Federal Court  Cour fédérale

Date: 20130613

Docket: IMM-8764-12

Citation: 2013 FC 631

Ottawa, Ontario, this 13th day of June 2013

Present: The Honourable Mr. Justice Pinard

BETWEEN:

ZSOLT CSERMAK

Applicant

and

MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application for judicial review of the decision of Rena Dhir, member of the Refugee Protection Division of the Immigration and Refugee Board of Canada (the "Board"), pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (the "Act"). The Board dismissed the applicant's claim for refugee protection, concluding he was not a Convention refugee or a person in need of protection under sections 96 and 97 of the Act.

[2] The applicant is a 36-year-old citizen of Hungary. His mother was an ethnic Roma and his father was an ethnic Hungarian. The applicant alleges that he suffered persecution by reason of his Roma ethnicity.

[3] The Board found the applicant to be generally credible in relation to the personal basis of his claim, but did not find that the applicant had established serious grounds for a well-founded fear of persecution on the Convention ground of race.

[4] The determinative issue for the Board was that the applicant's experiences did not rise to the level of persecution. The Board accepted that the applicant suffered discrimination and was a victim of random attacks by skinheads, but found that there was not sufficient evidence that his problems were systemic. At best, they were random attacks over a few times in his life.

[5] The Board also found that the applicant had failed to provide credible evidence that Hungary, a democratic country, is unable to protect him, that the applicant had a viable internal flight alternative [IFA] available to him in Debrecen or Miskolc and that it was not objectively unreasonable for the applicant to seek refuge in those cities.

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[6] The fundamental issue raised by the applicant in this application is whether the Board erred in finding that the applicant did not suffer persecution in relation to his employment in Hungary.

[7] The applicant submits the Board ignored or misconstrued evidence in finding that he was able to secure three different consecutive jobs in Hungary and that the applicant's inability to find employment upon his return to Hungary would not be based on his race.

[8] The applicant further submits that the Board provided inadequate reasons for finding that there was no credible evidence that the applicant was subjected to severe discrimination which harmed his ability to obtain education or employment in Hungary. The applicant did not directly challenge the Board's findings on the existence of state protection and an IFA.

[9] The Board's finding that the discrimination faced by the applicant did not amount to persecution is a question of mixed fact and law reviewable on the standard of reasonableness (*Kaleja v The Minister of Citizenship and Immigration*, 2010 FC 252 at para 19; *Ferencova v The Minister of Citizenship and Immigration*, 2011 FC 443 at para 8).

[10] When reviewing a decision on the reasonableness standard, the Court must determine whether the Board's findings fall within the "range of possible, acceptable outcomes which are defensible in respect of the facts and law" (*Dunsmuir v New Brunswick*, [2008] 1SCR 190 at para 47). Although there may be more than one possible outcome, as long as the Board's decision-making process was justified, transparent and intelligible, a reviewing court cannot substitute its own view of a preferable outcome (*Canada (Citizenship and Immigration) v Khosa*, [2009] 1 SCR 339 at para 59).

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[11] Upon reviewing the evidence in light of the above principles, I find that it was entirely reasonable for the Board to conclude that the applicant had not suffered persecution in relation to his employment given that he had been continuously employed from 1996 to 2010 before he came to Canada. Contrary to the applicant's submissions, I note that the Board specifically considered the evidence that the applicant had been paid less than ethnic Hungarians who held the same position. However, I agree with the respondent that the differential pay did not rise to the level of persecution. In my view, the applicant has failed to show the existence of an error by the Board which would warrant the intervention of the Court.

[12] As the Board's finding that the applicant has not suffered persecution in relation to his employment is determinative of this application for judicial review, it will not be necessary to deal with the Board's finding concerning state protection and an IFA.

[13] For the above-mentioned reasons, the application for judicial review is dismissed.

[14] I agree with counsel for the parties that this is not a matter for certification.

JUDGMENT

The application for judicial review of the decision of a member of the Refugee Protection Division of the Immigration and Refugee Board of Canada, pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27, is dismissed.

"Yvon Pinard"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-8764-12
STYLE OF CAUSE:	ZSOLT CSERMAK v. MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	Vancouver, British Columbia
DATE OF HEARING:	May 1, 2013
REASONS FOR JUDGMENT AND JUDGMENT:	Pinard J.
DATED:	June 13, 2013

APPEARANCES:

Me Roger Bhatti	FOR THE APPLICANT
Me François Paradis	FOR THE RESPONDENT

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