

BETWEEN:

**JASWINDER KAUR
JASKARAN SINGH SIDHU**

Applicants

- and -

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR ORDER

JEROME, A.C.J.:

This is an application for an order setting aside the decision of the Convention Refugee Determination Division of the Immigration and Refugee Board which held the applicants were not Convention refugees. At the conclusion of argument in Toronto, Ontario, on February 25, 1997, I dismissed the application indicating that these written reasons would follow.

The principal applicant and her son, the minor applicant, are citizens of India. They came to Canada on November 13, 1994, and claimed to have a well-founded fear of persecution for reasons of political opinion, religion and membership in a particular social group.

A hearing was held before the Refugee Division on April 2, 1996. By decision dated May 15, 1996, the Board found as follows at pp. 6-7:

The panel finds that there is no credible evidence or trustworthy evidence before us to make a positive determination. The claimant has not discharged the onus of the burden of proof in establishing that she has a well-founded fear of persecution.

In view of the panel's findings regarding the claimant's credibility, it is not necessary to consider the gender guidelines.

As the minor claimant's alleged fear of persecution is based on the claim of the claimant, it also fails.

The applicants now seek an order setting that decision aside on the grounds that the tribunal erred in law.

I dismissed the application for the following reasons. Questions of credibility and weight of evidence are within the jurisdiction of the Refugee Division as the trier of fact in respect of Convention refugee claims. When the tribunal makes a negative finding with respect to an applicant's credibility, the Court will be reluctant to interfere with that finding, given the tribunal's opportunity and ability to assess the witness and her demeanour in oral testimony before it. The Board is entitled to make an adverse finding of credibility based on the implausibility of an applicant's story, and between the applicant's story and other evidence before it, provided the inferences drawn can be reasonably said to exist. Negative findings with respect to an individual's credibility are properly made, provided the tribunal gives reasons for its decision.

Here, the panel clearly and unequivocally determined Ms. Kaur not to be a credible witness and offered detailed reasons for its decision, citing numerous contradictions, implausibilities and inconsistencies in her evidence. In particular, the panel noted that the principal applicant had made significant changes to her Personal Information Form (PIF); that there were contradictions between her PIF and her oral testimony and between her PIF and her husband's PIF (her husband's refugee claim was denied earlier); and, that it was implausible that she would not have known from her father-in-law how to contact her husband in Canada.

Further, the Board considered the principal applicant's evidence that she was illiterate and that this accounted for the changes she made to the narrative portion of her PIF. However, the panel found that the evidence did not satisfactorily account for the changes made. There is nothing on the record to indicate that this was not a reasonable finding.

In addition, the Refugee Division made specific adverse findings of credibility with respect to the demeanour of the witness. It noted that the principal applicant's explanation as to why her PIF was so different from that of her husband was vague and evasive.

I am unable to conclude therefore, that the panel ignored the evidence before it or that its findings were perverse or capricious. In the absence of such an overriding error, there is simply no basis for judicial interference with the decision.

For these reasons, on February 25, 1997, I dismissed the application.

O T T A W A
July 24, 1997

"James A. Jerome"
A.C.J.