Federal Court  Cour fédérale

Date: 20140526

Dockets: IMM-2050-13
IMM-3938-13

Citation: 2014 FC 505

Ottawa, Ontario, May 26, 2014

PRESENT: The Honourable Mr. Justice Simon Noël

BETWEEN:

SARBJIT KAUR

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

ORDER AND REASONS

I. Introduction

[1] This Court renders these reasons jointly in respect to two applications for judicial review brought by the Applicant and heard on the same day.

[2] The first application for judicial review under subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] (Docket IMM-2050-13) concerns a decision

rendered by Benjamin R. Dolin [IAD Member Dolin] of the Immigration and Refugee Board [IRB] of Canada's Immigration Appeal Division [IAD]. In his decision dated February 19, 2013, IAD Member Dolin denied the Applicant's application to reopen her appeal before the IAD pursuant to section 71 of the IRPA.

[3] The second application for judicial review, also brought under subsection 72(1) of the IRPA (Docket IMM-3938-13), applies to a decision by P. Bandan, Senior Immigration Officer at Citizenship and Immigration Canada [PRRA Officer] rendered on April 15, 2013 and rejecting the Applicant's Pre-Removal Risk Assessment [PRRA] application [the PRRA Decision].

II. Facts

[4] The Applicant is a citizen of India. Her first husband passed away in 1999. She later married a Canadian citizen, who became her sponsor, and she came to Canada in November 2006 as a permanent resident. This marriage ended when the Applicant's husband repudiated her after his mother died, blaming her for the death. This marriage was annulled by the Ontario Superior Court on October 22, 2007 [the Ontario Court Decision].

[5] The Ontario Court Decision found that the Applicant had entered into a marriage of convenience, and as a result, she was subsequently found to be inadmissible to Canada for misrepresentation pursuant to section 40 of the IRPA. The inadmissibility finding was appealed by the Applicant but dismissed by the IAD on August 10, 2012.

[6] The Applicant applied to reopen her appeal on November 9, 2012, claiming that her former counsel was incompetent and/or negligent and that his poor services amounted to a breach of natural justice. Before the IAD, she claimed that her former counsel neglected to specify to the IAD the exact relief being sought and to provide the IAD with the requested submissions in relation to the Ontario Court Decision's finding that she had entered into a marriage of convenience.

[7] Around the same time, the Applicant presented her PRRA application on November 5, 2012, claiming that her return to India would expose her to a risk by reason of her membership in a particular social group because she is a divorcee, and a widow and that members of this group are ostracized, ridiculed and rendered homeless for they are often blamed for their husband's death. This PRRA application was rejected on April 15, 2013.

[8] The Applicant's application for judicial review as it concerns the refusal to reopen her appeal under section 71 of the IRPA was received on June 7, 2013, whereas the application for judicial review regarding the PRRA decision was received on March 18, 2013. Both applications were heard during the same sitting before this Court.

III. Analysis

A. *Refusal to reopen the appeal at the IAD under section 71 of the IRPA*

(1) Decision under review

[9] In this decision, IAD Member Dolin found that the IAD had the jurisdiction to reopen an appeal on the basis of an applicant's counsel's alleged incompetence. However, he also found that, during the first appeal in the present matter, the IAD came to the conclusion that the Applicant was not a credible witness and that her particular circumstances did not warrant the granting of special relief under paragraph 67(1)(*c*) of the IRPA. IAD Member Dolin further concluded that the Applicant was not prejudiced to the point of having suffered a miscarriage of justice as a result of her former counsel's incompetence; given that her testimony was not credible, the outcome of the appeal would not have been any different if it had not been for her counsel's alleged incompetence.

(2) Applicant's submissions

[10] First, IAD Member Dolin erred when he found that the breach of procedural fairness necessary for an appeal to be reopened pursuant to section 71 of the IRPA must have been caused by the IAD itself. It is well established that the incompetence of counsel can lead to a breach of natural justice and, what is more, IAD Member Dolin acknowledged the incompetence of counsel in his reasons, which is exactly what the Applicant had the burden of establishing in order for her appeal to be reopened.

