

BETWEEN
AHMED ABOUNAR, WALAA MAREY AND MOHAMED ABOUNAR (A MINOR SUING BY HIS FATHER AND NEXT FRIEND) AHMED ABOUNAR

APPLICANTS

AND
THE MINISTER FOR JUSTICE AND EQUALITY

RESPONDENT

JUDGMENT of Ms. Justice Niamh Hyland delivered on 28 April 2022

Introduction

1. This is an application for judicial review of a decision of the Irish Naturalisation and Immigration Service ("the INIS") of 15 February 2021 to refuse the first named applicant a visa to enter Ireland. The applicant had already received a Critical Skills Employment Permit from the Minister for Business, Enterprise and Innovation. The essence of his complaint is that the receipt of the Critical Skills Employment Permit meant that he (and his wife and son, the second and third applicants respectively) ought to have been given visas and that it was irrational to refuse them visas in those circumstances.

Facts

2. The applicant is an Egyptian national and an engineer by profession. While living and working in Saudi Arabia, he secured employment with E-Businesssoft Technologies Limited, a company based in Ireland with its registered offices at 20 Harcourt Street, Dublin 2.
3. The applicant then applied for a Critical Skills Employment Permit from the Minister for Business, Enterprise and Innovation by application dated 20 July 2020. This application was granted by letter dated 4 September 2020. That letter emphasised the following:

"Please note that this permit relates to employment only and it is not a residence permit or a permission to enter Ireland. Persons who are nationals of countries that are visa required for travel to Ireland must make a visa application through www.inis.gov.ie. In the visa application you will be required to submit evidence of your professional qualifications, if required, as well as evidence of previous work experience, if required.

Visa required and Non-Visa required persons must have at all times:

- (a) *Current appropriate permissions from the immigration authorities which allows you to enter, reside and undertake employment in the State, and*
- (b) *An up to date passport."*
4. Having secured this employment permit, on 9 September 2020, the first applicant applied to the INIS for a visa to be permitted to enter Ireland and take up the employment with E-Businesssoft Technologies Limited. The INIS website sets out the procedure for such an application and provides a guide for the extensive supporting documentation required. That guide identifies the following category of requisite documents:

"Evidence of qualifications and previous work experience

Evidence of qualifications and previous work experience must be submitted in support of the visa application. Examples in which experience and qualifications could potentially be demonstrated include – your 3 most recent payslips, regular salary payments to your personal bank account, employment letter from your current employer, personal tax statements, professional certificates, training certificates and so on".

5. By letter dated 6 October 2020, the applicant's visa application was refused. The refusal letter stated;

"I regret to inform you that your application for an Irish Visa has been refused by the Irish Naturalisation and Immigration Service for the following reasons:

ID:- Insufficient documentation submitted in support of the application:- please see link to "Documents Required" as displayed on our website – www.inis.gov.ie .

OC: - Observe the conditions of the visa – the visa sought is for a specific purpose and duration:- the application has not satisfied the visa officer that such conditions would be observed.

The decision can be appealed within two months of the date of this letter. An appeal must be submitted in writing, fully addressing the reasons for the refusal to:

The Visa Appeals Officer"

6. By letters dated 12 and 13 of October 2020, the applicants lodged an appeal of the respondent's decision dated 6 October 2020. By letter dated 15 February 2021, the respondent decided to refuse the applicants' visa application. The reasons for same are set out in the part of this judgment considering the adequacy of reasons below.

Judicial review proceedings

7. An *ex parte* application for leave for judicial review was made in April 2021, grounded on an affidavit of the first applicant and accompanied by a statement of grounds, both of which were filed on 15 April 2021. On 19 April 2021 Burns J. granted leave to bring judicial review proceedings. A notice of motion subsequently issued stating that the application would be brought on 10 May 2021. The respondent filed her statement of opposition on 13 July 2021. The parties provided written submissions in advance of the hearing, and, at my request, supplemental written submissions after the hearing, which greatly assisted my understanding of the general regime governing the provision of visas.

Inadequate reasons

8. The applicant argues that inadequate reasons were provided at the appeal stage, such that he did not understand the basis for the refusal and he could not adequately challenge the refusal. He relies in this respect on the cases of *TAR v Minister for Justice, Equality and Defence* [2014] IEHC 385 and *Yuliya Mukovska v The Minister for Justice and The*

Minister for Foreign Affairs [2021] IECA 340, arguing that, as in those cases, the reasons provided did not properly communicate the essential rationale of the decision.

