

Federal Court of Canada
Trial Division



Section de première instance de
la Cour fédérale du Canada
IMM-4433-96

BETWEEN:

FARSHID ALLAF NAVIRIAN

Applicant,

- and -

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent.

REASONS FOR ORDER

(Reasons delivered orally from the Bench
on September 17, 1997,
in Toronto, Ontario, as edited)

WETSTON J.:

Mr. Weinreb, the application is dismissed. For the Court to intervene in this type of decision I would be usurping the role of the Tribunal.

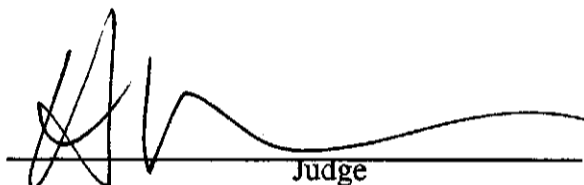
I understand your submissions regarding the manner in which the application appeared to have been handled. I have considered the omissions between the port of entry notes and the PIF. The Board concluded that these omissions and inconsistencies affected the credibility of the applicant. On balance, the findings regarding the issue of the death of his father, the date and length of detention, the harassment in the military, and the fourth point, that is, the issue of the destruction of the passport, are all findings that are within the responsibility of the Board to make.

As you know, while I may agree or disagree with one or another of them, I think they are completely within the responsibility of the Board to make these findings and to determine whether or not on the basis of the evidence these omissions go to the credibility of the applicant's claims.

I am inclined, Mr. Weinreb, to agree with you that the Board's comments regarding the route taken to Canada and the way in which the Board characterized the fact that he did not seek refugee protection along the way, may have been overstated and contrary to a number of other legal authorities. But I believe that given the other findings, it makes little or no difference to the central issue in this particular matter, and that is whether or not they found him credible as to his claim of persecution.

So, while I believe that the authorities would support your view of the fact that the Board misinterpreted, in your words, the transit points on the way to Canada, I believe that it has little effect on the overall merits of the application and whether or not the applicant had a well-founded fear of persecution.

The application for judicial review is dismissed. No questions for certification were proposed.



Judge

Ottawa, Ontario
October 31, 1997

FEDERAL COURT OF CANADA
TRIAL DIVISION

NAMES OF SOLICITORS AND SOLICITORS ON THE RECORD

COURT FILE NO.: IMM-4433-96

STYLE OF CAUSE: Farshid Allaf Navirian v. The Minister of Citizenship and
Immigration

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: September 17, 1997

REASONS FOR ORDER OF THE HONOURABLE MR. JUSTICE WETSTON

DATED: October 31, 1997

APPEARANCES:

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FOR THE APPLICANT

Ms Sadian Campbell

FOR THE RESPONDENT

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