[11] Second, IAD Member Dolin committed another error in finding that there was not sufficient evidence to demonstrate that the Applicant had suffered a prejudice because of her former counsel's incompetence. The prejudice is obvious: the IAD had requested submissions in order to determine whether or not it was bound by the Ontario Court Decision declaring that the Applicant had entered into a marriage of convenience, and the Applicant's former counsel failed to provide the IAD with the requested submission. Moreover, the Applicant's former counsel failed to clearly indicate to the IAD what remedy was sought at appeal and to put forward the humanitarian and compassionate [H&C] considerations applicable to the Applicant's case. It was an error for IAD Member Dolin to find that the Applicant was not prejudiced as result of her former counsel's actions or inactions.

(3) Respondent's submissions

[12] With respect to the Applicant's first argument, according to which IAD Member Dolin found that the IAD must be the cause of the breach of natural justice necessary to reopen an appeal under section 71 of the IRPA, the Respondent replies that the IAD never made such a finding. To the contrary, IAD Member Dolin found that it had jurisdiction to reopen the appeal in the present matter. His refusal to reopen the file was based on other reasons.

[13] As for the second argument, IAD Member Dolin was entitled to conclude that the Applicant did not suffer a prejudice amounting to a breach of natural justice as a result of her former counsel's alleged incompetence because the Applicant's case turned on the credibility of her testimony, or lack thereof. The Applicant did not suffer a prejudice because the outcome of her application would have been the same notwithstanding of her former counsel's

incompetence. The Applicant failed to demonstrate in what way it would have made a difference, in the end, if her former counsel had produced the submissions requested by the IAD regarding the Ontario Court Decision. Here, it was the credibility issue that was determinant. In addition, IAD Member Dolin did assess the two grounds of relief that could have been granted in the case despite the fact that the Applicant's former counsel failed to specify what remedy was sought and to advance the H&C considerations in his client's case. The Applicant did not suffer a prejudice as envisioned by case law as a result of her former counsel's incompetence, especially that only the clearly established cases of exceptional incompetence will lead to a breach of natural justice.

(4) Issue and standard of review

[14] The case at bar raises the following issue: did IAD Member Dolin err in denying the Applicant's application to reopen her appeal before the IAD pursuant to section 71 of the IRPA?

[15] As the underlying issue relates to the existence of a breach of natural justice, IAD Member Dolin's decision is to be reviewed under the standard of correctness (see *Hillary v Canada (Minister of Citizenship and Immigration)*, 2011 FCA 51 at paras 27-29, [2011] FCJ No 184; see for example *Juste v Canada (Minister of Citizenship and Immigration)*, 2008 FC 670 at paras 22-24, [2008] FCJ No 863).

[16] As rightly stated by the Applicant, under this standard of review, this Court "will not show deference to the decision maker's reasoning process; it will rather undertake its own analysis of the question. The analysis will bring the court to decide whether it agrees with the

determination of the decision maker; if not, the court will substitute its own view and provide the correct answer. From the outset, the court must ask whether the tribunal's decision was correct." (*Dunsmuir v New Brunswick)*, 2008 SCC 9 at para 50, [2008] SCJ No 9)

(5) Disposition

[17] For reasons detailed below, the decision rendered by IAD Member Dolin was the correct decision to make and, therefore, this Court will not interfere.

[18] The Applicant asked the IAD to reopen her appeal pursuant to section 71 of the IRPA, which reads as follows:

Immigration and Refugee Protection Act, SC 2001, c 27	*Loi sur l'immigration et la protection des réfugiés*, LC 2001, ch 27
PART 1	PARTIE 1
IMMIGRATION TO CANADA	IMMIGRATION AU CANADA
Division 7	Section 7
Right of Appeal	Droit d'appel
[…]	[…]
Reopening appeal	*Réouverture de l'appel*
71. The Immigration Appeal Division, on application by a foreign national who has not left Canada under a removal order, may reopen an appeal if	**71.** L'étranger qui n'a pas quitté le Canada à la suite de la mesure de renvoi peut demander la réouverture de l'appel sur preuve de

it is satisfied that it failed to observe a principle of natural justice.	manquement à un principe de justice naturelle.

[19] At the heart of the IAD's decision to reopen an appeal is the determination of whether or not a breach of natural justice occurred. As aptly noted by the Respondent and contrary to the Applicant's assertion, IAD Member Dolin never claimed that the IAD needed to be the cause of the breach of natural justice. And while IAD Member Dolin did take a somewhat convoluted approach with respect to jurisdiction – referring to the existence of new evidence and to the principle of *functus officio* –, he ended this analysis by noting that "in cases that do not involve new evidence as the basis for requesting a reopening, section 71 of the IRPA does not remove the IAD's jurisdiction to reopen appeals where there has otherwise been a denial of natural justice." (see IAD Member Dolin's reasons, at para 15) More precisely, he also concluded that "the IAD has jurisdiction to reopen an appeal based on the incompetence of appellant's counsel." (see IAD Member Dolin's reasons, at para 8) This finding could hardly be any clearer.