9. However, the reasons in this case are very different to the reasons the subject of criticism in the two cases referred to above. In both those cases, the reasons for refusal were exclusively in what I might describe as codified form. For example, in the case of TAR, the reasons were as follows:

"OB; – Obligations to return to home country have not been deemed sufficient.

OC: – Condition – the applicant may overstay following proposed visit."

10. Similarly, in Mukovska, the reasons were as follows;

"CP:- Need to undertake the course in this State not demonstrated or warranted.

OC:- Condition – the applicant may overstay following proposed visit.

OC:- Observe the conditions of the visa – the visa sought is for a specific purpose and duration: – the applicant has not satisfied the visa officer that such conditions would be observed."

11. On the other hand, as has been set out above, here there was both the codified form of reasons and an additional paragraph. The codified form was as follows;

"ID:- Insufficient documentation submitted in support of the application:- please see link to "Documents Required" as displayed on our website – www.inis.gov.ie.

INCO:- Inconsistencies e.g. contradictions in the information supplied

OC:- Observe the conditions of the visa – the visa sought is for a specific purpose and duration:- the applicant has not satisfied the visa officer that such conditions would be observed."

12. Had this been all that was provided, it may have been more difficult for the respondent to argue that the reasons communicated the essential rationale of the decision. However, the additional paragraph in my view permits the recipient to understand the basis for the rejection of the application. It provides as follows:

A Critical Skills Employment Permit was issued to you for the role of "Software Application Developer" at E-Businesssoft Technologies. A detailed job description for the role of "Software Application Developer" in E-BUSINESSSOFT TECHNOLOGIES LTD" was submitted in your application. A letter from your employer submitted on appeal lists the job as "Software Engineer". You have not provided any evidence that you have sufficient work history or qualifications to be able to do the specific job for which the work permit issued. There appears to be some confusion as to what exactly your role will be in E-Businesssoft Technologies,

but you have not shown any evidence of having worked or gained qualifications in any aspect of software engineering or development”.

Only one appeal per application is permitted.”

13. Thus the respondent acknowledges that the applicant had received a Critical Skills Employment Permit for the role of software application developer, and that a detailed job description for same was submitted as part of the application for a visa. She identifies that no evidence has been provided to show that the applicant has sufficient work history or qualifications to be able to do the specific job for which the work permit issued. She adverts to the variable description of that job i.e. software application developer/software engineer but notes that, in either case, the applicant has failed to show any evidence of relevant experience or qualifications. The applicant may not agree with the view of the respondent in this regard, but in my view, it is perfectly clear why the respondent refused the visa – i.e. she did not believe that the applicant had the qualifications/experience for the job for which a work permit had been given, whether described as a software developer or engineer.
14. Insofar as the codified reasons are concerned, when read with the detailed paragraph I have discussed above, they add to the reasoning. In circumstances where the respondent concluded that there was no evidence of sufficient work history or qualifications, it is clear why she considers that insufficient documentation had been submitted in support of the application (“ID”). Next, a condition of the visa sought was that the applicant would work at the job identified in the application. But where the respondent did not believe him to be qualified for that job, the conclusion that the applicant had not satisfied the visa officer that the conditions of the visa would be observed (“OC”) is easily comprehensible. Finally, the finding that there were contradictions in the information supplied (“INCO”) is understandable, given the description of the contradictions identified in the substantive paragraph discussed above.
15. There was some attempt at the hearing by counsel for the applicant to rely on the undoubted paucity of reasons at the first stage in support of an argument that, taken overall, the reasons in this case were inadequate. I cannot entertain this argument. First, no such ground has been pleaded. Moreover, the statement of grounds seeks an Order of *certiorari* exclusively in respect of the decision of 15 February 2021. The applicant does not seek to quash the decision of October 2020. Rather than judicially reviewing it, he decided to appeal it. The original decision cannot therefore be prayed in aid when seeking to establish the insufficiency of reasons in the decision of February 2021.
16. In all the circumstances, I cannot agree that the applicant has established that the reasons were inadequate.

