

BETWEEN:

BALWINDER SINGH

Applicant

AND:

MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR DECISION

(delivered from the Bench at Montreal, Quebec
on Tuesday, September 30, 1997)

HUGESSEN, J.

This application for judicial review attacks a decision of the Immigration and Refugee Board which rejected the Applicant's claim to refugee status. The rejection was based on the Panel's view that there were "contradictions, inconsistencies and implausibilities which are material and central to his claim". In its reasons the Panel lists five of them.

The first listed item has two separate points: a) that in his PIF the Applicant said he was tortured in an "unknown place" while in his evidence he identified the place as a torture centre outside Ropar City and; b) that after his release he was treated at home as an outpatient, which in the Panel's view was "inconsistent with the alleged corporal abuse". As to the first point, it is clear that in his PIF the Applicant was saying that he

did not know where he was taken when he was taken there, while in his evidence he was saying that he now knows where the place is. The second point, in the absence of any medical evidence that hospitalization was necessary, is the purest speculation on the Panel's part.

The second item on the Panel's list was acknowledged by the Minister's representative before me to be based on a misunderstanding of the evidence by the Panel. I shall come back to the third item in a moment.

The fourth item on the Panel's list deals with their view that the Applicant was not specifically targeted by the authorities. Since he did not claim to be, it is not a contradiction, inconsistency or implausibility.

The fifth item deals with the Applicant's failure to make a claim to Refugee Status in Hong Kong during the four months that he was there. It is in my view of very little relevance.

I return to the third ground put forward by the Panel which I reproduce in its entirety:

"The claimant purported that his family name exists, but that he does not use it. The claimant further maintained that he did not understand English yet the school character certificate, affidavits and medical certificate adduced in support of his claim are drafted entirely in English.

The Panel ascribes little weight to the affidavits filed as exhibits P-6 and P-7 which are attested by a lawyer, a notary public and bear the seal bearing the inscription "Government of India".

The claimant's attempt to explain the fact that his father understands English was found to be unacceptable to the Panel.

The Panel examined and considered the medical opinion filed as Exhibit P-5 and the psychological expertise filed as Exhibit P-9, and ascribes little weight given the lack of plausibility relative to the pivotal aspects of the claim."

With respect, this passage is riddled with error and is in places incomprehensible and in other places irrational. The first three paragraphs cannot in any sense be said to constitute reasons for a decision.

The last paragraph requires a word of explanation. The two reports referred to were obtained from professionals in this country and, of course, rely to some extent on what the Applicant has said. But both, and particularly the medical report, are based on objective professional examinations and conclude that the conditions observed are compatible with the story told. When to this is added the earlier medical report from the attending physician in India which the Panel appears to have completely ignored because it was in English one can only conclude that the whole decision is manifestly unreasonable and must be set aside and sent back for a new hearing.

Before entering judgment I must ask counsel if they have any submissions to make as to the certification of a question.

Montreal, Quebec,
this 30th day of September 1997

James K. Hugessen
Judge

IMM-3668-96

BALWINDER SINGH

Applicant

MINISTER OF CITIZENSHIP

AND IMMIGRATION

Respondent

REASONS FOR DECISION

IMM-255-96

AMRITPAL SINGH

Applicant

THE MINISTER OF CITIZENSHIP

AND IMMIGRATION

Respondent

ORDER

FEDERAL COURT OF CANADA

NAMES OF COUNSEL AND SOLICITORS OF RECORD

COURT NO: IMM-3668-96

STYLE OF CAUSE: BALWINDER SINGH

Applicant
AND:

OF CITIZENSHIP AND IMMIGRATION

MINISTER

Respondent

PLACE OF HEARING: Montreal, Quebec

DATE OF HEARING: September 30, 1997

REASONS FOR ORDER BY: The Honourable Mr. Justice Hugessen

DATED: September 30, 1997

APPEARANCE: Me Jean-François Bertrand for the Applicant

Me Michel Lecours for the Respondent

SOLICITORS OF RECORD:

Me Jean-François Bertrand
for the Applicant
Montreal, Quebec

George Thomson
Deputy Attorney General
of Canada
Ottawa, Ontario

for the Respondent