[20] For the purpose of section 71 of the IRPA, the question IAD Member Dolin had to ask himself was whether or not a breach of natural justice occurred at the outcome of the case, and not whether or not the Applicant's former counsel's incompetence lead to a breach of natural justice.

[21] In his decision, IAD Member Dolin addressed the issue of counsel's incompetence, and the Applicant in her written submissions goes to great length to substantiate her claims that her former counsel was incompetent and, as a consequence, that she suffered an obvious prejudice

from which ensues a breach of natural justice, hence opening the door to a request under section 71 of the IRPA.

[22] In the present matter, however, there is no need to undertake an extensive analysis of the criteria applicable to determine if counsel's actions or inactions amounted to incompetence as envisioned by case law (see *R v GDB*, 2000 SCC 22 at paras 26-29, [2000] 1 SCR 520 [GDB]) because the Applicant's case was determined on the issue of credibility. Nonetheless, I shall briefly tackle the issue of counsel incompetence in the following paragraphs.

[23] Since counsel acts as an agent, it is generally accepted that counsel's actions cannot be separated from that of his or her client. This well-recognized rule stems from the fact that a client who freely chooses an agent must be willing to bear the consequences resulting from this choice of representation. There are nevertheless exceptions to this rule in cases where conduct of counsel will manifest such negligence that his or her conduct (or incompetence) amounts to a breach of procedural fairness. In cases where counsel incompetence leads to a breach of procedural which changes the result of the claim, the IAD's intervention in reopening the appeal pursuant to section 71 of the IRPA would be warranted. To this end, the applicant in question must meet a three-pronged test laid out in case law (see GDB, above, at paras 26-29 and *Yang v Canada (Minister of Citizenship and Immigration)*, 2008 FC 269 at paras 17 and 24, [2008] FCJ No 344 [*Yang*]), the onus of proving counsel's incompetence lying with the Applicant (*Yang*, above, at para 18):

1. The counsel's acts or omissions constituted incompetence;

2. That a prejudice was caused; or

3. That a miscarriage of justice occurred.

[*Yang*, above, at para 18]

[24] Also, as stated by my colleague Justice de Montigny in *Bedoya v Canada (Minister of Citizenship and Immigration)*, 2007 FC 505 at para 20, [2007] FCJ No 680 [*Bedoya*]:

> **[20]** In addition, the applicants must show that there is a reasonable probability that but for this alleged incompetence, the result of the original hearing would have been different: *Shirvan v Canada (Minister of Citizenship and Immigration)*, [2005] FCJ No. 1864, 2005 FC 1509; *Jeffrey v Canada (Minister of Citizenship and Immigration)*, [2006] FCJ No. 789, 2006 FC 605; *Olia v Canada (Minister of Citizenship and Immigration*), [2005] FCJ No. 417, 2005 FC 315.

[25] As the outcome would not have been any different in the present case, this is where the Applicant's claim fails. As noted earlier, IAD Member Dolin dismissed the Applicant's request to reopen her appeal maintaining that the IAD had found, during the first appeal before it, that the Applicant was deemed not to be a credible witness on account of inconsistencies and implausibilities in her testimony (see IAD original decision dated August 10, 2012, at paras 45 to 47, in the Certified Tribunal Record [CTR] for Docket IMM-2050-13, at pages 105-108). The Applicant argues that she suffered an obvious prejudice as a result of her counsel's inaction because he failed to produce submissions before the IAD in relation to the Ontario Court Decision finding that she had entered in a marriage of convenience. It is not disputed that the Applicant's former counsel's conduct is not in accordance with the professional norms applicable in such a situation. However, the Applicant did not establish in what way the outcome

of her first appeal would have been any different if her counsel had indeed made the appropriate submissions, considering that her appeal was rejected on the basis of a lack of credibility – even if counsel had presented submissions, I find that there is not a "reasonable probability [that] the result of the original hearing would have been different" (*Bedoya*, above, at para 20).

[26] Therefore, IAD Member Dolin was right in finding that the Applicant could not claim having suffered a prejudice as a result of her former counsel's alleged incompetence.