Consideration of new material at appeal stage

17. At paragraph 7 of the statement of grounds, it is pleaded that *certiorari* is sought as no opportunity was afforded to the applicant to address or respond to the concerns of the visa officer raised for the first time in her decision dated 15 February 2021. In support of

this argument, the applicant relied upon the decision of Meenan J. in *Singh v The Minister for Business, Enterprise and Innovation* [2018] IEHC 810. In that case the Court had to consider whether it was permissible for an appeal of a decision under s.13(4) of the Employment Permits Act 2006 to affirm that decision on the basis of “entirely different” reasons than those identified in the decision. In circumstances where s.13(4) required that the person seeking a review of a decision be given an opportunity to make representations in writing, Meenan J. held that fair procedures dictated that where the appeal was decided on different reasons, the applicant should have been afforded the opportunity to be heard. Unlike in the instant case, there was a statutory appeal process against a decision to refuse a permit that specifically provided for an entitlement to make representations in writing. Moreover, it is not clear that there was any provision for the submission of new information. The process is described as a review and not as an appeal. In those three respects, the process in *Singh* can be distinguished from the process in this case, i.e. one not governed by statute, that permits the submission of new information and is an appeal rather than a review.

18. The applicant’s core argument in this regard appears to be that he was given an insufficient opportunity to understand the difficulties with his application, thus preventing him from being afforded an effective appeal. Although not explicitly stated as such, this is a fair procedures argument.
19. To address the argument properly, it is necessary to consider what the respondent ought to have done on the applicant’s case to provide a fair appeal. One plank of the argument appears to be that when the respondent became aware of the inconsistent material provided by the putative employer i.e. the original description of the job being software developer and then, in the context of the appeal, software engineer, she ought to have contacted the applicant and asked him to explain and/or resolve the inconsistency. I am satisfied that this does not represent the current state of the law. The decision in *Khan v Minister for Justice, Equality and Law Reform* [2017] IEHC 800 makes it clear that it is not for the respondent to supplement gaps or to ask for any additional material;

"83. Much of the criticism levelled at the respondent in the course of this application centred around the failure of the respondent to give advance warning to the applicants of perceived deficiencies or contradictions in the documents submitted with visa applications prior to the respondent reaching a decision on the respective appeals. Counsel for the applicant maintained that had the applicants been forewarned they would have been able to address the perceived deficiencies or contradictions.

84. Counsel for the respondent submits that it was incumbent on the applicants to put their best foot forward and to present such relevant facts and evidence as might be necessary to support their applications, including facts and evidence which would tend to prove dependency...

85. I agree with the respondent's submissions in this regard. As stated in A.M.Y. v. Minister for Justice [2008] IEHC 306, ' there is no onus on the Minister to make

inquiries seeking to bolster an applicant's claim; it is for the applicant to present the relevant facts'."

20. Nor do I agree with the submission of counsel for the applicant that the statement by McDermott J. in the case of *TAR* imposes such an obligation, contrary to the approach in *Khan*. Having already decided in a detailed judgment that the decision was inadequately reasoned, McDermott J. made a remark at the end of the case to the effect that a letter or phone call from the decision maker's office indicating that a particular document was missing might have avoided the unhappy chain of events which led to the proceedings and might have addressed and resolved the respondent's concerns in respect of the applicants. But my reading of the case is that this was an *obiter* observation as to how matters might have been handled differently, rather than a finding that the employer had an obligation to contact an applicant in those circumstances. In my view this paragraph cannot be relied upon in support of the proposition that there is a positive obligation on the respondent to seek further information to resolve inconsistencies.
21. In the circumstances, I am satisfied that there was no positive obligation on the respondent to identify the lack of consistency in the job description and draw it to the applicant's attention.
22. More generally, it is necessary to consider whether a new reason or reasons can be identified by the respondent at appeal stage and, if so, whether any procedural guarantees are required. The respondent argues that the case can be distinguished from that of *Singh*, as in *Singh* entirely new reasons were given, whereas here a single supplemental reason was provided. The respondent points out that in the instant case, the new matter only came to light at the appeal stage and therefore could not have been identified in the earlier decision. Moreover, it is argued that the Minister had not committed himself to any particular procedure at the appeal stage and was not precluded from considering new information.
23. The applicant was informed in the original decision refusing a visa that;

"This decision can be appealed within 2 months of the date of this letter. An appeal must be submitted in writing, fully addressing all the reasons for refusal ...

All additional supporting documents should be submitted with your appeal. If you require any original documents returned to you, please also include a photocopy of any such document."

