisition #61852660. The poster listed 2 years of experience in one of the HCATSO groups. I have over 2 years of experience, which is listed in my resume, and was also checked off in my application.

> I got an update on my application which mentions that I do not meet the experience requirement.
> Can you please look into this or provide some clarification on what could have caused this.
> Thank you,

[14] On April 25, 2025, the Applicant sent an email to the CRA, forwarding his request for Individual Feedback, on RC Form 136. He sought the Individual Feedback as a recourse measure, according to section 5.2.1 of the Policy. He also sent a copy of his "Letter of Offer" showing his start date in his then employment to be March 13, 2023, "to showcase me meeting the 24 months experience qualification".

[15] Individual Feedback is available for a person to object to arbitrary treatment. Section 1 of Form 136 provides as follows:

> If you seek individual feedback, you must identify your concerns and reasons why you feel you were treated arbitrarily. You must complete section 1 of this form and submit it to the manager (or designate) responsible for the staffing process, or voluntary assessment. This form must be submitted within nine (9) calendar days following the date of notification of the results.

[16] "Arbitrary" is defined in the Procedures for Staffing as follows:

> In an unreasonable manner, done capriciously; not done or acting according to reason or judgment; not based on rationale or established policy; not the result of a reasoning applied to relevant considerations; discriminatory, i.e. as listed as the prohibited grounds of discrimination in the Canadian Human Rights Act.

[17] On May 2, 2025, the CRA delivered its Decision, confirming the initial decision to screen out the Applicant from the job competition. The Decision provides, in part, as follows:

Hello Hamza,

We have reviewed the individual feedback request you submitted to the staffing mailbox.

The staffing requirement that you did not meet was the required experience.

As noted on the Notice of Job Opportunity (NOJO), a minimum of 24 cumulative months of experience at the AU-03 level or higher within the last four years in one of the four program areas (Domes c Tax; Offshore; International Tax; and Tax Planning/Tax Avoidance) was required. Candidates were required to select only one area where they met the required experience.

You selected the Tax Planning/Tax Avoidance program area.

> Our records indicate that while you occupied an AU-03 position in the relevant program area for 25 months, you were on leave for 8 months during this me and were therefore not able to gain the required work experience. A er determining this, we looked for other means of accommodating this me period on leave in relation to the experience requirement. In consultation with Human Resources, we took into account your external experience in the 8 months prior to joining CRA in March 2023 as outlined in your resume. We reviewed this experience against the requirements listed on the NOJO for those candidates qualifying under the Veteran Hiring Act (VHA). The VHA experience requirements includes a) working in a senior level position; and b) working with large/complex corporations in public practice, industry, or other non-CRA government bodies performing the following function:
>
> - Preparation of Canadian corporate tax returns, which includes providing tax advice and interpretations related to complex issues under the Canadian Income Tax Act

Based on the previous experience listed on your resume, the VHA experience requirement is not met – namely the lack of experience preparing Canadian corporate tax returns including providing tax advice and interpretations related to complex issues under the Income Tax Act.

> As such, we determined you did not meet the required experience (24 months) and were screened out.
>
> Individual feedback (IF) requests are meant to address issues of arbitrary treatment. In considering the above facts as well as the information you provided with your request, I have determined the screening criteria was applied appropriately and there was no arbitrary treatment.

[18] Generally, the CRA took the position that the screening criteria was appropriately applied, the Applicant's 8-month parental leave was appropriately accommodated, and that there was no arbitrary treatment.

[19] According to his affidavit, the Applicant sent an email on May 21, 2025, to the CRA saying that the failure to recognize his time on parental leave as part of his experience was discriminatory. There was no response to the email.

## III. SUBMISSIONS

### A. *The Applicant*

[20] The Applicant now argues that the Decision of the CRA is contrary to its policy and to the decision in *Patterson v. Canada (Revenue Agency)*, 401 F.T.R. 211. He also submits that the Decision is discriminatory since it was based on family status, contrary to the decision of the Supreme Court of Canada in *Fraser v. Canada (Attorney General)*, [2020] 3 S.C.R. 113.

[21] The Applicant further submits that the Decision is arbitrary since it is based on discrimination.

[22] Finally, the Applicant argues that the reasoning in the Decision is not transparent or justified. The reasons do not explain how the "accommodation" provided was appropriate or how the Decision is not discriminatory.

