

B E T W E E N:

DILBAG SINGH MANGAT

(Applicant)

- and -

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

(Respondent)

REASONS FOR ORDER

REED, J.: (Orally)

I have not been persuaded that this is a case in which the decision under review should be set aside. It is clear from the reasons given by the panel that it understood the applicant's position. It understood that the applicant's claim was based on the assertion that he was suspected by the police of being a supporter of pro-Khalistan militants:

... the panel finds that the claimant has not adequately supported his claim that the police impugned a political opinion to the claimant in relation to the theft of his taxi.

The panel understood the issue. The panel understood the basis of the applicant's claim.

With respect to the argument that there was an ambush or unfairness in the proceeding because the panel did not point out to the applicant that he had to demonstrate a nexus between the fear for his safety and a convention ground, I do not think this is part of the panel's duty. The applicant has the burden of proof. He is

seeking refuge on the basis of the *Convention* as adopted into Canadian law. He must be assumed to know that he has to demonstrate a connection between his fear and one of the grounds set out in the text of that law. It seems to me the argument is rather like a person commencing an action for breach of contract and, then, complaining that he or she received an unfair hearing because the Court did not point out that there was a need to prove a contract. There was no ambush by the panel. Counsel for the respondent also noted that at the beginning of the hearing, the RCO specifically identified as one of the issues "whether it is corruption or persecution that we are dealing with in this matter".

With respect to the documentary evidence, I note that that found at pages 73-75 is really very thin. It is undated. It is an excerpt only so that one does not know what conclusions are drawn by the author in the larger content. The passages that were referred to are quotations from individuals not the author's comments. The documentary evidence starting at page 146A, and following, leaves a reader with the impression of being much more thorough, much more soundly based. It supports a conclusion that people in the position of this applicant, even if he was suspected, as a result of one encounter, of being a militant sympathizer, are not in a position of danger.

I cannot agree that the panel's conclusion that the applicant was released without condition is an erroneous finding because that release was obtained by paying a bribe. I understand the panel to be saying that the applicant was released, without a condition being attached to the release, for example, without a condition that the applicant report periodically to the police. I notice that the applicant's own evidence at one point, at least, was that he thought he was released because the police thought he was innocent.

Counsel for the respondent commented that the panel simply found it implausible that a person in the situation of this applicant, even assuming he was a suspected sympathizer, would have the level of police attention focussed on him that the applicant claims occurred. This is a persuasive explanation of the panel's rejection of that part of the evidence.

In conclusion, I have not been persuaded that this is an application that comes within section 18.1 of the *Federal Court Act*. Reasons do not exist for setting aside the decision under review aside.

"B. Reed"

Judge

Toronto, Ontario
October 2, 1997

FEDERAL COURT OF CANADA

Names of Counsel and Solicitors of Record

COURT NO: IMM-3720-96

STYLE OF CAUSE: DILBAG SINGH MANGAT

- and -

THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

DATE OF HEARING: OCTOBER 2, 1997

PLACE OF HEARING: TORONTO, ONTARIO

REASONS FOR ORDER BY: REED, J.

DATED: OCTOBER 2, 1997

APPEARANCES:

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For the Respondent

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For the Respondent

FEDERAL COURT OF CANADA

Court No.: IMM-3720-96

Between:

DILBAG SINGH MANGAT

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- and -

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