No commitment was given that only information provided at the first stage would be considered in the context of the appeal. Indeed, arguably such an approach would work to the considerable disadvantage of applicants, given that new material is often sought to be put in by applicants, often because of the reasons given at first stage or because they perceive it would be helpful to them. Instead, the appeal appears to be a genuine *de novo* hearing, where applicants are given a fresh opportunity to have their application considered on whatever material they identify. That leads to the inevitable conclusion that

the Minister must be entitled to decide on the application based on all the material provided, including material not provided at the first stage. That must carry with it the possibility that the reasons for refusal will not necessarily be the same as those provided at first instance. That this is a permissible approach was confirmed by the decision of *Adegbuyi v. Minister for Justice and Law Reform* [2012] IEHC 484 (referred to in the *Singh* decision) where the High Court was exercising its statutory appeal jurisdiction under s.21(5) of the Refugee Act 1996 against the revocation of a declaration of refugee status. An issue before the court was whether it might substitute reasons of its own with those made at first instance. The appellant was contesting the right of the Court to affirm the revocation on any grounds than those outlined by the Minister in the decision under appeal. Clark J. held as follows:

"Considering that this is an appeal the Court cannot see any reason why it should not substitute its own reasons for those found by the Minister... Essentially, the statute permits the Court to "confirm the decision of the Minister" and the Court is at large as to the reasons it may give for so doing."

24. The next question that arises is whether the Minister ought to have put steps in place to alert the applicant to the fact that she was going to consider new material, that the new material was likely to be adverse to the applicant, and that this would likely be reflected in the decision. In certain situations, fair procedures may require that a draft decision be provided in advance so that the applicant in question can make submissions on the matters arising. However, the respondent had not committed to any such procedure. Nor was such a procedure adopted at first instance. It was not argued by the applicant that such a process was required at first instance. It is difficult to see the rationale for requiring a more elaborate process at appeal stage. By submitting new material at appeal stage, the applicants are inviting the respondent to take a different view of their application. It is difficult to see why, in those circumstances, the respondent is required by fair procedures to give a preview of the decision to a visa applicant to vindicate their right to be heard, particularly since as discussed above the case law establishes that there is no obligation on the Minister to seek further information to resolve inconsistencies.
25. Moreover, the applicant has not explained why, on his case, it was unfair for the respondent to take into account the inconsistency that had arisen in the appeal process in her decision. The applicant himself submitted the letter from his employer. He could have identified the inconsistency in the material and addressed same. He did not do so. In all the circumstances, I think the process here was sufficiently unlike that in *Singh*, such that the finding in *Singh* that the Minister was obliged to identify the proposed reasons in advance to allow submissions on same is not applicable here.
26. In summary, I reject the argument that in the circumstances of this case, fair procedures required the respondent either to ignore the new material showing inconsistencies, or to draw the applicant's attention in advance of her intention to rely upon that new material. In the circumstances this ground of challenge fails.

Irrationality/unreasonableness of decision

27. At paragraph 5 of the statement of grounds, it is pleaded that there was no reasonable, rational, lawful or evidential basis upon which the respondent could have reached the decision that the applicant had provided insufficient documentation in support of the application i.e. an argument based on classic *O’Keeffe v An Bord Pleanála* [1993] 1 IR 39 grounds of unreasonableness. In support of this plea, the applicant identifies the material that was produced and argues that the respondent gave no proper consideration to the submissions and documents provided. In particular, he focuses upon the record of certain courses he took at undergraduate level at university, as well as a certificate in programmable logic control and an International Computer Driving Licence (“ICDL”) certification. He argues that the visa officer who determined the application did not identify any particular skill or qualification that would permit her to analyse the material submitted. He claims that given the material before the respondent, it was unreasonable for her to conclude that the applicant had not displayed evidence of his qualifications.
28. The burden of proof falls upon the applicant to demonstrate that the respondent has acted irrationally. He has sought to discharge that burden by identifying the material that he says supports his claim to have adequate qualifications and/or experience. The respondent on the other hand points to the entire absence of any relevant qualifications or experience on the part of the applicant for a job either as a software application developer or software engineer. I am satisfied that a reasonably cursory analysis of the relevant material provided to the Minister, as identified in the statement of grounds (see paragraph 5), demonstrates that there was an adequate basis for the respondent’s decision and that she was perfectly entitled to conclude that the applicant had not submitted any documentation in support of his qualifications or experience for the job in question.
29. The job description identified in the letter of offer of 20 July 2020 from E-Businesssoft Technologies Ltd. is as follows:

“Job Description:

- *Business Application Software Development using Full Microsoft Web stack*
- *Perform complex analysis, designing and programming to meet business requirements.*
- *Maintain, manage, and modify all software systems and applications.*
- *Define specifications for complex software programming applications.*
- *Interface with end-users and software consultants.*
- *Develop, maintain, and manage systems, software tools and applications.*
- *Resolve complex issues relating to business requirements and objectives.*

