

Date: 20071003

Docket: IMM-4349-06

Citation: 2007 FC 1018

Calgary, Alberta, October 3, 2007

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

MOHINDER KAUR

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR ORDER AND ORDER

[1] Mrs. Mohinder Kaur (the “Applicant”) seeks a judicial review of the decision of the Immigration and Refugee Board Refugee Protection Division (the “Board”), dated July 26, 2006. In its decision, the Board determined that the Applicant is not a Convention refugee nor a person in need of protection within the meaning of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the “Act”).

[2] The Applicant is a citizen of India. She is a widow. She based her claim upon a fear of persecution by reason of her membership in a particular social group, that is a woman and member of a family. She alleged that she feared for her life at the hands of one of her sons.

[3] The Board expressed concern about the Applicant's status as a widow and characterized the Applicant's claim that her husband committed suicide as the result of difficulties with their son Jaspal as the "most central element" of this claim.

[4] According to the transcript of the evidence before the Board, the Applicant was given the opportunity to submit post hearing evidence concerning her husband's death. The Applicant submitted a copy of her husband's Death Certificate on or about May, 2006, although this document is not included in the Tribunal Record.

[5] The Board made no reference to the Death Certificate in its decision and proceeded to reject the Applicant's claim on credibility grounds.

[6] In my opinion, the Board committed a reviewable error by failing to address evidence that was relevant to what the Board characterized as a "central element" of the claim, that is the fact that her husband was dead.

[7] In the result, the application for judicial review is allowed and the matter remitted to a differently constituted panel of the Board for re-determination. There is no question for certification arising.

ORDER

The application for judicial review is allowed and the matter remitted to a differently constituted panel for re-determination. There is no question for certification arising.

“E. Heneghan”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4349-06

STYLE OF CAUSE: MOHINDER KAUR v. MCI

PLACE OF HEARING: Calgary, Alberta

DATE OF HEARING: October 3, 2007

REASONS FOR ORDER AND ORDER: HENEGHAN J.

DATED: October 3, 2007

APPEARANCES:

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Mr. Rick Garvin FOR THE RESPONDENT

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