[23] The Applicant refers to email correspondence in the hands of the CRA which shows that the employer was aware that the 8-month parental leave could not be held against the Applicant and that it was looking for ways to accommodate him.

[24] The Applicant contends that he has shown a *prima facie* case of discrimination, and the burden now lies on the CRA to show that it tried to accommodate him to the point of undue hardship.

B. *The Respondent*

[25] The Respondent submits that the CRA reasonably accommodated the Applicant. He argues that the decision in *Patterson, supra* is of limited application since it was decided under a different standard of review, that is correctness.

[26] The Respondent argues that the appropriate authority in this case is the decision of the Federal Court of Appeal in *Cooper v. Canada (Attorney General),* 2024 FCA 159. He submits that when a *prima facie* case of discrimination is established, an employer must show that it "reasonably" accommodated the employee.

[27] The Respondent notes that in *Patterson, supra* the Court acknowledged that it should not decide how the CRA should accommodate an employee who takes parental leave and subsequently applies for a position with an experiential requirement.

[28] The Respondent submits that an administrative decision-maker is not expected to write decisions in the same manner and style as courts. They are not expected to provide detailed legal analysis in making decisions.

[29] The Respondent maintains that the Decision clearly explained the basis of the accommodation provided to the Applicant and that there is no basis for judicial intervention.

## IV. DISCUSSION AND DISPOSITION

[30] Following the decision of the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 S.C.R. 653, the Decision is reviewable on the standard of reasonableness.

[31] In considering reasonableness, the Court is to ask if the decision under review "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"; see *Vavilov, supra*, at paragraph 99.

[32] On April 25, the Applicant requested "Individual Feedback" as provided by the Policy.

[33] Sections 5.9.1, 5.9.6.and 5.9.7 of the Staffing Recourse Program provide general information about Individual Feedback relative to an employee's concern about arbitrary treatment and provide as follows:

> 5.9.1 Individual feedback (IF) is a review of an employee's concerns of arbitrary treatment. It must be completed before requesting either DR or ITPR if available. The review includes a formal discussion between an employee and a manager."
>
> Preparing and planning for individual feedback
>
> 5.9.6 The manager can consult a resourcing advisor for advice and guidance
>
> 5.9.7 When the manager receives a request for IF, they must:
>
> - review the IF request and gather the relevant information; and
>
> - contact the employee to:
>
> - select a date for IF
>
> - confirm content on the Individual Feedback – Request and Response form; and
>
> - disclose information, in accordance with subsection 5.6 of these procedures.

[34] Section 5.9.10 of the Staffing Program addresses the conduct of Individual Feedback:

> 5.9.10 The Manager must:
>
> - address the employees concerns and reasons they feel they were treated arbitrarily, as identified on the Individual Feedback – Request and Response form;
>
> - provide the employee the opportunity to present their concerns and supporting information.
>
> - present the information necessary to explain the basis for the staffing decision or voluntary assessment;
>
> - document key points of the discussion(s)

> - continue discussions with the employee until both agree IF is complete or the manager concludes the IF discussions;
>
> - review all information presented;
>
> - determine if the employee was treated arbitrarily; and
>
> - inform the employee in writing when the IF is complete.

[35] The first issue in this case is whether the CRA reasonably accommodated the Applicant's parental leave when it screened him out of the competition process. Then, the question is whether the Decision becomes reasonable.

[36] The Applicant did not raise "discrimination" in his request for Individual Feedback under the Policy and related Programs, but the email in the CTR from Mr. De Guzman to Ms. Jang on April 15, 2025, indicates that the employer was aware that the parental leave could not be ignored. The Respondent does not acknowledge any discriminatory treatment but focuses on the principle of accommodation and argues that in all the circumstances, reasonable accommodation was provided.

[37] The CRA screened the Applicant out on the grounds that he lacked the required 24 months experience for the job. It then looked at his last 8 months experience in his previous job, as a means of accommodating the shortfall of his experience with the CRA.

[38] In my opinion, this was a reasonable means of accommodation. It shows that the CRA was alert to the nature of parental leave as "protected" leave. It was an alternate means of

assessing the experience requirement. In *Patterson, supra*, the Court acknowledged recourse to alternate means of assessing an experience requirement. The screening decision was reasonable.