- *Coordinate and support software professionals in installing and analyzing applications and tools.*
 - *Analyze, develop and implement testing procedures, programming, and documentation.*
 - *Train and develop other software analysts.*
 - *Analyze, design and develop modifications and changes to existing systems to enhance performance.”*
30. That suggests the holder of the post will have appropriate qualifications/experience in respect of the tasks identified. The material relied upon by the applicant in relation to his qualifications/experience is as follows:
- A letter from his employer in Saudi Arabia identifying that he worked in a company called Specialised Marine Services Company as an engineering manager.
 - His affidavit evidence, whereby the applicant describes himself as an engineer and states that he qualified by obtaining an engineering degree from Kafr El-Sheikh University in June 2010. At paragraph 5 he avers *“on foot of my qualifications and experience as an engineer, I applied for and secured employment with E-Businesssoft Technologies Limited”*.
 - A copy of his engineering degree from the faculty of engineering, which states he was awarded a bachelor’s degree in engineering with a specialisation in electrical power and machines engineering. A minority of the modules of that undergraduate degree refer to computer programming and associated courses.
 - A certificate from the Egyptian electricity holding company in respect of a programmable logic control course which appears to have lasted 13 days in 2009.
 - An International Computer Driving Licence Certificate from 2011.
31. That is the totality of evidence submitted by the applicant in support of his qualifications and experience. In the circumstances, it is difficult to see how the applicant can credibly argue that the respondent acted unreasonably in concluding that he had not submitted any evidence of sufficient work history or qualifications to do the specific job for which the work permit issued. The applicant has provided no evidence that he is a qualified software engineer or software developer or has experience in those areas. In those circumstances it seems that the applicant has fallen far short of the burden of proof of establishing that there was no basis for the decision of the respondent.
32. Separately, he argues that the employment permit ought to have been considered as material relevant to the question of the sufficiency of his qualifications and experience. That argument cannot be considered in isolation from the question of the interaction

between the scheme for providing work permits and the scheme for providing visas and I address it in that context below.

Relevance of grant of employment permit

33. The applicant makes a number of linked arguments in relation to the relevance of the employment permit granted. He says that the impugned decision went behind the employment permit and the respondent usurped the power that the Oireachtas had conferred on the Minister for Business, Enterprise and Innovation. He says the decision of 15 February failed to have regard to the decision to grant him an employment permit. Further, he argues that the decision to refuse a visa was a collateral attack on the decision of the Minister for Business to grant an employment permit. He says that the Minister for Business had already ensured the applicant's experience, skills and suitability for the employment offered, having regard to the relevant statutory provisions of the Employment Permits Act 2006 as amended and that the respondent should not go behind that decision. All these arguments essentially boil down to the one core point - that the question of the applicant's experience and skills could not be revisited by the respondent in circumstances where he had already obtained a Critical Skills Employment Permit.
34. This argument is made in the face of the material provided to the applicant in respect of his application for an employment permit, set out earlier in this judgment. That material makes it clear that an application for an employment permit is quite distinct from an application for a visa, that in each case a separate evaluation of the material will be carried out by the relevant Minister, and that success in one area is irrelevant to success in the other. The separate and distinct nature of the two regimes has been upheld in recent case law, namely the decision of Keane J. in *Akhtar v Minister for Justice* [2019] IEHC 411, as endorsed by Burns J. in *Basit Ali v Minister for Justice* [2021] IEHC 494.
35. In *Akhtar*, Keane J. observed as follows;

"Thus, in the Act of 2006, the Oireachtas has chosen to do a number of things. First, a distinction has been drawn between matters of which the MJEI must be satisfied before granting an employment permit and those to which the MJEI must have regard in considering an application for one ...The matters to which the MJEI must have regard include, amongst many others, the information and, where required, relevant documents provided in respect of the qualifications, skills, knowledge or experience of the foreign national concerned. There is no suggestion in the Act of 2006 that the MJEI must be satisfied that the foreign national possesses the qualifications, knowledge or skills, or has the appropriate level of experience, required, for the employment; the MJEI is merely empowered to refuse to grant an employment permit where satisfied that the foreign national concerned does not possess them."

36. In *Basit*, Burns J. stated as follows:

"It is abundantly clear that the decision being made by the Respondent with respect to the issuance of a work visa is very far removed from the decision being made by

the Minister for Business, Enterprise and Innovation with respect to ensuring that the labour market is supplied with workers. The Respondent is exercising the executive power of the State in determining whether to permit entry to a non-national and the purpose in respect of which entry is permitted. Regulation of the labour market is a matter which is of direct concern to the Respondent having regard to s. 17 of the 2004 Act, as already set out."

