

Appeal result key to Canadian visas

Hundreds of similar Hongkong cases

THE verdict on up to a thousand Hongkong people's applications to emigrate to Canada hangs on an East African woman's court appeal.

Lawyers for the Tanzanian woman, a 35-year-old seamstress whose name has been withheld, claimed the Canadian government broke its own rule on fairness when it rejected her application as an "assisted relative".

At the time the woman applied and paid her \$840 (C\$125) filing fee, Canada said it would accept skilled seamstresses as immigrants. But before her relatives could file the paper guaranteeing they would sponsor her, Ottawa took seamstresses off its list of desirable immigrants, and her application was refused.

In their petition, to be filed this week, her lawyers argue the Canadian government should accept that she made her application on the date she paid her fee.

Hundreds of "assisted relative" class applicants from Hongkong face a similar situation.

Earlier this year they were struck off the visa waiting list because the Canadian government temporarily closed the class during their application.

People were not warned they needed to complete their application before the freeze.

Snowed under by applications, Ottawa decided to freeze applications

for the independent and assisted relative classes while the backlog was cleared.

Canada offers "independent" migrants a passport because it values their work skills. "Assisted relative" migrants would not normally qualify as skilled workers. They are accepted because they already have family settled in Canada.

When Ottawa froze applications, assisted relatives who had paid their fees but not yet filed a sponsor's guarantee were counted as independent migrants. Consultants said they expected all but a few of the applicants to be rejected, and have protested to the Canadian Commission in Hongkong and the immigration office in Ottawa.

If the Tanzanian woman wins, Canada would come under pressure to review the Hongkong cases and accept that they too had completed their application, by paying their fees.

Lawyers mounting the challenge said that it was clear that the court's decision on this one case would set the general policy for dealing with all disputed cases.

Canada's immigration and foreign ministries are split over the issue. Some have argued Canada has to stand by the fairness rule and make the date the fees were paid the cut-off date. Others have argued that Canada has no such obligation and should take the chance to cut off candidates whose skills have become less desirable in the time they have sat on the long immigration waiting list.

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