[27] Consequently, the Applicant's application for judicial review as it concerns IAD Member Dolin's decision denying her request to reopen her appeal pursuant to section 71 of the IAD shall be dismissed.

B. *Pre-removal risk assessment application*

(1) Decision under review

[28] After reviewing the Applicant's allegations, the PRRA Officer listed the evidence which was considered in processing the PRRA application. In this regard, the PRRA Officer afforded little weight and low probative value to certain documents provided by the Applicant, namely an affidavit produced by her mother (deemed self-serving) and a letter written by a priest (because it did not support the Applicant's personalized risks she would face in India). The PRRA Officer also examined the prevalent country conditions and found that while the situation for women in India is not perfect, the government is making serious efforts to rectify the deficiencies and that the general situation of women has improved. The Applicant failed to adduce clear and

convincing evidence to rebut the presumption of state protection. As for widows and divorcees in particular, the discrimination tends to be more important in rural areas, but the Applicant could avail herself from viable internal flight alternatives [IFAs] in metropolitan areas of the country.

[29] In the end, the PRRA Officer found that the Applicant's submissions represent the general country conditions and do not suffice to establish that she faces a personalized, forward-looking risk of persecution should she return to India. The PRRA Officer found that none of the Convention grounds were applicable. Consequently, the PRRA Officer concluded that there is not a serious possibility, should she return to India, that the Applicant would suffer persecution under section 96 of the IRPA, that she would be "subjected personally to risk to life or a risk of cruel and unusual treatment or punishment" under paragraph 97(1)(*b*) of the IRPA (see the PRRA Decision, in the CTR for Docket IMM-3938-13, at page 9). Lastly, the PRRA Officer concluded that the Applicant's removal would not subject her personally to a danger, believed on substantial grounds to exist, of torture under paragraph 97(1)(*a*) of the IRPA (see the PRRA Decision, in the CTR for Docket IMM-3938-13, at page 9).

(2) Applicant's submissions

[30] As a first argument, the PRRA Officer erred in finding that none of the Convention grounds under section 96 of the IRPA applied to the Applicant. It is clear that the Applicant, as a widow, would be at risk if she were to be sent back to India, especially considering that she was subsequently abandoned by her second husband. The Applicant has no control over the fact that she is a widow, and it has been determined by the Court that femaleness can be sufficient to qualify as a particular social group. Moreover, the PRRA Officer set aside some of the evidence

because it did not establish the Applicant's personalized risk, but the requirement of "personalized" risk is only applicable to section 97 of the IRPA, whereas an assessment under section 96 requires that an applicant establish persecution. In fact, the issue of personalized risk was determinant to the PRRA Officer's decision and it should not have been the case.

[31] Second, the PRRA Officer erred because in the assessment of her claim, the Applicant was considered as a woman and not as a widow. Because the PRRA Officer assessed the claim solely on the basis of the Applicant's gender, important evidence establishing that widows face a serious risk of persecution as well as a personalized risk was ignored. The Applicant's case should have been examined against that of similarly-situated people.

(3) Respondent's submissions

[32] The PRRA Officer's findings were not to the effect that widows and divorcees do not constitute a particular social group, only that the Applicant failed to establish a well-founded fear of persecution based on this particular social group. The PRRA Officer considered the Applicant's personal circumstances as well as mixed evidence related to women in general and to widows and divorcees but found that widows and divorcees are more at risk in remote areas and the Applicant could move to a bigger city. As such, the PRRA Officer did not fail to make a finding with respect to section 96 of the IRPA. Moreover, the PRRA Officer did note conflate the assessments under sections 96 and 97 of the IRPA. In fact, the reference to a "personalized risk" was reasonable as the risk needs to be particularized for each applicant because not all the members of a particular social group are exposed to the same risks. Finally, there seems to be a contradiction in the Applicant's arguments as she claims, on one hand, that the PRRA Officer in

assessing her application only considered her as a woman and not a widow and, on the other hand, that he ignored the fact that she was a woman and that this could suffice to prove that she belongs to a particular social group.

(4) Issue and standard of review

[33] The Applicant's application for judicial review raises the question of whether or not the PRRA Officer erred in denying the application, and more specifically this Court shall address the two following sub-issues:

1. Did the PRRA Officer err by requiring the Applicant to establish a personalized risk and by failing to conduct a proper assessment of whether the Applicant has a well founded fear of persecution under section 96 of the IRPA, i.e. did the PRRA Officer conflate the tests for sections 96 and 97 of the IRPA?