[39] I agree with the submissions of the Respondent that the Applicant did not have the right to say "how" he would be accommodated. I refer to the decision in *Kirkpatrick v. Canada (Attorney General)*, 2019 FC 196 at paragraph 26.

[40] In *Casper v. Canada (Attorney General)*, 2024 FCA 159, the Federal Court of Appeal found that when reasonable accommodation is made, it is not necessary for an employer to show undue hardship.

[41] I agree with the submissions of the Respondent that the decision in *Patterson, supra* has limited application in this case.

[42] Although the facts are similar, that case was decided in a different legal context, that is against a "correctness" standard of review.

[43] However, I agree with the Respondent that the decision is relevant insofar as the Court recognized, at paragraph 49, that it cannot tell an employer how to assess experiential requirements.

[44] Here, the CRA considered “how” the shortfall in the experiential requirement, due to the Applicant’s parental leave, could be accommodated. It chose to look at the last 8 months of the Applicant’s experience in his last job, prior to his employment with the CRA.

[45] In my opinion, this was a reasonable approach in the circumstances. I refer to the decision of the Federal Court of Appeal in *Canada (Attorney General) v. Duval*, 2019 FCA 290 where that Court said the following at paragraph 42:

> [42] The FPSLREB should also be mindful that what is required is reasonable but not perfect accommodation as the Supreme Court of Canada has underscored both in *Renaud* at pp. 994-995 and in *Elk Valley Coal* at para. 56.

[46] The next question is whether the Decision, upon the Individual Feedback request, was reasonable according to the test in *Vavilov, supra*.

[47] As noted above, the Applicant did not raise discrimination in his request for Individual Feedback. He raised it only in an email sent on May 21, 2025, several days after the Decision was made.

[48] In these circumstances, the Applicant cannot complain that the CRA failed to respond to that issue. However, it appears that the CRA was aware of a potential discrimination issue when it addressed “accommodation” in its Decision.

[49] It must be noted that the Individual Feedback is the lowest level of recourse and the only recourse available to the Applicant in respect of the screening decision.

[50] The Individual Feedback process provided by the Staffing Program, together with the Policy, gave the Applicant the opportunity to contest the assessment of his experience, against the job requirements. He does not contest the manner in which the assessment was conducted and did not raise any procedural fairness issues in his application for judicial review.

[51] The Individual Feedback process is intended to be a summary process. The only question here is whether the Decision was reasonable, within the context of the employment situation including applicable policy and program documents. That context includes the right of the employer to determine the job requirements.

[52] In my opinion, the Decision adequately explains the basis upon which it was made. It addresses the accommodation of his protected leave, relative to the experience requirement. It addresses “arbitrary” treatment.

[53] As noted in *Vavilov, supra* at paragraph 92, an administrative decision maker is not expected to write with the same detail as a judge. The Decision meets the requirements of the applicable standard of review, that is reasonableness. There is no basis for judicial intervention.

[54] The parties have agreed that each will bear their own costs. Accordingly, there will be no Order as to costs.

**JUDGMENT IN T-1835-25**

**THIS COURT'S JUDGMENT is that** the application for judicial review is dismissed. Pursuant to the agreement between the parties, each will bear their own costs. The style of cause is amended with immediate effect to show the Attorney General of Canada as the Respondent.

"E. Heneghan"
Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

| | |
|---|---|
| **DOCKET:** | T-1835-25 |
| **STYLE OF CAUSE:** | HAMZA NASIR v ATTORNEY GENERAL OF CANADA |
| **PLACE OF HEARING:** | OTTAWA, ONTARIO |
| **DATE OF HEARING:** | DECEMBER 2, 2025 |
| **REASONS AND JUDGMENT:** | HENEGHAN J. |
| **DATED:** | MARCH 25, 2026 |

**APPEARANCES:**

| | |
|---|---|
| Gabriel Hoogers | FOR THE APPLICANT |
| Chris Hutchison | FOR THE RESPONDENT |

**SOLICITORS OF RECORD:**

| | |
|---|---|
| Goldblatt Partners LLP<br>Barristers and Solicitors<br>Ottawa, Ontario | FOR THE APPLICANT |
| Attorney General of Canada<br>Ottawa, Ontario | FOR THE RESPONDENT |