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Canadian ruling for an easier passage

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Recently on September 18, the Canadian government has decided to make changes to its new immigration policy. Now the new rules, which came into effect in June 2002, will not be applied to pending cases filed before January 1, 2002.

This comes as a big relief to media, lawyers and MPs of the Liberal party who have been pressing for the changes ever since the new policy was unveiled 18 months ago. The government decision came after the Federal court of Canada passed a judgement to put an end to the controversial immigration policy decision.

This change in policy was mainly facilitated due to a writ petition filed by law firms and lawyers in June 2002. A judgment was given in favour of the 102 applicants on April 21, 2003. In that judgment the court cited nine reasons in favor of the petitioners and found that the Federal government had acted very irresponsibly in dealing with the 120,000 pending immigration applications. The court also found that in 2002, the government had made a net profit of Canadian \$125 millions by collecting visa fees.

Based on this judgment, almost 10,000 appeals were filed, beginning in March 2003, and on June 20, 2003, a stay order was issued against the immigration department directing it to stop processing all old applications that were filed before 1-1-2002. At the same time, the court was also considering a class-action suit as well. The court ordered in its interim judgment that the Canadian immigration department will be required to issue a letter to each and every applicant who has filed for Canadian immigration before 1-1-2002 on this class-action suit.

However as appeals are still pending in the Federal court of Canada the next hearing is scheduled for October 3, 2003 during which all lawyers are likely to demand an early interview for clients who have filed an appeal against the government. They also plan to demand compensation and other appropriate remedy for each applicant.

After announcing the changes, Denis Coderre, minister of Citizenship and immigration has said in his speech: "The court suggested that more is required of the government. I have listened to that message. That is why I am

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proposing these changes.”

Under the new regulations and points system, points are awarded on the basis of education, age, language (English and French), work experience, job offer from Canada and personal suitability which includes spouse’s education, applicant’s education in Canada and Canadian work experience.

The new regulations also make it necessary that assessment of the language will not be undertaken by the visa officer as was the norm in past, but applicants will be required to take the IELTS for English and TEF for French language proficiency. This will allow the immigration department to process majority of the applications without conducting an interview and will eventually result in reduction of processing time.

Language points are awarded on the basis of the score obtained in the language tests and it may be possible that many applicants may not obtain the necessary score to qualify for Canadian immigration. For many applicants the language test will make or break the outcome of their application. These applicants could then consider their options for coming to Canada under other immigration programmes such as Quebecimmigration or work permit visa.

Two recent surveys conducted by the government of Canada show that in the past 10 years, i.e. from 1991 to 2001, new immigrants constituted 70% of the work force. Considering the present rate of immigrant influx, by 2011 the entire workforce in Canada will be made up of new immigrants.

Another report has found that low birth rate and an ageing population will create a huge shortage of the workers in the next 5 years and people from other countries will be required to be brought into Canada to fill this labour shortage. If this is not done, the shortage will force young school children to drop out of school and join the work force.

The high living standard and cost of living in Canada has created a huge shortage of workers in the low and high ends of the work force. Recent regulations made by the government reflect this and the new policy allows blue-collar workers to come to Canada on work permit visa. This situation is not only true for Canada but also Australia, New Zealand, England and all other western countries who are facing labour shortages. These countries have no choice but to bring new immigrants from out side the country.

The Canadian government has, in fact, made a commitment to bring more than 300,000 immigrants each year into Canada. And now it seems the country is open for the right applicant and the government will keep changing immigration regulations in response to the socio- economic demands of the country.

The writer is an immigration expert.

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