2. Did the PRRA Officer err by considering the Applicant as a woman and not as a widow or a divorcee in assessing the claim?

[34] With respect to the first question, as it is a question of law, it is to be reviewed under the standard of correctness (see *Mahendran v Canada (Minister of Citizenship and Immigration)*, 2009 FC 1237 at para 10, [2009] FCJ No 1555 [*Mahendran*]; see also *Pillai v Canada (Minister of Citizenship and Immigration)*, 2008 FC 1312 at para 32, [2008] FCJ No 1663).

[35] The standard of review applicable to PRRA decisions in general, and in the present case to the second issue, is well settled, as is the level of deference to be afforded to these decisions

by this Court. My colleague Justice O'Keefe of this Court has noted the following in *Cao v Canada (Minister of Citizenship and Immigration)*, 2013 FC 560 at paras 21 and 22, [2013] FCJ No 632:

> **[21]** It is trite law that the standard of review of PRRA decisions is reasonableness (see *Wang v Canada (Minister of Citizenship and Immigration)*, 2010 FC 799, [2010] FCJ No 980 at paragraph 11; and *Aleziri v Canada (Minister of Citizenship and Immigration)*, 2009 FC 38, [2009] FCJ No 52 at paragraph 11). […]
>
> **[22]** In reviewing the officer's decision on the standard of reasonableness, the Court should not intervene unless the officer came to a conclusion that is not transparent, justifiable and intelligible and within the range of acceptable outcomes based on the evidence before it (see Dunsmuir above, at paragraph 47 *and Canada (Minister of Citizenship and Immigration) v Khosa*, 2009 SCC 12 at paragraph 59, [2009] 1 SCR 339). As the Supreme Court held in Khosa above, it is not up to a reviewing court to substitute its own view of a preferable outcome, nor is it the function of the reviewing court to reweigh the evidence (at paragraph 59).

(5) Disposition

[36] For reasons set out below, the PRRA Decision is valid in its entirety and does not warrant the intervention of this Court.

A. *Did the PRRA Officer err by requiring the Applicant to establish a personalized risk and by failing to conduct a proper assessment of whether the applicant has a well founded fear of persecution under section 96 of the IRPA, i.e. did the PRRA Officer conflate the tests for sections 96 and 97 of the IRPA?*

[37] As noted by the Respondent, it is necessary to read the PRRA Officer's reasons as a whole and not simply draw attention to certain passages. Only then will it be possible to determine if the decision adequately refers to the tests for both sections 96 and 97 of the IRPA.

That is why, upon reading the PRRA Decision, this Court is satisfied that just because he insisted on the importance of the risk of persecution being personalized, it does not necessarily mean that the PRRA Officer conflated the tests for sections 96 and 97 of the IRPA.

[38] My colleague Justice Beaudry, of this Court, addressed exactly the same issue in *Mahendran*, above, at paras 17 and 18, and came to the following conclusion:

> **[17]** In support of his submission, the Applicant relies on the decision of Justice Martineau in *Fi v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1125, [2006] F.C.J. No. 1401 (QL). However, I do not find that this case offers much guidance due to the numerous factual differences between that case and the one at hand. Instead, I would adopt that line of cases cited by the Respondent in which it has been held that simply using the words such as "individualized risk" does not mean that the different tests under sections 96 and 97 have been conflated (see *Pillai* and K*aba*). I agree that simply referring to an individualised risk being required does not mean that the Officer misunderstood the difference between the two tests.
>
> **[18]** Although the Officer stated that documentary evidence alone was not sufficient and that there must be evidence of an individualised risk, I am satisfied that her reasons as a whole demonstrate that she understood the difference between the two tests and she did apply the two tests accordingly. The Officer considered evidence on the country conditions in Sri Lanka, including the situation of individuals similarly situated to the Applicant, and dismissed the application based on her findings on the changing country conditions along with her conclusion that the Applicant did not present individual characteristics that would put him at risk. In doing so, she did assess the risks faced by the Applicant as a young Tamil male but felt that this risk was negated by the changing country conditions in Sri Lanka. She further found that there was not an individualised risk as the Applicant did not present any characteristics that would put him at risk from the government or the LTTE. I do agree that her analysis could have been more clearly articulated but it was not unreasonable.
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> [Emphasis added.]

[39] As it was the case in *Mahendran*, above, I am satisfied that, while they lead to the same result, distinct analysis for section 96 and for section 97 of the IRPA were validly undertaken by the PRRA Officer in the present case.