37. Accordingly, the proposition that the respondent was trespassing on the function of the Minister for Business, Enterprise and Innovation in arriving at her own independent decision based on the material before her is fundamentally misconceived. The respondent was entitled to require evidence of the applicant's professional qualifications and experience and to consider same independently of any decision made in the context of a work permit application. The interaction between the two statutory schemes is clear – success in obtaining an employment permit is largely irrelevant to the success or failure of a visa application. As I identify above, the applicant was clearly told that he had to provide evidence of qualifications, experience and skills to support his application for a visa. He was told that the two processes were completely separate, that getting a work permit did not entitle him to a visa and that he was obliged to undergo an entirely separate procedure.
38. The argument that a favourable decision in respect of an application for a work permit must inevitably be either determinative or very significant in the context of a visa application must be founded either upon statute or very clear precedent. There is no such statutory basis. Submissions were made on behalf of the applicant in relation to the 2006 Act to the effect that the Minister for Business is entitled and/or obliged to consider experience and skills when deciding whether to grant an employment permit. But an inference cannot be drawn from those provisions that the respondent, when considering a visa application, is precluded from carrying out her own independent review of whatever matters she considers important in that context. That the respondent enjoys significant discretion in the context of a visa application is an uncontroversial proposition: see Denham J. in *Laurentiu v Minister for Justice* [1999] 4 I.R. 26. If that discretion is to be trammelled by the existence and/or operation of a different statutory scheme, that would have to be clearly provided for by legislation. Counsel for the applicant could point to no such provision. In essence, the applicant's submissions on this point were that it was illogical not to have a unified approach and that the current approach is undesirable. If he wishes, the applicant can seek to make those arguments to the legislature and/or executive. They cannot provide a basis for quashing the impugned decision.
39. The applicant sought to argue that a High Court decision in the case of *Ashraf v Minister for Justice & Equality* [2018] IEHC 760 supported his approach and that, rather than following *Akhtar*, I should follow *Ashraf*. In this case, the applicant for a visa had submitted a Critical Skills Employment Permit in support of his application. In a very short judgment where the Court did not engage in any issues such as the relative functions of the two Ministers, the statutory scheme or the nature of the information provided in the

context of the respective statutory scheme, Barrett J. held as follows in relation to this issue:

"Deficiencies present in Mr Ashraf's refusal on appeal which states, inter alia, that he:

...

(ii) 'has not supplied any evidence of experience of working in a similar capacity'. A copy of the CSEP was supplied. DBEI guidance on CSEPs states, consistent with the Employment Permits Act 2006, that applicants 'must possess the...experience...required for...employment'. So a CSEP is a form of evidence of experience."

40. At paragraph 2, the Court went on to observe that the respondent did not consider all the evidence before him and or did not appreciate certain evidence for what it was and that because appeals must be considered on all duly submitted evidence, the Court would grant the Order of *certiorari* that Mr. Ashraf sought.
41. That case may be distinguished from the instant case on factual grounds. In sharp distinction to *Ashraf*, here the respondent considered the work permit decision. Indeed, that forms an important plank of the reasoning of the respondent whereby she identified the nature of the permit granted and the job in respect of which the permit was granted and compared it to the skills and qualifications presented by the applicant. The permit was therefore front and centre of the respondent's considerations. It is as far as one can get from the situation in *Ashraf* where the Court found the respondent failed to consider the permit at all. However, to read any more into *Ashraf* i.e. that the respondent is in some way precluded from carrying out its own evaluation of the skills and experience of a person where a work permit has been granted, is in my view to misread the decision in *Ashraf*. No wider findings of the kind sought to be identified by the applicant may be found in that decision.
42. In the circumstances I do not believe there is any conflict between the decision in *Akhtar* and *Ashraf* that needs to be resolved because the proposition established by *Ashraf* is very limited in its nature and there was no breach of that proposition in the instant circumstances.
43. This analysis also disposes of the applicant's arguments that the decision was unreasonable because of a failure to take into account the employment permit. The respondent clearly considered the permit and indeed, as identified above, treated it as a core plank of her decision. In the premises, that argument cannot succeed either.

Conclusion

44. For the reasons set out in this judgment I reject the applicant's claim that the decision of 15 February 2021 was unlawful, and I dismiss the application for judicial review.