

Federal Court



Cour fédérale

Date: 20250207

Docket: IMM-14702-23

Citation: 2025 FC 244

Ottawa, Ontario, February 07, 2025

PRESENT: The Honourable Mr. Justice Régimbald

BETWEEN:

BALJINDER SINGH

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant is an Indian citizen who claimed refugee protection based on the persecution his pro-Khalistan family was facing from the Punjab police. The Refugee Appeal Division [RAD] dismissed his claim, because he was not credible and had an internal flight alternative [IFA]. He now seeks judicial review of the RAD's decision, challenging its two core findings. First, he says that the inconsistencies raised by the RAD "are not real or at the very least, a product of the board's overzealousness" (Applicant's Record at 47), and that the mental trauma he experienced should

have been given more “weight” at his hearing, to explain the inconsistencies in his testimony (Applicant’s Record at 51). Second, he argues that the RAD erred in doubting his support of an independent Khalistan, and that it should have concluded that it would not be reasonable for him to relocate to the proposed IFA due to his socio-economic status.

[2] The sole issue is whether the RAD decision was reasonable (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 10, 25 [Vavilov]; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at paras 7, 39–44). In my view, the Applicant has not established that the decision under review is unreasonable. This application for judicial review is therefore dismissed for the following reasons.

[3] Contradictory statements can be considered in the overall assessment of an applicant’s credibility (*Sun v Canada (Citizenship and Immigration)*, 2020 FC 477 at para 38, citing *Canada (Minister of Employment and Immigration) v Dan-Ash*, [1988] FCJ No 571, 93 NR 33 (CA)). The RAD noted numerous discrepancies between the narrative in the Applicant’s Basis of Claim [BOC] and the evidence he presented before the decision maker, most notably the absence of any mention of his pro-Khalistan support in his BOC (RAD Reasons at paras 7–18; see also Certified Tribunal Record at 96–98 [CTR]). Contrary to the Applicant’s assertions, this inconsistency is quite serious because it concerns an element at the heart of his refugee claim, and to the reasons why the Punjab police might be motivated to harm him in the proposed IFA. Failure to include significant allegations in a BOC can support a negative credibility finding, and the RAD was plainly entitled to draw that negative inference from the Applicant’s material omissions (*Ogaulu v Canada (Citizenship and Immigration)*, 2019 FC 547 at paras 18–20; *Weche v Canada*

(*Citizenship and Immigration*), 2021 FC 649 at para 22; *Garay Moscol v Canada (Citizenship and Immigration)*, 2008 FC 657 at para 21).

[4] The Applicant explains these inconsistencies by noting the stress he was under at the time of his refugee claim, which he argues may have affected the comprehensiveness of his BOC form. While I sympathize with the difficulties the Applicant may have been experiencing at that time, he is essentially asking this Court to reweigh and reassess the evidence before the Immigration and Refugee Board. Absent exceptional circumstances, which do not arise here, the Court will not interfere with the factual findings of an administrative decision maker upon judicial review (*Vavilov* at para 125). The Court's role is not to revisit the evidence presented before the RAD (see, generally, *Safe Food Matters Inc v Canada (Attorney General)*, 2022 FCA 19 at para 37, and the authorities cited therein).

[5] The same concern assails the Applicant's arguments with respect to the proposed IFA. He takes issue with the RAD's finding that the photographs of him with a Khalistan banner and other photos were insufficient to establish his support for Khalistan and to make him a person of interest for the Punjab police (RAD Reasons at paras 23–28; CTR 9–10); and then speculates that a First Information Report [FIR] was probably made which would allow the authorities to track him down everywhere in India. However, the Applicant was not able to discharge his onus to prove that his profile makes him a person of interest for the police. While the Applicant argues that the Punjab police can find him in any IFA because of the information contained in the Crime and Criminal Tracking Network and Systems [CCTNS], the Aadhaar card and the tenant verification system, this Court has ruled on numerous occasions that, as in this case where there is no evidence that an

FIR was issued, the CCTNS does not contain information on extra-judicial arrests, there is little interstate police communications (with the exception of major crimes), and the police is prohibited by law to use biometric data from the Aadhaar card and the tenant verification system for criminal investigations (see for example *Chatrath v Canada (Citizenship and Immigration)*, 2024 FC 958 at para 32; *Bassi v Canada (Citizenship and Immigration)*, 2024 FC 910 at paras 23–24; *Sandhu v Canada (Citizenship and Immigration)*, 2024 FC 262 at paras 17, 21–22; *Singh v Canada (Citizenship and Immigration)*, 2023 FC 1758 at paras 30–31). The Applicant is essentially asking the Court to reweigh the evidence in order to arrive at a different conclusion regarding the police's motivation and capacity to locate him. This is something the Court will not do on judicial review absent exceptional circumstances, which is not the case here.

[6] The RAD concluded that it would be reasonable for the Applicant to relocate to the proposed IFA; I see no reason to intervene with this finding. The reasons demonstrate an administrative decision maker doing what it is required to do: make intelligible, transparent, and justified findings of fact in light of the evidence and submissions presented to it (*Vavilov* at paras 105, 125–128). The RAD observed that the documentary evidence did mention that it was more difficult for persons from rural areas to install themselves in large Indian cities. However, the RAD also noted that the Applicant had transferable experience that would help him integrate into the workforce in the proposed IFA location (RAD Reasons at para 74; CTR at 21). The Applicant argues now that a language barrier would prevent him from finding gainful employment. There is no indication that the Applicant raised such a concern regarding the language barrier before the Refugee Protection Division, and he did not raise it in his written submissions before the RAD. I am thus loath to consider this new issue on judicial review (*Alberta (Information and Privacy*

Commissioner) v Alberta Teachers' Association, 2011 SCC 61 at para 23). In any event, the RAD considered recent documentary evidence indicating that Sikhs could generally live safely outside of Punjab, are able to establish themselves socially and economically (RAD Reasons at para 76; CTR at 21–22). I see no reason to intervene with this appreciation of the evidence.

[7] This application for judicial review is dismissed.

JUDGMENT in IMM-14702-23

THIS COURT’S JUDGMENT is that:

1. This application for judicial review is dismissed.
2. There is no question for certification.

“Guy Régimbald”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-14702-23

STYLE OF CAUSE: BALJINDER SINGH v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: MONTRÉAL (QUÉBEC)

DATE OF HEARING: FEBRUARY 3, 2025

JUDGMENT AND REASONS: RÉGIMBALD J.

DATED: FEBRUARY 7, 2025

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