[40] Also contrary to what the Applicant contends, the PRRA Officer did assess the Applicant's claim while taking into account that she was both a woman and a widow and divorcee. In fact, the PRRA Officer examined and referred to evidence related to both groups. In addition, the PRRA Officer never concluded that widows and divorcees in India are not a particular social group for the purposes of the Convention under section 96 of the IRPA. The PRRA Officer simply failed to see that the Applicant had a fear of being persecuted as a result of her belonging to this particular social group. Not all widows and divorcees in India are treated equally, and it is well known that the notion of risk under section 96 of the IRPA entails both an objective and subjective basis. The idea that the risk needs to be "personalized" or "individualized" undoubtedly refers to the fact that an applicant must establish the subjective basis of his or her fear of being persecuted.

[41] In the present matter, the PRRA Officer took into account the Applicant's personal circumstances, including the fact that the Applicant visited India for a week despite already being a widow and a divorcee. He also considered and referred to mixed public and reliable evidence concerning both women in general and widows and divorcees. The evidence considered and referred to include the 2011 United States Department of State Human Rights Report on India, and a research report entitled IND103726.E, which speaks of the particular situation of widows and divorcees in India and which refers to numerous credible sources of information, as

it is a Response to Information Request. In the end, however, the PRRA Officer came to the conclusion that although not perfect, the situation of women in general was improving with time and that, in the case of widows and divorcees in particular, they were more at risk of being persecuted in rural regions. This mixed evidence and the Applicant's individual circumstances lead the PRRA Officer to find that the Applicant did not produce sufficient evidence to rebut the presumption of state protection and, in any event, that she could move to a more metropolitan region of India. It should be noted that these findings – the presumption of state protection and the availability of viable IFAs – were not refuted by the Applicant during these proceedings. Considering what had been presented as evidence, these findings fall within the "range of possible, acceptable outcomes which are defensible in respect of the facts and law." (*Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47, [2008] SCJ No 9).

[42] As for the Applicant's argument that the PRRA Officer failed to consider all the evidence, it is well established that a decision-maker is not required to refer to each and every piece of evidence and that he or she is deemed to have consulted all the evidence which had been presented unless the contrary is proven (*Florea v Canada (Minister of Employment and Immigration)*, [1993] FCJ No 598 (FCA) at para 1; see for example *Andrade v Canada (Minister of Citizenship and Immigration)*, 2010 FC 1074 at para 64, [2010] FCJ No 1348).

[43] Thus, having already found that the PRRA Officer reasonably concluded that the Applicant could benefit from state protection or move to a viable IFA in India, it would be difficult for this Court to conclude that the PRRA Officer was wrong in finding that the Applicant failed to establish the subjective basis of her fear of persecution under section 96 of

the IRPA. As such, unlike what the Applicant asserts, it cannot be said that the PRRA Officer erred in finding that the Applicant did not have a nexus to any of the Convention grounds under section 96 of the IRPA. Furthermore, the existence of a viable IFA settles the issue of the risk under section 97 of the IRPA.

[44] Consequently, not only am I satisfied that the PRRA Officer did not conflate the tests for sections 96 and 97 of the IRPA, I am satisfied that these tests were reasonably undertaken.

B. *Did the PRRA Officer err by considering the Applicant as a woman and not as a widow or a divorcee in assessing the claim?*

[45] As mentioned above, the PRRA Officer did not limit his assessment of the Applicant's claim to the fact that she is a woman. He actually took into consideration the Applicant's personal circumstances as well as mixed evidence related to the situation of widows and divorcees in India. Ultimately, however, it was found that the Applicant did not rebut the presumption of state protection and that she could benefit from a number of viable IFAs in the more metropolitan regions of the country. What is more, as mentioned above, the PRRA Officer's assessment of the Applicant's claim as it concerns her status as a widow and a divorcee was reasonable.

[46] As none of the Applicant's arguments are well founded, the application for judicial review as it concerns the negative PRRA Decision shall be dismissed.

IV. Closing remarks

[47] For the aforementioned reasons, both applications for judicial review brought by the Applicant in the current proceedings shall be dismissed.

[48] The parties were invited to submit a question for certification, but none were proposed.

ORDER

THIS COURT ORDERS that both applications for judicial review (dockets IMM-2050-13 and IMM-3938-13) addressed herein are dismissed. No question is certified.

"Simon Noël"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

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