

Federal Court



Cour fédérale

Date: 20101022

Docket: IMM-648-10

Citation: 2010 FC 1032

Ottawa, Ontario, October 22, 2010

PRESENT: The Honourable Mr. Justice O'Reilly

BETWEEN:

HARBHAJAN SINGH

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

I. Overview

[1] Mr. Harbhajan Singh arrived in Canada in 2008 and made a claim for refugee protection based on his fear of persecution in India. A panel of the Immigration and Refugee Board rejected Mr. Singh's claim after finding his testimony to be inconsistent and incomplete. Mr. Singh argues that the Board erred by failing to explain adequately why it discounted his evidence. He asks me to order a new hearing before a different panel.

[2] In my view, the Board's findings were supported by the evidence before it and were reasonable. Accordingly, I must dismiss this application for judicial review.

[3] The sole issue is whether the Board's decision was unreasonable.

II. Background

[4] Mr. Singh claimed to fear the police in his home town of Kaddon. The police allegedly targeted Mr. Singh because his brother had been an active member of the Akali Dal Amritsar Party (ADA) in Punjab. After his brother fled and sought asylum in the United States in 1997, the police continued to single out Mr. Singh for mistreatment. He says that in 1998 he was arrested, beaten and questioned about his brother. When the ADA persuaded him to document his treatment, the police arrested and beat him again. He claims that he was released after his family paid a bribe.

[5] Mr. Singh left Kaddon in 1998 and lived and worked elsewhere in India. When he returned in 2005 to visit his father, he says the police came looking for him. He fled to Delhi and started to make arrangements to leave India. He finally succeeded in 2008.

[6] The Board identified a number of problems with Mr. Singh's version of events. In particular, it found inconsistencies in Mr. Singh's description of his injuries. In his written narrative, he mentioned that his body was swollen and covered with lacerations. He did not mention receiving medical treatment. At his hearing, he testified that he had in fact been hospitalized for several days, and added that his finger had been broken.

[7] After the Board noted that he had not presented any documentary evidence to corroborate his injuries, Mr. Singh obtained a letter from a doctor in India and presented it to the Board at the second stage of his hearing. At one point he claimed that he was hospitalized after his first arrest; later, he said it was after the second.

[8] The Board found that the doctor's letter was vague as to the source and nature of Mr. Singh's injuries and inconsistent with some of the other evidence before it. For example, the letter did not mention a broken finger. Considering its contents and the timing of its presentation, the Board concluded that the letter was unreliable, noting the ease with which fraudulent documents can be obtained in India.

[9] The Board also noted that Mr. Singh had been able to live and work openly in India for seven years without being located by the police. It found that Mr. Singh had an "internal flight alternative" - there was no serious possibility that Mr. Singh would be persecuted in a large city, such as New Delhi, and it would be reasonable for him to reside in a location where he could find employment and avoid the risk of mistreatment, if any, in his home town. After all, he had successfully done so from 1998 to 2005.

III. Was the Board's Decision Reasonable?

[10] The Board is in the best position to judge the credibility and reliability of the evidence before it. I can intervene only if the Board's treatment of the evidence was unreasonable.

[11] Having reviewed the record and the transcript of the hearing, I am satisfied that the Board's findings were supported by the evidence. A comparison of the documents before the Board and Mr. Singh's testimony discloses the several inconsistencies and omissions identified by the Board, as described above.

[12] Even if the Board's conclusion about the evidence supporting Mr. Singh's claim of persecution had been unreasonable, its finding that Mr. Singh had a viable internal flight alternative in New Delhi provided an alternative and independent basis on which to dismiss Mr. Singh's claim. The police, according to Mr. Singh's testimony, wanted him to leave Kaddon. There was no evidence they sought him elsewhere. Again, I am satisfied that the evidence before the Board supported its conclusion that Mr. Singh would be able to find a safe place to live and work in India. His own experience from 1998 to 2005 confirmed this.

IV. Conclusion and Disposition

[13] The Board's decision was supported by the evidence before it. Its conclusion was reasonable in the sense that it fell within a range of possible, acceptable outcomes based on the facts and the law. Accordingly, I must dismiss this application for judicial review. No question of general importance arises for certification.

JUDGMENT

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. No question of general importance is stated.

“James W. O’Reilly”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-648-10

STYLE OF CAUSE: HARBHAJAN SINGH v. MCI

PLACE OF HEARING: Toronto, ON.

DATE OF HEARING: October 12, 2010

**REASONS FOR JUDGMENT
AND JUDGMENT:** O'REILLY J.

DATED: October 22, 2010

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